

# City of Brooklyn Park Planning Commission Staff Report

<b>Agenda Item:</b>	5.4	<b>Meeting Date:</b>	March 13, 2024
<b>Agenda Section:</b>	Public Hearing	<b>Originating Department:</b>	Community Development
<b>Resolution:</b>		<b>Prepared By:</b>	Erin McDermott, Associate Planner Amber Turnquest, Principal Planner
<b>Ordinance:</b>	X		
<b>Attachments:</b>	5	<b>Presented By:</b>	Erin McDermott, Associate Planner Amber Turnquest, Principal Planner
<b>Item:</b>	Code Text Amendment: Minor revisions for consistency and legal sufficiency to Chapter 152: Zoning Code.		

## Proposed Actions:

MOTION \_\_\_\_\_, SECOND \_\_\_\_\_, TO WAIVE THE READING AND ADOPT ON SECOND READING ORDINANCE #2024\_\_\_\_\_ AMENDING CHAPTER 152 OF THE BROOKLYN PARK CODE FOR CONSISTENCY WITH THE BROOKLYN PARK 2040 COMPREHENSIVE PLAN.

## Staff Recommendation:

Staff recommends approval of the proposed ordinance changes.

## Overview:

The Brooklyn Park City Council (Council) adopted the Brooklyn Park 2025 community plan in February 2017. Roughly 1,000 participants supported this yearlong effort which captured resident and staff input and documented the City’s goals. That process involved many public engagement sessions to understand the vision that Brooklyn Park residents had for the city as it grows and changes, including a visioning session in 2016, public open house in 2017, mailed notices, door knocking, and surveys sent to residents. Building upon that work, the Brooklyn Park Planning Commission held a public hearing in 2018 over a two month period in March and April on the 2040 Comprehensive Plan (2040 Plan). The Council voted on the final draft on May 29, 2018, with the comment period closing on October 26, 2018. The 2040 Plan was approved for submission to the Metropolitan Council (Met Council) for final review on December 10, 2018.

The 2040 Plan looked at the entire community with an emphasis on special planning areas. The City identified a need to address community-wide issues and desires, redevelopment and reinvestment in the older parts of the community, sustainability of new development, and to create a “community of the whole”.

The City Council adopted the 2040 Comprehensive Plan on March 30<sup>th</sup>, 2020. State law requires that official controls – the Zoning Code – be updated within 9 months of Plan adoption. The consultant firm, WSB, who worked on the 2040 Plan was retained to work on the Zoning Code Update. The challenges associated with the COVID-19 pandemic, staff turnover in the Planning Division, and the 2023 development moratorium all contributed to a delay in completing this work.

Staff is using this opportunity to make minor, technical updates the entire Land Usage Title of the Brooklyn Park Code of Ordinance. Title XV includes four chapters, which are listed below with a highlight of the changes:

### Chapter 150 Signs

Technical changes that clarify regulations in zoning districts and the City’s attorney is reviewing for conformance with statute and current case law.

## Chapter 151 Subdivisions

Technical changes to update referenced information.

## Chapter 152 Zoning Code

Incorporation of the principles identified with the 2040 Plan that WSB identified and worked closely with City Staff, Planning Commissioners, and City Council to update. The bulk of the work that WSB completed was to bring the Zoning Code into compliance with the 2040 Plan. A limited number of changes are being made outside of those that have already had extensive review and discussion during the 2020 working period.

## Chapter 153 Stormwater Management

Technical changes to update referenced information.

### Summary of Changes:

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

**Alternatives to Consider:**

1. Approve the amendments as presented.
2. Approve the amendments with modifications.
3. Decline to approve the amendments.

**Budgetary/Fiscal Issues:**

Not applicable.

**Attachments:**

- A. Redline Changes
- B. Technical Changes Document
- C. Supporting Documents
- D. Resident Comments
- E. Summary Ordinance

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1 **ARTICLE 1. ADMINISTRATION**

2 **SECTION 1. INTENT AND PURPOSE**

3 **§152.100 TITLE.**

4 Chapter 152 may be known, cited, and referred to as the “Brooklyn Park Zoning Code” except as referred  
5 to herein, where it may be known as “this chapter.”  
6

7  
8 **§152.101 SEVERABILITY.**

9 ~~§152.xxx SEVERABILITY.~~

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

13 **§152.101-102 AUTHORITY.**

14 This chapter is enacted pursuant to the authority granted by the Municipal Planning Act, M.S. §§ 462.351  
15 to 462.364, as amended from time to time.

16 **§152.1032 PURPOSE.**

17 The intent of this chapter is to protect the public health, safety, and general welfare of Brooklyn Park and  
18 its people through the establishment of minimum regulations governing the development and use of  
19 property within the city. Such regulations are established to:

- 20 (A) Implement the Comprehensive Plan. The City Council recognizes the Comprehensive Plan as the  
21 official policy for land use and development in Brooklyn Park.
- 22 (B) Promote orderly development and redevelopment.
- 23 (C) Provide adequate light, air, and convenience of access to property.
- 24 (D) Prevent congestion in the public right-of-way.
- 25 (E) Prevent overcrowding of land and undue concentration of structures and population by regulating  
26 land, building, setbacks, and density of development.
- 27 (F) Provide for the compatibility of different land uses and protect from incompatible uses.
- 28 (G) Provide for the administration of this chapter and any amendments.
- 29 (H) Prescribe penalties for violation of such regulations.
- 30 (I) Define powers and duties of the City Staff, the Planning Commission, and the City Council in  
31 relation to this chapter.

32 **§152.1043 APPLICATION.**

- 33 (A) ~~All buildings, structures, and land uses must be erected, used, relocated, or altered in~~  
34 ~~conformance with this chapter. No All buildings, structures or and land may must be erected, used,~~  
35 ~~relocated, or altered except in conformance with this chapter.~~
- 36 (B) The provisions of this chapter are the minimum requirements. Where the requirements imposed by  
37 any other section of City Code are more restrictive than this chapter, the more restrictive regulation  
38 shall prevail.

39 **§152.1054 INTERPRETATION.**

- 40 (A) Construction of language:
  - 41 (1) The present tense includes the past and future tenses and the future the present.
  - 42 (2) The singular number includes the plural and the plural the singular.
  - 43 (3) The word “must” is mandatory and the word “may” is permissive.
  - 44 (4) If a word or term defined in this chapter appears in the text, its meaning may be construed as set  
45 forth in the definition of the word or term.
  - 46 (5) All measured distances expressed in feet must be to the nearest tenth of a foot.

(B) Except as otherwise specifically provided for in this chapter, the following may apply to a use not provided for within a zoning district.

(1) If in any zoning district a use is neither specifically permitted nor allowed, the use may be considered prohibited.

~~(2) The City Council or the Planning Commission may utilize City staff to conduct a study to determine if a particular use complies with the Comprehensive Plan, what zoning district would be most appropriate, and what standards and conditions may apply to its use.~~

**§152.1065 EFFECTIVE DATE.**

This chapter shall become effective upon passage and posting according to law, following the date of repeal and re-enactment of the official zoning map. All plans approved under previous zoning regulations shall be valid and may be used to obtain permits for a period of not more than one year after the effective date of this chapter, except where subject to developer agreement provisions.

**§152.1076 DEFINITIONS.**

For the purposes of this chapter, the following definitions apply unless the context clearly indicates or requires a different meaning. If a word or term defined in this chapter appears in the text of this chapter, its meaning may be construed as set forth below.

ABUTTING. See ADJACENT.

ACCESSORY ALTERNATIVE ENERGY SYSTEM. A secondary energy system wherein the power generated is used primarily for on-site consumption.

ACCESSORY FEATURE. A landscape design feature, not enclosed, subordinate to, incidental to, and/or serving the principal structure on the same lot. Examples include decorative fences, gazebos, fire pits, etc.

~~ACCESSORY STRUCTURE. An enclosed structure subordinate to, incidental to, and/or serving the principal structure on the same lot. Examples include garages (attached or detached), greenhouses, ice-fishing shacks, storage sheds, etc.~~

~~ACCESSORY USE. A use subordinate to, incidental to, and/or serving the principal use on the same lot.~~

ADJACENT. When referring to adjacent lots or land, adjacent means a lot that shares all or part of a common lot line with another lot. For the purposes of this definition, adjacent also includes lots or land separated only by a railroad; utility right-of-way; public street classified as a low-density minor arterial, collector, or local street; or a trail corridor less than 50 feet wide.

ADULT DAY CARE. A facility that is licensed by the State of Minnesota in which a care is provided to adults with disabilities or persons who receive supportive person to person assistance.

ALTERNATIVE ENERGY SYSTEM. A wind energy conversion system or a solar energy system.

ANIMAL UNIT. The following animals constitute one animal unit equivalency: one cow, horse, donkey, llama, or burro, or three sheep or emus. Any animal not listed except domestic animals may be considered one animal unit equivalency. Animals are further defined and regulated in other sections of the City Code.

ANIMAL, DOMESTIC. A domestic animal is a common house pet which can be contained within a principal structure throughout the entire year, provided that containment can be accomplished without special modification to the structure requiring a building permit from the city.

ANIMAL, FARM. Animals not typically sheltered within the principal structure throughout the entire year. This includes, but is not limited to, cattle, pigs, sheep, goats, horses, and other animals commonly accepted as farm animals in the State of Minnesota.

ANIMAL SERVICES. Any place where domestic animals are kept for the primary purpose of commercial pet sitting or “doggie daycare.”

ANTENNA. Any structure or device used for the purpose of collecting or transmitting communication signals. This includes, but is not limited to, directional antennas, such as panels and microwave and satellite dishes, and omni-directional antennas, such as whip antennas.

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

1 APPLICATION. The form and accompanying documentation required by this chapter or by city policy for  
 2 city review purposes.

3 ~~ARTERIAL. A type of road that is characterized by limited access and a design capacity to move relatively~~  
 4 ~~large volumes of traffic in an expedient manner. Arterials are divided into principal arterials and minor~~  
 5 ~~arterials based on their access, the traffic volume they carry and the areas they serve. The roadway~~  
 6 ~~classification system is further defined and illustrated in the City's Comprehensive Plan.~~

7 ASSEMBLY, BANQUET, CONVENTION HALLS, or CONFERENCE CENTER. A facility available for  
 8 private rental for private events such as weddings, conferences, or meetings. This definition does not  
 9 include rental for uses that are open to the public such as night clubs or general parties.

10 ASSISTED LIVING HOUSING. Housing designed for persons who need assistance with their daily living  
 11 needs including special support services such as meal preparation, housekeeping, limited medical care,  
 12 and transportation.

13 AUCTION LICENSED AUTO DEALER. May sell used motor vehicles belonging to others.

14 ~~BASEMENT. That portion of a building having a minimum of half its floor to ceiling height below the front~~  
 15 ~~grade at the front of the dwelling for at least 50% of the foundation footprint. Each room or area in a~~  
 16 ~~basement must be at least 7 ½ from floor to ceiling.~~

17 BASEMENT (as applied to flood hazard overlay only). Any area of a structure, including crawl spaces,  
 18 having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of  
 19 excavation below ground level.

20 BB or bb. An abbreviation meaning balled and burlapped and used to describe the root treatment of  
 21 certain plant materials.

22 BEEKEEPING. The breeding of honeybees in colonies, commonly in hives, to produce honey and other  
 23 products to pollinate plants or to produce bees for sale to other beekeepers.

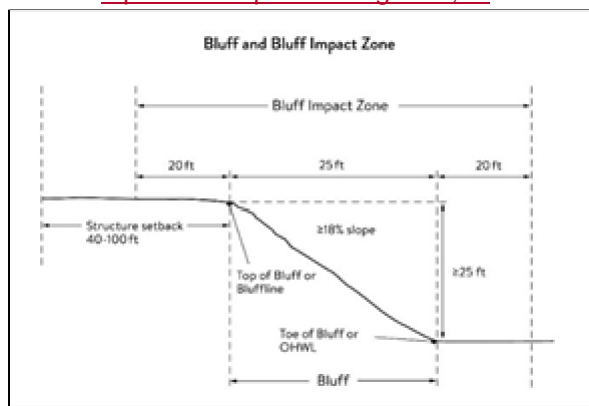
24 BERM. A landscaped mound of earth used to separate incompatible uses, screen offsite views of  
 25 development, mitigate noise impacts, and create aesthetic interest.

26 BIORETENTION SYSTEMS. Shallow, landscaped depressions commonly located in parking lot islands or  
 27 within areas that receive stormwater runoff.

28 BLACK DIRT (as used for top soil). Organic soils added on top of existing soil that are darker in color and  
 29 richer in organic materials compared to the existing.

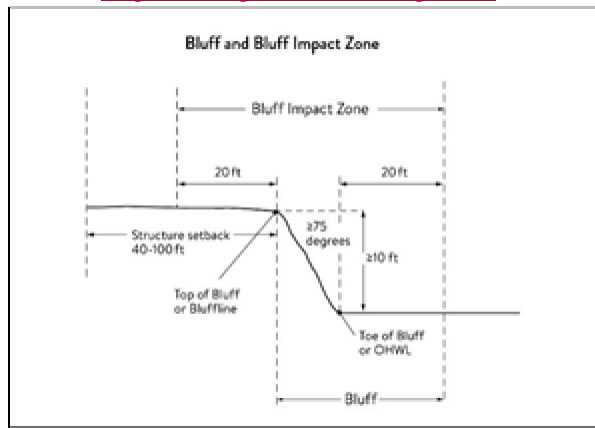
30 ~~BLUFF. Slopes 12% or greater leading from the river's edge up to an area where the slope is less than~~  
 31 ~~12% and the elevation coincides with that of the larger surrounding area. The top of the bluff must be~~  
 32 ~~measured from this final leveling off point. Narrow bands of level area that are in the middle of an~~  
 33 ~~otherwise continuous slope greater than 12% do not qualify as the top of the bluff. A natural topographic~~  
 34 ~~feature having:~~

- 35 A. A slope that rises at least 25 feet and the grade of the slope averages 18 percent or greater,  
 36 measured over a horizontal distance of 25 feet, from the toe of the slope to the top of the slope.  
 37 Where the slope begins below the ordinary high water level, the ordinary high water level is the  
 38 top of the slope. See Figure 1; or



39 Figure 152.106.1. Bluff and Bluff Impact Zone

1 B. A natural escarpment or cliff with a slope that rises at least ten feet above the ordinary high water  
 2 level or toe of the slope, whichever is applicable, to the top of the slope, with a slope of 75  
 3 degrees or greater. See Figure 2.



4 Figure 152.106.2. Natural Escarpment and Bluff Impact Zone

5 BLUFF IMPACT ZONE. A bluff and land located within 20 feet of the bluff. See Figures 152.106.1 and  
 6 152.106.2

7 ~~BOARDING OR ROOMING HOUSE. A dwelling unit, or portion of a dwelling unit, in which for~~  
 8 ~~compensation, lodging and meals are provided to no more than six persons who do not function as a~~  
 9 ~~single housekeeping unit.~~

10 BODY ART. Physical body adornment using, but not limited to, the following techniques: body piercing,  
 11 tattooing, branding, body modification and cosmetic tattooing, as regulated by M.S. Chapter 146B and  
 12 Chapter 123 of this code. This definition does not include practices that are considered part of a medical  
 13 procedure performed by a state board certified medical or dental personnel, such as, but not limited to,  
 14 implants under the skin. Such medical procedures may not be performed in a body art establishment.  
 15 This definition does not include piercing of the outer perimeter of lobe of the ear using pre-sterilized single  
 16 use stud and clasp ear piercing system.

17 BREWERY. A facility that manufactures or produces malt liquor as defined in M.S. § 340A.101, Subd. 16.

18 BROKER LICENSED AUTO DEALER. May arrange for the sale or lease of new or used motor vehicles.

19 BUFFER. The use of land, topography, water bodies and vegetation to separate and mitigate the impacts  
 20 of land uses upon another property.

21 BUILDABLE AREA. The area upon which structures may be placed on a lot or parcel of land and  
 22 excludes areas needed to meet requirements for setbacks, rights-of-way, bluff impact zones, historic  
 23 properties, wetlands, designated floodways, land below the ordinary high water level, and other  
 24 unbuildable areas.

25 BUILDING. Any structure having a roof supported by columns, walls, or other means of support for the  
 26 shelter or enclosure of persons or property, and when said structure is divided by party walls without  
 27 openings, each portion of such building so separated may be deemed a separate building. In sections of  
 28 this ordinance where minimum sized buildings are required, areas which are part of basements, open  
 29 porches, canopies, awnings, breeze-ways, covered patios, and other similar features are not included in  
 30 calculating the required building size.

31 ~~BUILDING AREA. The space remaining on a lot or parcel after the required setbacks and other~~  
 32 ~~requirements of this chapter have been applied.~~

33 BUILDING HEIGHT. The distance measured from -the average proposed ground elevation adjoining the  
 34 building at the front building line to the top of the cornice of a flat roof, to the deck line of a mansard roof,  
 35 to a point on the roof directly above the highest wall of a shed roof, to the uppermost point on a round or  
 36 other arch-type roof, or to the average distance of the highest gable on a pitched or hip roof.

37 CARE CENTER/CONVALESCENT HOME. Housing for dependent persons including personal nursing  
 38 care, meal preparation in a common dining hall, hygiene services, laundry, etc.

39 CALIPER. The diameter of a tree trunk measured six inches above the ground for trees less than four  
 40 inches in diameter and 12 inches above the ground for trees more than four inches in diameter.

CERTIFICATE OF COMPLIANCE. A document written after a compliance inspection, certifying that the development complies with applicable requirements at the time of inspection.

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

CLEAR VIEW TRIANGLE. An area around the convergence of two streets or a street and an access driveway where visibility is not impeded. At the intersection of two streets. The clear view triangle is an area that begins at the intersection of the projected curb lines of two intersecting streets and is measured back along both streets the distance specified in §\_\_ and marked with a point. Those points are then connected with a straight line. At the intersection of an access driveway and a street. The clear view triangle is an area that begins at the intersection of the projected curb line of the access driveway and the private street or public right-of-way and is measured back along both the street and the access driveway the distance specified in §\_\_ and marked with a point. Those points are then connected with a straight line.

CLOSED LOOP GROUND SOURCE HEAT PUMP SYSTEM. A system that circulated a heat transfer fluid, typically food-grade antifreeze, through pipes or coils buried beneath the land surface or anchored to the bottom of a body of water.

CLUB.

- (1) An incorporated organization organized under the laws of the state for civic, fraternal, social, or business purposes, for intellectual improvement, or for the promotion of sports, or a congressionally chartered veterans' organization, which:
  - (a) Has more than 30 members;
  - (b) Has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members;
    - Is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.
- (2) No member, officer, agent, or employee shall receive any profit from the distribution or sale of beverages to the members of the club, or their guests, beyond a reasonable salary or wages fixed and voted each year by the governing body.

CLUB, SOCIAL. An establishment not included in the definition of CLUB that is open to the public or by private membership where the purpose of the establishment is to provide a place for social interaction between patrons.

COCKTAIL ROOM. A facility on or adjacent to the premises of a micro-distillery where the on-sale consumption of distilled spirits produced by the distiller is permitted pursuant to M.S. § 340A.22.

~~COLLECTOR STREETS. A type of road that functions to provide connections between neighborhoods and from neighborhoods to areas with concentrations of businesses. They typically have lower traffic volumes and speeds than arterials, but higher volumes and speeds than local roads. Collectors are divided into those roads that are designed to distribute traffic from major generators or from minor collectors to arterial roads (major collectors) and those roads that are designed to distribute traffic from major collectors or arterials to local streets (minor collectors). Examples of major collectors include Candlewood Drive, Regent Avenue, and West River Road. Examples of minor collectors are Pearson Parkway, Lad Parkway, and Northland Drive. The roadway classification system is further defined and illustrated in the City's Transportation Plan.~~

COMMERCIAL INDOOR RECREATIONAL FACILITIES. Private recreational facilities operated for profit and open to members and/or the general public including health centers, tennis and racquetball clubs, indoor swimming pools, video arcades (amusement centers), indoor batting cages, pool halls, and the like.

COMMERCIAL OUTDOOR RECREATIONAL FACILITIES. Private recreational facilities operated for profit and open to members and/or the general public including golf courses and driving ranges, miniature golf, riding stables, skating rinks, outdoor swimming pools, archery or trapshooting ranges, batting cages, softball, baseball, volleyball, soccer, or football facilities, and the like.

COMMERCIAL VEHICLES. A vehicle that meets one or more of the following:

- (1) A dump truck, step van, construction vehicle or equipment (bobcats, backhoes and the like), semi-tractor, semitrailer, or trailer, tank truck, tow truck, tractor, bus, cargo truck, or any vehicle that has a registered gross weight of more than 12,000 pounds, except the following:

- 1 (a) A vehicle that is used for private, personal, or recreational use; is not defined as a
- 2 commercial vehicle in division (1) above; and is not altered with commercial equipment, such
- 3 as a 1-ton pickup truck.
- 4 (b) A properly licensed recreational vehicle or recreational equipment with sole and consistent
- 5 use for private recreational purposes.
- 6 (2) A vehicle that has commercial equipment added to the vehicle such as a snowplow or other
- 7 externally attached equipment, except recreational vehicles or recreational equipment used only
- 8 for private, recreational, and residential use.
- 9 (3) A limousine or taxi.
- 10 (4) A trailer loaded with a commercial vehicle(s) or commercial equipment.

11 ~~COMPREHENSIVE PLAN. The long range plan to guide the future growth and development as a formal~~  
 12 ~~document, and associated maps, as adopted by the City Council as amended from time to time. The most~~  
 13 ~~recent edition of the document entitled, "The Brooklyn Park Comprehensive Plan" and associated maps~~  
 14 ~~adopted by the City Council and as amended from time to time.~~

15 COMMUNITY GARDEN. An area of land that is managed and maintained by a group of individuals to  
 16 grow and harvest food crops and/or non-food ornamental crops such as flowers for personal or group  
 17 use, consumption, or donation.

18 CONCRETE PRECAST PANELS. A material composed of concrete sheets, also commonly referred to as  
 19 tip-up-tilt-up or poured-in-place panels, etc. For purposes of this chapter, concrete precast panels are  
 20 divided into the following:

- 21 (1) Architecturally textured panels. Smooth concrete precast panels, steel form panels, exposed
- 22 imprint panels (with exposed aggregate), ribbed, grooved, random relief, or the like, with
- 23 additional colors, removed patterns, and/or graphics like bands, patterns, and geometric designs
- 24 that are used to add distinctiveness to building I.
- 25 (2) Industrial grade panels. Panels with the following textures or those deemed similar: raked,
- 26 corduroy, broomed, or panels exposed aggregate (except exposed imprint panels).

27 ~~CONDITIONAL USE PERMIT. A permit issued by the City Council to the applicant according to the~~  
 28 ~~procedures of this chapter that includes the representations made by the applicant regarding the~~  
 29 ~~characteristics and operation of the conditional use and conditions imposed by the City Council.~~

30 CRITICAL FACILITIES. Facilities necessary to a community's public health and safety, those that store or  
 31 produce highly volatile, toxic, or water-reactive materials, and those that house occupants who may be  
 32 insufficiently mobile to avoid loss of life or injury. Examples of critical facilities include hospitals, correction  
 33 facilities, schools, daycare facilities, nursing homes, fire and police stations, wastewater treatment  
 34 facilities, public electric utilities, water plants, fuel storage facilities, and waste handling and storage  
 35 facilities.

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

42 DAY CARE FACILITIES. A facility that is licensed by the State of Minnesota in which care is provided for  
 43 children or adults.

44 DENSITY. The number of dwelling units per acre as regulated by this chapter and the Comprehensive  
 45 Plan. Density is calculated by dividing the gross acreage of a property excluding wetlands designated by  
 46 federal and state agencies and those classified by the Wetland Conservation Act, by the number of  
 47 dwelling units existing or proposed for the property.

48 DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited  
 49 to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations  
 50 of storage or equipment or materials.

51 DEVELOPMENT CONTRACT. A legal instrument that defines the representations and obligations of an  
 52 applicant and the city for the development of property.

- 1 DEVELOPMENT PLAN. A document or set of drawings required by the city that depicts elements that  
2 contribute to a cohesive planned area or neighborhood.
- 3 DISTILLERY. A facility that manufactures or produces distilled spirits as defined in M.S. § 340A.101,  
4 Subd. 9.
- 5 DISTRIBUTION CENTER. An establishment engaged in the receipt, storage, and distribution of goods,  
6 products, cargo, and materials, including transshipment by boat, rail, air, or motor vehicle.
- 7 DWELLING UNIT. One or more rooms designed or intended for occupancy within a building by one family  
8 or housekeeping unit with sanitary, culinary, and sleeping facilities separate from those of other units and  
9 intended for the exclusive use of a single- family or housekeeping unit.
- 10 DWELLING, ATTACHED TWO-FAMILY. A building designed for occupancy by two families or  
11 housekeeping units with a physical separation between the two dwelling units.
- 12 DWELLING, DETACHED SINGLE-FAMILY. A building surrounded by open space containing one  
13 dwelling unit that is not attached to any other dwelling by any means.
- 14 DWELLING, MULTIPLE FAMILY. A building designed or intended for occupancy by three or more  
15 families or housekeeping units, with separate dwelling units either designed one over another and  
16 connected by interior or exterior hallways and/or common entries or as townhouse dwellings.
- 17 DWELLING, SENIOR INDEPENDENT LIVING. A residential complex or development that is age  
18 restricted to people 55 and older without any on-site or staffed nursing or other types of assistance.
- 19 DWELLING, TOWNHOUSE. A single structure consisting of not more than 16 dwelling units each, with no  
20 other dwelling or portion of other dwelling directly above or below, with each dwelling unit connected to  
21 the other dwelling by a common separation with no opening, except for one unit townhouse structures.
- 22 EASEMENT. A grant of one or more of the property rights by the owner, to or for the use by the public,  
23 another person, or entity.
- 24 ENTERTAINMENT, LIVE. Disc jockeys, live music, comedy performances, theatrical performances, and  
25 the like. This definition does not include mixed martial arts or boxing.
- 26 EQUAL DEGREE OF ENCROACHMENT. A method of determining the location of floodway boundaries  
27 so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood  
28 flows.
- 29 ESSENTIAL SERVICES. The utilization, construction, alteration, or maintenance by public utilities or  
30 municipal departments of underground, surface, or overhead gas, electricity, steam, fuel, water supply  
31 or distribution system(s); sanitary sewage disposal system; including accessory facilities necessary for  
32 the furnishing of adequate service by such utilities or municipal departments for the general health,  
33 safety, or welfare.
- 34 EVAPOTRANSPIRATION. Water lost to the atmosphere from the ground surface, evaporation from the  
35 capillary fringe of the groundwater table, and the transpiration of groundwater by plants whose roots tap  
36 the capillary fringe of the groundwater table.
- 37 FAMILY. An individual or two or more persons each related by blood, marriage, or adoptions, including  
38 foster children, living together as a single housekeeping unit; or no more than four unrelated persons  
39 maintaining a common household and using and maintaining common cooking and kitchen facilities as  
40 distinguished from a group occupying a boarding or rooming house, or licensed residential facility.
- 41 FARM. A parcel of land having five acres or more which is under cultivation or a parcel ten acres or more  
42 which is fenced and used as pasture, or a parcel ten acres or more of any combination. No farm may  
43 exceed one animal unit per acre in aggregate.
- 44 FARMER'S MARKET. Outdoor sales of fruits, vegetables, meats, honey, flowers, plants, homemade  
45 bakery goods, cheeses, soaps, and other similar products.
- 46 FARMING AND CULTIVATION OF AGRICULTURAL PRODUCTS. Agricultural and horticultural uses that  
47 are not enclosed or covered by a structure.
- 48 FINISHED SQUARE FOOTAGE (MINIMUM). The above grade areas of a house that are planned to be  
49 completed under the original building permit, excluding garages or other attached accessory buildings,  
50 open porches, breezeways, three season rooms, covered patios and the like. All unfinished areas of  
51 residential dwellings must be so noted on residential building plans submitted for permit. "Finished"  
52 interior areas of residential buildings must comply with the UBC requirements for finished habitable space  
53 and have one or more of the listed materials used on each of the following:

- 1 (1) Floors – wood; carpet; tile; rock; brick; linoleum; and similar decorative materials.
- 2 (2) Ceilings – sheet rock with paint, texturing, or a similar decorative trim; suspended ceiling
- 3 systems; tile; heavy timber construction; wood paneling; and similar decorative materials
- 4 (3) Walls – sheet rock with paint, wallpaper, or a similar decorative trim; wood or rock paneling;
- 5 mirrors; heavy timber construction, brick; and similar decorative materials.

6 FLOOD. A temporary increase in the flow or stage of a stream, lake, or wetland that results in the  
7 inundation of normally dry areas.

8 FLOOD FREQUENCY. The frequency for which it is expected that a specific flood stage or discharge  
9 may be equaled or exceeded.

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

14 FLOOD HAZARD AREA. The flood plain consisting of the flood way, the flood fringe, and/or the general  
15 floodplain area.

16 FLOOD INSURANCE RATE MAP (“FIRM”). An official map on which the Federal Insurance Administrator  
17 has delineated both the special hazard areas and the risk premium zones applicable to the community. A  
18 FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

19 FLOODPLAIN. The areas adjoining a watercourse which has been or hereafter may be covered by a  
20 regional flood, as defined in Minnesota Rules Chapter 6120, and as shown on the Flood Insurance Rate  
21 Map where floodway and flood fringe boundaries and/or 100-year flood elevations have not been  
22 determined. These areas include areas designated as Zone A on the Flood Insurance Rate Map, and  
23 Zone AE where a floodway is not shown.

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

28 FLOOD PRONE AREA. Any land susceptible to being inundated by water from any source (see FLOOD).

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

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

35 FLOOR AREA, GROSS. The sum of all the floor(s) of a building or structure excluding any space where  
36 the floor-to-ceiling height is less than six feet.

37 FLOOR AREA RATIO (FAR). The gross floor area of all buildings or structures on a lot divided by the  
38 area of that lot.

39 FLUSH-MOUNTED SOLAR ENERGY SYSTEM. A roof-mounted system mounted directly abutting the  
40 roof. The pitch of the solar collector may exceed the pitch of the roof up to 5% but shall not be higher than  
41 ten inches above the roof.

42  
43 FOUNDATION FOOTPRINT. The area of the largest level of a dwelling unit at or near grade as  
44 determined by the outside dimensions of a building, excluding attached garages or other attached  
45 accessory buildings, decks, patios, three-season porches, etc.

46 GARAGE. An accessory structure that is primarily used for the parking and storage of vehicles, and  
47 storage of goods and equipment owned by the same property owner or resident or the principal structure.

48 GARAGE SALE. The sale of used personal goods from a private residence or religious institution.

49 GAS/FUEL TANKS (ABOVE GROUND). A tank used to store fuel used for energy purposes in buildings  
50 and structures. This definition does not include portable propane cylinders used with barbeque grills, or  
51 the like.

52 GLARE. The effect produced by the intensity and direction of any artificial illumination sufficient to cause  
53 annoyance, discomfort, or temporary loss or impairment of vision.

1 GREYWATER. Wastewater, containing no fecal matter (human feces), that is generated from domestic  
2 activities such as laundry, dishwashing, and bathing and which can be recycled on-site for uses such as  
3 landscape irrigation and constructed wetlands.

4 GREEN ROOFTOPS. Veneers of living vegetation installed atop of buildings that act to manage  
5 stormwater by mimicking a variety of hydrologic processes normally associated with open space.

6 GROUND COVER. Perennial plants that are not classified as noxious weeds as defined elsewhere in the  
7 City Code, other than turf grass, normally reaching an average maximum height of not more than 24  
8 inches at maturity.

9 GROUND SOURCE HEAT PUMP SYSTEM. A system that uses the relatively constant temperature of  
10 the earth or a body of water to provide heating in the winter and cooling in the summer. System  
11 components include open or closed loops of pipe, coils, or plates; fluid that absorbs and transfers heat;  
12 and a heat pump unit the processes heat for use or disperses heat for cooling; and an air distribution  
13 system.

14 HARDSURFACE COVERAGE. The amount of a lot covered by building, pavement, concrete, or other  
15 impervious material.

16 HEAT ISLAND REDUCTION. Use of vegetative cover to minimize heat islands on hard cover areas and  
17 to reduce impact on microclimate and human and wildlife habitat.

18 HOME OCCUPATION. Any occupation carried out by the occupant of a residential dwelling unit that  
19 occurs within the principal or accessory building on the property and does not change the nature of the  
20 primary use of the property.

21 HORIZONTAL AXIS WIND TURBINE. A wind turbine design in which the rotor shaft is parallel to the  
22 ground and the blades are perpendicular to the ground.

23 IMPERVIOUS SURFACE. ~~Any surface that prevents absorption of water into the ground. Examples of~~  
24 ~~impervious surfaces include, but are not limited to, cement, asphalt, and paving brick. The area of a lot,~~  
25 ~~above the ordinary high water level, covered with buildings including all appurtenances, driveways and~~  
26 ~~sidewalks, and similar impervious materials. For the purpose of this chapter, driveways that have a gravel~~  
27 ~~base shall be considered impervious. Decks that allow drainage through the decking and that do not have~~  
28 ~~plastic weed barrier or some other material that would impede drainage into the ground and swimming~~  
29 ~~pool water surface area shall not be considered impervious.~~

30 INDOOR SALES OF AUTOMOBILES. All sales and display take place within a building.

31 ~~INTERIM USE. A use of property that is consistent with the city's comprehensive plan and zoning~~  
32 ~~ordinance, which may exist temporarily until a particular date or until an occurrence of a particular event~~  
33 ~~deemed by the City Council.~~

34 ~~INTERIM USE PERMIT. A permit issued in accordance with procedures specified in this section, as a~~  
35 ~~flexible device to enable the City Council to assign time limits and conditions to a proposed use after~~  
36 ~~consideration of current or future adjacent uses and their functions.~~

37 INTERSECTION (OF TWO STREETS). The point of intersection is the location where the extended curb  
38 lines of two streets meet.

39 IRRIGATION SYSTEM. A permanent, underground watering system designed to transport and distribute  
40 water to landscaped areas of property.

41 LANDSCAPING. Any combination of living plants, (such as grass, perennials, shrubs, vines, hedges, or  
42 trees) and non-living material, (such as rocks, pebbles, mulch, decorative walls, fences, or decorative  
43 paving materials) used to enhance the appearance and use of the natural and built environment.

44 LANDSCAPING, ARID. That combination of living plants, (such as grass, perennials, shrubs, vines,  
45 hedges, or trees) and non-living material, (such as rocks, pebbles, mulch, decorative walls, fences, or  
46 decorative paving materials) used to enhance the appearance and use of the natural and built  
47 environment that is designed for needing no additional irrigation above natural rainfall.

48 LICENSED RESIDENTIAL FACILITY. A facility where one or more persons reside on a twenty-four-hour  
49 per day basis under the care and supervision of a program licensed by the Minnesota Department of  
50 Human Services (DHS). ~~Community residential facilities shall not include facilities that are also eligible~~  
51 ~~for licensure by the Minnesota Department of Corrections (DOC).~~

1 LIVE/WORK UNITS. A habitable structure that allows for a professional office or commercial retail or  
2 service use to be operated in the same structure, with the business owner’s residence located behind the  
3 business use on the ground floor or on the upper floor.

4 LOADING DOCK. A platform adjacent to a building at which trucks load or unload cargo.

5 ~~LOCAL STREETS. A type of road that functions to provide access to adjacent properties and from~~  
6 ~~properties to collectors and/or arterials. Speeds and traffic volumes are typically lower than collectors or~~  
7 ~~arterials. The roadway classification system is further defined and illustrated in the City’s Transportation~~  
8 ~~Plan.~~

9 LOT or PARCEL. A portion of land occupied or used, or intended for occupancy or use, for a purpose  
10 permitted or conditionally permitted in this chapter and of sufficient size to provide the yards and area  
11 required by this chapter.

12 LOT AREA. The total area within the lot lines of a lot or parcel, excluding any street rights-of- way given  
13 by fee dedication.

14 LOT CORNER. A lot situated at the junction of, and adjacent to two or more intersecting streets.

15 LOT DEPTH. The average distance between the front lot line and the rear lot line of a lot or parcel.

16 LOT, DOUBLE FRONTAGE. A lot which is adjacent to two substantially parallel streets and is not a  
17 corner lot.

18 LOT, FRONT. A lot line abutting the right of way of a public street or property or easement line of a  
19 private street. On a corner lot, the shortest of the sides abutting the public street shall be the front. If the  
20 dimensions of a corner lot are within 10% of being equal, the front lot line shall be that street designated  
21 by the owner. Once it has been established, with the address assigned and the principal entrance  
22 determined, the front shall not be reversed.

23 LOT LINE. A line of record bounding a lot that divides one lot from another lot, a public right-of-way, or  
24 private street.

25 LOT, REAR. The boundary of a lot that is opposite the front lot line. If the rear lot line is less than ten feet  
26 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  
27 lot, connecting the side lot lines and parallel to the front lot line.

28 LOT WIDTH. The distance between the side lot lines as measured along the required front-yard setback.

29 LOWEST FLOOR. The lowest floor of the lowest enclosed area (including basement). An unfinished or  
30 flood-resistant enclosure, used solely for parking of vehicles, building access, or storage in an area other  
31 than a basement area, is not considered a building’s lowest floor; provided, that such enclosure is not  
32 built ~~so as~~ to render the structure in violation of the applicable non-elevation design requirements of 44  
33 Code of Federal Regulations, Part 60.3.

34 LUMINAIRE. A complete lighting unit extending from a support structure consisting of a light source and  
35 all necessary mechanical, electrical and decorative parts. The light source, shield and other components  
36 do not extend below the cutoff angle for the luminaire. A luminaire does not include a pole or other  
37 support.

38 MANUFACTURED HOME. A structure, transportable in one or more sections, which is built on a  
39 permanent chassis and is designed for use with or without a permanent foundation when attached to the  
40 required utilities. MANUFACTURED HOME does not include the term RECREATIONAL VEHICLE.

41 MICRODISTILLERY. A distillery that manufactures or produces distilled spirits not exceeding 40,000  
42 proof gallons in a calendar year.

43 MISSISSIPPI RIVER CRITICAL AREA. The Mississippi River and adjacent lands in the Twin Cities region  
44 were designated a Critical Area by the State of Minnesota under the Critical Areas Act. Executive Order  
45 No. 79-19 established the Mississippi River Critical Area.

46 MIXED USE DEVELOPMENT. The development of a designated area of land with two or more different  
47 land uses.

48 MOBILE FOOD UNIT. A self-contained food service operation, located in a readily movable motorized  
49 wheeled or towed vehicle, used to store, prepare, display, or serve food intended for individual portion  
50 service that is readily movable without disassembling, or as defined in M.S. § 157.15, Subd 9.

51 MODEL HOME. A home which is like others in a new residential development and is temporarily open to  
52 regular public inspections for the purpose of selling other homes in the development.

1 MODIFIED SPLIT ENTRY. A dwelling unit with a front entrance that is midway between the lower level  
2 and the upper level. This type of home has a lower level separated by more than three risers or 24 inches  
3 of height difference below the front entry elevation and will not be counted towards the minimum square  
4 footage requirements of the home.

5 MODIFIED TWO STORY. A dwelling unit which has some part of the building that is a minimum of a full  
6 two stories in height at, or above the front entry elevation. Not all parts of the home will be a full two  
7 stories (or more) in height. There may be a lower level separated by no more than three risers or 24  
8 inches of height difference above or below the front entry elevation that may be counted towards the  
9 minimum square footage of the home.

10 MONOPOLE TOWER. A tower constructed of tapered tubes that fit together symmetrically and are  
11 stacked one section on top of another and bolted to a concrete foundation without support cables.

12 MOTOR HOME. A vehicle that provides temporary living quarters and is self-propelled or capable of  
13 being towed on public roads. Temporary living quarters within this definition mean:

- 14 (1) The vehicle is not used as a residence on private property in this city.
- 15 (2) The vehicle is used for temporary living quarters by the owner or occupant while engaged in  
16 recreational or vacation activities away from the property.
- 17 (3) The vehicle is not a junk vehicle defined elsewhere in the City Code.

18 NATIVE SPECIES. Plants that are indigenous to a particular region. Plants are considered native if they  
19 were present at the time of the public land survey (1847-1907) that was conducted before and during the  
20 early stages of European settlement.

21 NATURAL AREA. A designated area within a Neighborhood Development Plan where limited human  
22 activity is planned and uses are of an undeveloped nature. Examples of natural areas include but are not  
23 limited to parks, gardens, recreational uses, trails, nature areas, and open space.

24 NEIGHBORHOOD COMMERCIAL. Limited commercial areas that provide compact centers for retail  
25 sales and services to adjacent neighborhoods.

26 NEW CONSTRUCTION. Structures, including additions and improvements, and placement of  
27 manufactured homes, for which the start of construction commenced on or after the effective date of §§  
28 152.510 through 152.522.

29 NON-CONFORMITIES. Any land use, site, structure, building, lot of record, or sign legally established  
30 prior to the effective date of this chapter or subsequent amendment to it which would not be permitted by  
31 or is not in full compliance with the regulations of this chapter.

32 NON-PASSENGER VEHICLE OR EQUIPMENT. A recreational vehicle or equipment that is not self-  
33 propelled or cannot receive a vehicle license. This definition does not include junk vehicles as defined  
34 elsewhere in the City Code.

35 NURSING HOME. A state licensed facility used to provide care for aged or infirm persons who require  
36 nursing and personal care and related services in accordance with state regulations. A nursing home may  
37 be a residential healthcare facility, an intermediate care facility, or a long-term care facility.

38 OBSTRUCTION. Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation,  
39 channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along,  
40 across, or projecting into any channel, watercourse, or regulatory flood plain that may impede, retard, or  
41 change the direction of the flow of water, either in itself or by catching or collecting debris carried by such  
42 water.

43 OFFICE. Services that are predominantly administrative, professional and/or clerical in nature and  
44 conducted within a building or part of a building.

45 ONE HUNDRED YEAR FLOOD PLAIN. Lands that are inundated by a regional flood.

46 OPEN SPACE. An area of land that does not contain any buildings except those constructed for  
47 recreational or gardening purposes, and is intended for environmental, scenic, or recreational purposes.

48 ORDINARY HIGH WATER LEVEL. The boundary of water basins, watercourses, public waters, and  
49 public waters wetlands, and:

- 50 (1) The OHWL is an elevation delineating the highest water level that has been maintained for a  
51 sufficient period of time to leave evidence upon the landscape, commonly the point where the  
52 natural vegetation changes from predominantly aquatic to predominantly terrestrial;
- 53 (2) For watercourses, the OHWL is the elevation of the top of the bank of the channel; and,

- 1 (3) For reservoirs and flowages, the OHWL is the operating elevation of the normal summer pool.
- 2 ORNAMENTAL TREE. A self-supporting woody plant or species normally growing to a mature height of at
- 3 least ten feet but no more than 20 feet.
- 4 OUTDOOR SALES AND DISPLAY. An outdoor area designated for sales and display of product carried
- 5 by the primary business.
- 6 OUTDOOR STORAGE. Storage of any property not fully enclosed in a building.
- 7 OUTLOT. An unbuildable lot that must be replatted into a lot of record before a building permit can be
- 8 issued to the property.
- 9 OVERLAY DISTRICT. A zoning district applied over one or more previously established zoning districts,
- 10 establishing additional or stricter standards and criteria for covered properties in addition to those of the
- 11 underlying zoning district.
- 12 OVERSTORY TREE. A self-supporting woody plant or species normally growing to a mature height of at
- 13 least 20 feet.
- 14 PARK, ACTIVE. A park with structures or designated areas for formal recreation activities. Examples of
- 15 active park areas include but are not limited to golf courses, ballfields, and playgrounds.
- 16 PARK, PASSIVE. A park or designated area where limited human activity is planned and uses are of an
- 17 undeveloped nature. Examples of passive park areas include but are not limited to largely undeveloped
- 18 parks, gardens, trails, nature areas, and open space.
- 19 PARK, PRIVATE. A recreation area, either passive or active, owned and operated by a private group,
- 20 most commonly a homeowner’s association or multiple dwelling tenants.
- 21 PARK, PUBLIC. A recreation area, either passive or active, owned or operated by the City of Brooklyn
- 22 Park, county, state, or another governmental unit.
- 23 PARK AND RIDE FACILITY. A parking area used for passenger vehicle storage by persons who travel by
- 24 mass transit facilities or share rides to other locations.
- 25 PARKING AREA. A designated portion of a lot used for the temporary storage of motor vehicles on a
- 26 surface improved by pavement. This definition does not include private residential driveways.
- 27 PARKING SPACE. A storage area for a vehicle that has means of access to a public or private street and
- 28 has an impermeable surface.
- 29 PARKING IN RESERVE. Proof on an approved site plan that additional land for parking has been set
- 30 aside for which construction may be required should conditions warrant as determined by the City
- 31 Manager.
- 32 PAWNSHOP. A business that lends money on deposit or pledge of personal property, or other valuable
- 33 thing on condition of selling the same back again at a stipulated price, or that lends money secured by
- 34 chattel mortgage on personal property, taking possession of the property or any part so mortgaged.
- 35 PERVIOUS PAVEMENT. A paving system that allows water to infiltrate through the pavement to
- 36 accurately reflect the predevelopment hydrologic cycle and includes, but is not limited to, porous
- 37 concrete, porous asphalt, porous pavers, open jointed paving blocks, and open cell paving blocks.
- 38 PHOTOVOLTAIC SYSTEM. A solar energy system that converts solar energy directly into electricity.
- 39 PLACE OF WORSHIP. A building or campus in which worship, ceremonies, rituals, and education
- 40 pertaining to a particular system of beliefs are held.
- 41 PLANNED UNIT DEVELOPMENT. A method of land development that merges zoning and subdivision
- 42 controls, allowing developers to plan and develop a large area as a single entity, characterized by a
- 43 unified site design, a mix of structure types and land uses, and an organized phasing of development
- 44 over an amount of time agreed upon by the developer and the City.
- 45 PUBLIC & UTILITY FACILITIES. Government and utility facilities and structures, i.e., maintenance
- 46 buildings, water towers, pumping and lift stations, electrical substations, government buildings, mass
- 47 transit facilities, and minor cable TV facilities.
- 48 PUBLIC UTILITY. Persons, corporations, or governments supplying gas, electric, transportation, water,
- 49 sewer, or land line telephone service to the public. For this chapter, commercial wireless
- 50 telecommunication service facilities may not be considered public utility uses and are defined separately.

1 RAIN GARDENS/BIORETENTION SYSTEMS. Shallow landscaped depressions commonly located in  
2 parking lot islands or adjacent to land cover areas that receive stormwater and filter the runoff or allow it  
3 to infiltrate in the soil bed.

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

7 RECREATIONAL EQUIPMENT. Recreational equipment which does not meet the definition for a vehicle  
8 in the City Code, including, but not limited to, boats, pull-behind trailers or campers, ice fishing structures,  
9 personal watercraft, and other similar uses that do not necessarily remain on the property during the  
10 entire calendar year. This term does not include semi-tractor trailers or other trailers over 15 feet, junk  
11 vehicles as defined elsewhere in the City Code, detached snow plowing equipment, or swing sets,  
12 trampolines, and other private outdoor recreational equipment.

13 RECREATIONAL EQUIPMENT, PRIVATE OUTDOOR. Private swimming pools, hot tubs, tennis courts,  
14 trampolines, swing sets, other large play equipment, and other similar equipment if it is designed for  
15 outdoor use and used solely for the private enjoyment of the resident.

16 RECREATIONAL VEHICLE. Non-commercial vehicles used for private recreational purposes, including  
17 motor homes, campers, dirt bikes, motor-cross cycles, snowmobiles, go-carts, vehicles that are not  
18 registered for operation on public rights-of-way, and similar vehicles. This may not include junk vehicles  
19 as defined elsewhere in the City Code.

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

24 REGULATORY FLOOD PROTECTION ELEVATION. An elevation no lower than two feet above the  
25 elevation of the regional flood plus any increases in flood elevation caused by encroachments on the  
26 flood plain that result from designation of a floodway.

27 ~~RELIGIOUS INSTITUTION. A building or campus in which worship, ceremonies, rituals, and education~~  
28 ~~pertaining to a particular system of beliefs are held. Convents, rectories, and the like, may be considered~~  
29 ~~as part of a religious institution campus if located on the same parcel.~~

30 REPETITIVE LOSS. Flood related damages sustained by a structure on two separate occasions during a  
31 ten-year period for which the cost of repairs at the time of each such flood event on the average equals or  
32 exceeds 25% of the market value of the structure before the damage occurred.

33 RESTAURANT, BREWPUB. An establishment that serves food and hold an intoxicating liquor license  
34 and produces in whole or in part beer and/or malt liquor on the premise.

35 RESTAURANT, CLASS I. An establishment that serves food and is eligible for a 3,2 non- intoxicating  
36 beer and wine license without a cover charge.

37 RESTAURANT, CLASS II. An establishment that serves food and is eligible for an intoxicating liquor  
38 license without a cover charge.

39 RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of food and/or  
40 beverages in a ready to consume state for consumption:

- 41 (1) Within the restaurant building; or
- 42 (2) Within a motor vehicle parked on the premises; or
- 43 (3) Off the premises as carryout orders, and whose principal method of operation includes the  
44 following characteristics: food and/or beverages are usually served in paper, plastic or other  
45 disposable containers.

46 RESTAURANT, TAPROOM. An establishment that serves beer or malt liquor in accordance with M.S. §  
47 340A.301, Subd. 6b, as amended from time to time.

48 RESIDENTIAL WIND TURBINE. A wind turbine of ten-kilowatt (kW) nameplate generating capacity or  
49 less.

50 RETAIL BUSINESS. An establishment engaged in selling goods or merchandise to the general public for  
51 personal or household consumption and rendering services incidental to the sale of such goods.

1 RETAINING WALL. A vertical or nearly vertical structure constructed of mortar and rubble masonry, rock  
2 or stone regardless of size, vertical timber pilings horizontal timber planks with piling supports, sheet  
3 pilings, poured concrete, concrete blocks, or other durable materials.

4 RIGHT-OF-WAY. A strip of land occupied or intended to be occupied by a street, sidewalk, trail corridor of  
5 at least 50 feet, snow storage, highway, railroad, transmission cable, pipeline, landscaping, and utility  
6 structures.

7 SCHOOL. A public or private elementary, middle, secondary, post-secondary, or vocation school having a  
8 course of instruction approved by the Minnesota Board of Education.

9 SCREENING. A method of visually shielding or obscuring one abutting or nearby structure or use from  
10 another by fencing, walls, berms, or densely planted vegetation.

11 SEAMLESS METAL PANELS. Smooth, prefinished, architectural metal panels without seams or joints  
12 that protrude from the surface. This term excludes textured metal, standing seam, pole or "Butler building"  
13 metals, any kind of corrugated panel, or metal siding that is residential in appearance or quality.

14 SEASONAL (TEMPORARY) GARDEN CENTER. A retail use for the sale of primarily plants and other  
15 related garden materials such as flowerpots, seeds, garden tools, and landscape rock and mulch.

16 SEASONAL (TEMPORARY) GREENHOUSE. A temporary structure, commonly with glass or durable  
17 plastic walls and roof, designed for the cultivation or exhibition of plants under controlled conditions during  
18 the spring and summer seasons.

19 SENIOR MULTIPLE FAMILY DWELLINGS. Those multiple family dwellings marketed to and  
20 predominately occupied by persons 70 years of age or older.

21 SERVICE BUSINESS. An establishment primarily engaged in providing assistance, as opposed to  
22 products, to individuals, business, industry, government, and other enterprises, including hotels and other  
23 lodging places; personal, business, repair, and amusement services; health, legal engineering, and other  
24 professional services; educational services; membership organizations; and other miscellaneous services  
25 and sales of such goods incidental to the service.

26 SETBACK. The required minimum space between property lines and buildings, structures, accessory  
27 uses, or other features as specifically set forth in this chapter.

28 (1) Front. The area extending the full width of the lot between the public right-of-way from which the  
29 dwelling is addressed, and a distance specified by the applicable district. Front setbacks are  
30 measured in feet from the property line.

31 (2) Rear. The area between the rear lot line and the rear setback line. Rear setbacks are measured  
32 in feet from the property line.

33 (3) Side. The area between the side lot line and the side setback line, bounded by the front yard and  
34 rear yard. Side setbacks are measured in feet from the property line.

35 SEXUALLY ORIENTED BUSINESS. Any one of a number of establishments which offers goods and/or  
36 services for sale or rent of a sexual or titillating nature as its primary business and which excludes minors  
37 by virtue of age. This may include, but is not limited to bookstores, car washes, entertainment centers,  
38 modeling studios, motion picture theaters, cabaret/nightclubs, video rental, etc.

39 SHORELINE. An area 40 feet wide as measured above the ordinary high water level on both sides of the  
40 Mississippi River.

41 SIGN. All structures, either stationary or movable, containing writing, announcement, declaration,  
42 demonstration, display, illustration, insignia, or illumination used to advertise or promote the interest of  
43 any person when the same is displayed outside. Signs are further defined and regulated in Chapter 150  
44 of the City Code.

45 SITE PLAN. A document or group of documents containing text, drawings to scale, maps, photographs,  
46 and other materials intended to present existing and proposed conditions of property development,  
47 including topography, vegetation, wetlands, ingress/egress, parking, grading, drainage, utilities,  
48 landscaping, buildings, signs, lighting, and other information as may be reasonably required.

49 SLOPE. The change in elevation on the land. For the purposes of the Critical Area Overlay District, land  
50 with a slope of 12% or greater is regulated. A 12% slope means that for every eight feet of horizontal  
51 distance, the elevation changes by at least one foot.

52 SMALL WIND TURBINE. A wind turbine of 100 kW nameplate generating capacity or less.

1 SOLAR ENERGY SYSTEM. A device or structural design feature, a substantial purpose of which is to  
2 provide daylight for interior lighting or provide for the collection, storage, and distribution of solar energy  
3 for space heating or cooling, electricity generation or water heating.

4 SPECIAL FLOOD HAZARD AREA. A term used for flood insurance purposes synonymous with ONE  
5 HUNDRED YEAR FLOOD PLAIN.

6 SPLIT LEVEL. A single-family dwelling unit that is almost entirely a full one-and-a-half stories in height at  
7 or above the front entry elevation.

8 STAGING AREA. An unobstructed paved surface area provided and maintained for the temporary  
9 parking, unloading, and maneuvering of commercial vehicles incidental and related to the principal  
10 permitted use of the property.

11 START OF CONSTRUCTION. Includes substantial improvement, and means the actual start of  
12 construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement that  
13 occurred before the permit's expiration date. The actual start is either the first placement of permanent  
14 construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the  
15 construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured  
16 home on a foundation. Permanent construction does not include land preparation, such as clearing,  
17 grading and filling; nor does it include the installation of streets and/or walkways; nor does it include  
18 excavation for a basement, footings, piers, foundations, or the erection of temporary forms; nor does it  
19 include the installation on the property of accessory buildings, such as garages or sheds not occupied as  
20 dwelling units or not part of the main structure. For a substantial improvement, the actual start of  
21 construction means the first alteration of any wall, ceiling, floor, or other structural part of a building,  
22 whether or not that alteration affects the external dimensions of the building.

23 STEALTH DESIGN. State-of-the-art design techniques used to blend the object into the surrounding  
24 environment and to minimize the visual impact as much as reasonably possible. Examples of stealth  
25 design techniques include, but are not limited to architecturally screening roof-mounted antennas and  
26 accessory equipment; integrating telecommunications facilities into architectural elements; nestling  
27 telecommunications facilities into the surrounding landscape so that the topography or vegetation reduces  
28 their view; using the location that would result in the least amount of visibility to the public, minimizing the  
29 size and appearance of the telecommunications facilities; and designing telecommunications towers to  
30 appear other than as towers, such as light poles, power poles, flag poles, and trees.

31 STORAGE. For the purpose of this chapter storage shall have the meaning of storing, locating, or  
32 parking. Storage does not include current property maintenance activities occurring on the property.  
33 ~~STORAGE~~Storage does not include temporary parking or vehicles in a staging area.

34 STORY. That portion of a building included between the upper surface of any floor and the upper surface  
35 of the next floor above, except that the topmost story must be that portion of the building included  
36 between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level  
37 directly above a basement, as defined in this chapter, is more than six feet above grade for more than  
38 50% of the total perimeter or is more than 12 feet above grade at any point, and then the basement  
39 counts as a story.

40 STREET. A thoroughfare, either owned publicly or privately, and accompanying boulevard located  
41 between right-of-way or property lines used or intended to be used for passage or travel by vehicles,  
42 pedestrians, bicyclists, and related maintenance activities. Streets may be local, collector, or arterials as  
43 defined by the Comprehensive Plan.

44 STREETS, ARTERIAL. A type of road that is characterized by limited access and a design capacity to  
45 move relatively large volumes of traffic in an expedient manner. Arterials are divided into principal  
46 arterials and minor arterials based on their access, the traffic volume they carry and the areas they serve.  
47 The roadway classification system is further defined and illustrated in the City's Comprehensive Plan.

48  
49 STREETS, COLLECTOR. A type of road that functions to provide connections between neighborhoods  
50 and from neighborhoods to areas with concentrations of businesses. They typically have lower traffic  
51 volumes and speeds than arterials, but higher volumes and speeds than local roads. Collectors are  
52 divided into those roads that are designed to distribute traffic from major generators or from minor  
53 collectors to arterial roads (major collectors) and those roads that are designed to distribute traffic from

1 major collectors or arterials to local streets (minor collectors). Examples of major collectors include  
2 Candlewood Drive, Regent Avenue, and West River Road. Examples of minor collectors are Pearson  
3 Parkway, Lad Parkway, and Northland Drive. The roadway classification system is further defined and  
4 illustrated in the City's Transportation Plan

5 STREETS, LOCAL. A type of road that functions to provide access to adjacent properties and from  
6 properties to collectors and/or arterials. Speeds and traffic volumes are typically lower than collectors or  
7 arterials. The roadway classification system is further defined and illustrated in the City's Transportation  
8 Plan.

9 STREET TREES. Trees planted or growing on public easements (public right-of-way and public use),  
10 parks and public buildings grounds.

11 STRUCTURE. A material or combination of materials that form a construction for use, occupancy, or  
12 ornamentation whether installed on, above, or below the surface of land or water.

13 STRUCTURE, ACCESSORY. A structure subordinate to, incidental to, and/or serving the principal  
14 structure on the same lot. Examples include garages (attached or detached), greenhouses, ice-fishing  
15 shacks, storage sheds, etc.

16 STRUCTURE, PRINCIPLE. The main structure on a parcel of land designed to house the principle use.

17 SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure where the cost of restoring the  
18 structure to its before damaged condition would equal or exceed 50% of the market value of the structure  
19 before the damage occurred.

20 SUBSTANTIAL IMPROVEMENT. Within any consecutive 365-day period, any reconstruction,  
21 rehabilitation (including normal maintenance and repair), repair after damage, addition, or other  
22 improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure  
23 before the start of construction of the improvement. This term includes structures, which have incurred  
24 substantial damage, regardless of the actual repair work performed. The term does not, however, include  
25 either:

- 26 (1) Any project for improvement of a structure to correct existing violations of state or local health,  
27 sanitary, or safety code specifications which have been identified by the local code enforcement  
28 official and which are the minimum necessary to assure safe living conditions.
- 29 (2) Any alteration of an historic structure, provided that the alteration will not preclude the structure's  
30 continued designation as an historic structure. For the purpose of this chapter, historic structure  
31 shall be as defined in Code of Federal Regulations, Part 59.1.

32 TAPROOM. A facility on or adjacent to the premises of a brewery where the on-sale consumption of malt  
33 liquor produced by the brewer is permitted pursuant to M.S. § 340A.301, Subd. 6b.

34 TELECOMMUNICATIONS FACILITIES. Includes antennas, accessory equipment, and  
35 telecommunications towers.

36 TELECOMMUNICATIONS TOWER OR COMMERCIAL TOWER. A free-standing, self-supporting lattice,  
37 guyed, or monopole structure constructed from grade intended to support antennas, except towers used  
38 for amateur radio operations.

39 TEMPORARY PORTABLE STORAGE CONTAINERS. An enclosed portable storage container placed on  
40 a residential property for temporary use.

41 THREE SEASON PORCH. A roofed and enclosed porch, deck, or similar space with windows that is not  
42 heated.

43 ~~TOWER. A vertical structure that supports a wind turbine.~~

44 TOWER. Any ground or roof mounted pole, spire, structure, or combination taller than 15 feet, including  
45 supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an  
46 antenna, meteorological device, wind turbine, or similar apparatus above grade.

47 TOWNHOUSE. A single-family dwelling in a row of similar units. Such dwellings are constructed as slab-  
48 on-grade with no basement and may be detached or attached, each with its own front and rear entrance.  
49 Each dwelling extends from the foundation to the roof with units not stacked.

50 TRAILER. A vehicle that is an open-bed style trailer, enclosed trailer, or trailer as defined in M.S. §  
51 169.01, as amended from time to time, or any machine or equipment designed to travel along the ground  
52 by use of wheels, treads, runners or slides, and transport persons or property or pull machinery. A trailer

1 by this definition does not include a semi-tractor trailer, commercial vehicle as defined in this chapter, or a  
2 trailer with a registered gross weight over 12,000 pounds.

3 TRANSIENT MERCHANT. A person who temporarily sets up business out of a vehicle, trailer, boxcar,  
4 tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling,  
5 or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and  
6 who does not remain or intend to remain in any one location for more than 14 consecutive days. The term  
7 ~~TRANSIENT MERCHANT~~transient merchant does not apply to ~~MOBILE FOOD UNIT~~mobile food unit, as  
8 defined in §§ 114.03 and 152.008.

9 TRANSIENT SALES. The informal or temporary sale of items, such as rugs, Christmas trees, flowers and  
10 plants, pumpkins, and fruit and beverages, by persons other than the owner or occupant of the premises.

11 TRANSPORTATION PLAN. A chapter or element of the Comprehensive Plan, as amended from time to  
12 time, that describes the existing and planned transportation related facilities and policies of the city.

13 TRUCK OR MOTOR FREIGHT TERMINAL. A loading dock facility allowing truck freight operators to  
14 redistribute loads of their truck fleets at an intermediate transfer point. These facilities are primarily used  
15 for staging loads and possess very little, if any, indoor storage area.

16 TWO STORY. A single-family dwelling unit which is almost entirely a full two stories in height at or above  
17 the front entry elevation.

18 USE. The purpose or activity for which a property or structure is designed, arranged, or intended or for  
19 which it is or may be occupied or maintained.

20 USE, ACCESSORY. A use subordinate to and serving the principal use or structure on the same lot and  
21 incidental to such principal use.

22 USE, CONDITIONAL. A use that may be allowed in a particular zoning district only upon demonstration  
23 that the use and its operation will be compatible with the surrounding area and will comply with all  
24 standards of this chapter. The city may impose additional conditions above those specified in this chapter  
25 in specific instances to protect the public health, safety or welfare and to ensure compatibility with the  
26 surrounding area.

27 USE, INTERIM. A use of property that is consistent with the city's comprehensive plan and zoning  
28 ordinance, which may exist temporarily until a particular date or until an occurrence of a particular event  
29 deemed by the City Council.

30 USE, PERMITTED. Any use that is allowed by this chapter and subject to the restrictions of the zoning  
31 district and this chapter.

32 USE, PRINCIPLE. The main use of land or buildings as distinguished from accessory uses.

33 UTILITY WIND TURBINE. A wind turbine of more than 100 kW nameplate generating capacity.

34 VEHICLE. Any vehicle, motor vehicle, semitrailer, or trailer as those terms are defined in M.S. § 169.01,  
35 as it may also be amended from time to time, including pioneer, classic collector, and street rod vehicles.  
36 It also includes, without limitation, automobile, truck, trailer, motorcycle, and tractor.

37 VERTICAL AXIS WIND TURBINE. A type of wind turbine where the main rotor shaft runs vertically.

38 ~~WETLAND. Poorly drained, environmentally sensitive lands as designated by M.S. § 103G.221 et seq.~~  
39 ~~known as the Wetland Conservation Act, or any other state or federal agency. Land transitional between~~  
40 ~~terrestrial and aquatic systems where the water table is usually at or near the surface or the land is~~  
41 ~~covered by shallow water, as defined in Minnesota Statue, Section 103G.005~~

42  
43 WHOLESALE LICENSE AUTO DEALER. May sell vehicles to licensed dealers only with no outdoor  
44 display or any storage on site.

45 WIND ENERGY CONVERSION SYSTEM (WECS). An electrical generating facility that consists of a wind  
46 turbine, feeder line(s), associated controls and may include a tower.

47 WIND TURBINE. Any piece of electrical generating equipment that converts the kinetic energy of blowing  
48 wind into electrical energy using airfoils or similar devices to capture the wind.

49 WIRELESS COMMUNICATION SERVICE PROVIDER. Licensed commercial wireless telecommunication  
50 services including cellular, personal communication services (PCS), specialized mobilized radio (SMR),  
51 enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the  
52 general public.

1 XERISCAPING. A landscaping method that uses plants that have low water requirements, making them  
2 able to withstand extended periods of drought without irrigation. Xeriscaping landscapes are a conscious  
3 attempt to develop plantings which are compatible with the environment and make a conscious effort to  
4 minimize use of water.

5 YARD. An open space unobstructed from the ground upward except for landscape materials and minor  
6 fixtures of a non-structural nature commonly found in a yard. The front yard, side yard and rear yard shall  
7 have the following meanings:

- 8 (1) Yard, Front. The area between the front lot line and a line drawn along the front face or faces of the  
9 principal structure on the property and extended to the side property lines. Where a lawful existing  
10 garage is located closer to the front lot line than the principal structure, the front yard is the area  
11 between the front lot line and a line drawn along the front face or faces of the principal structure to the  
12 perpendicular line following the accessory structure to the front face of the accessory structure and  
13 extended to the side property line. For properties where the front yard definition is not applicable, the  
14 city will determine the front yard area.
- 15 (2) Yard, Rear. The area between the rear lot line and the closest portion of the principal structure and  
16 abutting the side and front yard.
- 17 (3) Yard, Side. The area extending from the front yard to the rear yard along a side lot line measured  
18 perpendicularly from the side lot line to the closest point of a structure.

19 ZERO LOT LINE. A setback where one or more of building's sides rests directly on a lot line and shares a  
20 common wall with one or more buildings.

21 ZONING DISTRICT, UNDERLYING. The official district supporting and further regulated by a zoning  
22 overlay district.

23 ZONING MAP. The official map that is part of this chapter and delineates the geographic boundaries of  
24 zoning districts.

25 ZONING ORDINANCE AMENDMENT. A text change to this chapter or a map change to the official  
26 zoning or zoning overlay map that the City Council has authorized.

27 ZONING OVERLAY MAP. The official map that is part of this chapter and delineates the geographic  
28 boundaries of zoning overlay districts.

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31 **ARTICLE SECTION 2. ADMINISTRATION AND ENFORCEMENT**

32 **§152.200 PURPOSE.**

33 This article establishes the administration and enforcement powers of this chapter.

34 **§152.201 CITY MANAGER.**

35 The City Manager may designate such additional persons as necessary to administer and enforce this  
36 chapter. In addition to the duties defined elsewhere in City Code, the duties of the City Manager include:

- 37 (A) Oversee the creation and maintenance of permanent and current records of this chapter, including,  
38 but not limited to, all maps, amendments, conditional uses, variances, appeals, applications, permits,  
39 and other records required by law.
- 40 (B) Oversee the receiving and forwarding of all applications, including but not limited to, zoning  
41 amendments, conditional uses, variances, and appeals.
- 42 (C) Interpret the application and provisions of this chapter, which may be appealed to the Planning  
43 Commission pursuant to the procedures in §\_\_\_\_.
- 44 (D) Serves as a liaison to the Planning Commission and is responsible for the preparation of application  
45 for zoning related matters, the preparation and submission of public hearing notices to the official  
46 newspaper, the preparation of reports and other information for Planning Commission and City  
47 Council meetings and enforces all zoning regulations, provisions and conditions pertaining to the  
48 approval of applications by the Planning Commission and City Council.

1 **§152.203 ENFORCEMENT AND PENALTIES.**

- 2 (A) Enforcement: The City Manager may in the name of the City of Brooklyn Park take any appropriate
- 3 actions or proceedings to enforce this chapter. These actions may include, but are not limited to:
- 4 (1) Conduct periodic inspections of buildings, structures, and use of land to determine compliance
- 5 with terms of this chapter.
- 6 (2) Notify, in writing, any person responsible for violating a provision of this chapter, indicating the
- 7 nature of the violation and ordering the action necessary to correct it and a time frame for
- 8 compliance.
- 9 (3) Order discontinuance of illegal use of land, buildings, or structures; order removal of illegal
- 10 buildings, structures, additions or alteration; order discontinuance of illegal work being done; or
- 11 take any other legal action as may be necessary to ensure compliance with or to prevent violation
- 12 of its provisions, including cooperation with the City Attorney in the prosecution of complaints.
- 13 (4) The City Manager ~~may also have~~has the authority to issue stop work orders of any and all site
- 14 improvement activities when and where a violation of the provisions of this chapter has been
- 15 documented.
- 16 (B) Penalties. The City Manager may institute in the name of the City of Brooklyn Park any appropriate
- 17 legal actions or proceedings against a violator of this chapter. Any person who violates, fails to
- 18 comply with or assists, directs or permits the violation of any provision of this chapter or who
- 19 knowingly makes or submits any false statement or document in connection with any application or
- 20 procedure required by this chapter is guilty of a misdemeanor. Any person who violates, fails to
- 21 comply with or assists, directs or permits the violation of any performance standard of this chapter
- 22 must reimburse the city or its agent for the actual cost of the tests, measurements or other
- 23 procedures necessary to demonstrate such violation.

24 **§152.204 EASEMENTS**

- 25 (A) No private buildings, structures, or uses may be in or on any easements, except fences or retaining
- 26 walls and public or quasi-public facilities regulated by City Franchise, or other provisions of the City
- 27 Code.
- 28 (B) The City Council may grant an encroachment agreement if it is determined to be appropriate for the
- 29 structure and if it is not detrimental to the operation of the easement.

30  
31  
32 **§152.205 NONCONFORMITIES**

- 33 (A) Authority. This section is pursuant to Minnesota Statutes §462.357.
- 34 (1) Nonconforming Uses. Except as otherwise provided by law, any nonconformity, including the
- 35 lawful use or occupation of land or premises existing at the time of the adoption of an additional
- 36 control under this chapter, may be continued, including through repair, replacement, restoration,
- 37 maintenance, or improvement, but not including expansion, unless:
- 38 (a) The nonconformity or occupancy is discontinued for a period of more than one year; or
- 39 (b) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50
- 40 percent of its estimated market value, as indicated in the records of the county assessor at
- 41 the time of damage, and no building permit has been applied for within 180 days of when the
- 42 property is damaged. In this case, reasonable condition may be imposed upon a zoning or
- 43 building permit to mitigate any newly created impact on adjacent property or water body.
- 44 (c) Any established use legally existing prior to adoption of this ordinance and which is herein
- 45 classified by this Chapter as requiring a Conditional Use Permit may be continued in like
- 46 fashion and activity. Any change to such a use shall require a new Conditional Use Permit be
- 47 processed according to §     .
- 48 (d) Any established use legally existing prior to adoption of this ordinance and which is herein
- 49 classified by this Chapter as requiring an Interim Use Permit may be continued in like fashion
- 50 and activity. Any change to such a use or building shall require a new IUP be processed
- 51 according to §     .

- 1 (B) Nonconforming structures. Expansion of an existing nonconforming structure, reconstruction of a
- 2 partially destroyed nonconforming structure, or other intensification of a site may be subject to §
- 3 394.36, Minn. Stats..
- 4 (1) Nonconforming principal structures may not be enlarged or altered in a way that increases their
- 5 nonconformity unless in compliance with the following:
- 6 (a) Expansion or alteration of buildings found to be nonconforming only by reason of height,
- 7 setback or lot area may be permitted, provided the structural nonconformity is not increased
- 8 and the expansion complies with the performance standards of this chapter.
- 9 (b) Legal nonconforming single-family and two-family dwellings may be expanded or altered to
- 10 improve the livability provided the nonconformity of the structure is not increased.
- 11 (c) The expansion or alteration must follow the requirements of §    .
- 12 (2) A nonconforming structure which has deteriorated or is damaged to the extent of 50% or more of
- 13 its market value (excluding land value) as determined by the City Manager may be replaced or
- 14 reconstructed only in compliance with this chapter.
- 15 (3) Any non-conforming structure which is damaged to an extent of less than 50% of its value,
- 16 excluding land, as determined by the City Manager may be restored to its former foundation
- 17 footprint, structure height, and gross floor area if ~~reconstruction begins~~ building permit is issued
- 18 within six months of the date of documented damage.
- 19 (C) Nonconforming lot of record.
- 20 (1) Any lot which was legally created but became nonconforming due to changes in area or
- 21 dimensional requirements because of the adoption of this chapter may be subject to the following:
- 22 (a) May be combined for tax purposes with a contiguous parcel or parcels but may not be re-
- 23 subdivided into a nonconforming lot even if the division is consistent with the original lot
- 24 configurations.
- 25 (b) If an owner has an interest in more than one lot of record contiguous to other lots of record,
- 26 all such lots must be combined to meet the requirements of this section or the provisions of
- 27 the zoning district in which the property is located, whichever is more restrictive. If sufficient
- 28 contiguous property is held in one ownership to comply with the provision of the zoning
- 29 district where the property is located, the zoning district provisions will apply. In no
- 30 circumstances will there be approval of any proposal for multiple lot developments based
- 31 upon lots of record, and not conforming with the provisions of the existing zoning district.
- 32 (c) A vacant lot may be used for a single-family detached dwelling (if permitted by the district
- 33 regulations), if the lot area or width measurements meet at least 75% of the requirements for
- 34 both the lot area and width requirements.
- 35 (d) Additions to principal or accessory buildings or structures located on nonconforming lots may
- 36 be permitted provided that any such addition will meet all minimum setback requirements of
- 37 the zoning district in which it is located.
- 38 (e) If the lot is nonconforming due to public action after the lot was created or has no buildable
- 39 area outside the floodplain or critical area overlay setbacks, then no variance may be
- 40 required for the reconstruction of a single-family dwelling on a non-conforming lot that is
- 41 damaged to the extent of 50% or more of its market value (excluding land value), so long as
- 42 the replacement dwelling has a footprint, building height and gross floor area size equal to
- 43 that of the destroyed dwelling.
- 44 (D) Nonconforming site improvements.
- 45 (1) If nonconforming uses, structures, or buildings suffer damage to at least 50% of the value of the
- 46 structure excluding land, as determined by the City Assessor, or the property owner applies for a
- 47 building addition or an accessory structure amounting to 25% of the value of the principal
- 48 structure, the site must be brought into conformance with the requirements of this chapter. At no
- 49 time will a building or grading permit be issued if the proposed construction will increase any
- 50 nonconformity on the site.
- 51 (2) Upon any change in occupancy, nonconforming paved parking areas may continue to be used
- 52 without improvement if the number of parking spaces supplied remains adequate according to the
- 53 regulations in this chapter, and the paved surface has not, in the city’s judgment, deteriorated so

as to be beyond repair. If the parking lot cannot be repaired for the new occupancy, then the parking lot surface must be replaced or otherwise brought into compliance with this chapter.

- (3) A building permit may be issued for a portion of a multiple occupancy building without bringing the existing site improvements for the entire property into compliance with this chapter so long as no non-conformity is increased. If a multiple occupancy building becomes completely vacant, its site improvements must be brought into compliance with this chapter prior to any future occupancy.
- (4) When expansion of existing sites occurs, the newly constructed portion of the site improvements must fully comply with all of the requirements of this chapter, unless the expansion portion of the property contains physical limitations that make full compliance unfeasible, then site plan review shall be required to determine the level of compliance required as approved by the Planning Commission and City Council.

(E) Nonconformities in the Flood Hazard Overlay.

- (1) Structures in the designated floodway may be considered nonconforming uses.
- (2) All reconstruction in the Flood Hazard Overlay must comply with Minnesota Rules parts 6120.5000 – 6120.6200. The only acceptable method of elevating the lowest floor, including the basement (as defined for the Flood Hazard Overlay), is with the placement of earthen materials (fill). Other methods require a variance.
- (3) Reconstruction commences within one year of the date of the destruction of the original building and reasonable progress must be made in completing the project for this division to be applicable. A building permit must be obtained prior to construction of the new dwelling and the new structure must be constructed in compliance with all other City Codes regulations.

**§152.206 NUISANCES**

- (A) No use may use or create noise, dust, vibration, odor, glare, electrical interference, fire hazards, garbage, hazardous chemicals that exceed standards published in the City Code, or by the PCA or Department of Health standards.
- (B) No use may create traffic or parking congestion to a degree that cannot be proportionally accommodated by adjacent street or private driveways and garages,
- (C) No use may create any other public health, safety or general welfare hazard or nuisance to any greater or more frequent extent than that usually experienced in an average dwelling unit or private garage, sewer, or water services under normal circumstances wherein no vocation or avocation exists in the zoning district where the vocation or avocation exists, except as superseded by state or county ordinance, statute, or law.
- (D) -

**ARTICLE SECTION 3. APPLICATIONS AND PROCEURES**

**§152.300 PURPOSE.**

The purpose of this article is to establish procedural requirements for processes enabled or required by this chapter, including amendments to the regulations of this chapter, zoning map amendments, site plans, conditional use permits, interim use permits, administrative permits, alternative compliance, variances, interpretations, appeals, and violations and penalties. This chapter also addresses development contracts, financial guarantees, and cash escrows related to development projects and applications.

**§152.301 PUBLIC HEARINGS**

- (A) The following applications require a public hearing:
  - (1) Conditional use permits, amendments, and revocations.
  - (2) Interim use permits.
  - (3) Site plans, except those eligible for administrative review per §     .
  - (4) Variances.
  - (5) Zoning map or text amendments.

- (B) Notification. All applications requiring a public hearing must be advertised in the following manner:
  - (1) Notice of the time, place, and purpose hearing must be published in the newspaper in general circulation in the municipality at least 10 days before the day of the hearing.
  - (2) A similar notice must be mailed at least 10 days before the day of the hearing to each owner of affected property and property situated completely or partly within 350 feet of the subject property.

~~(C) Neighborhood Outreach. Neighborhood outreach shall be provided per the adopted Multifamily Housing Community Outreach Policy.~~

**§152.302 GENERAL PROCEDURES.**

~~(A) Applications. The City Manager determines if the required information is complete. If the information is determined to be incomplete, such that a thorough review of the application is not possible, the item may not be placed on the Planning Commission or City Council agenda for consideration until the required information is submitted. The applicant will be notified within ten days following the receipt of the application describing the information that is missing. Applicability. The following procedures require an application submitted to the City Manager.~~

- ~~(1) Conditional use permits, amendments, and revocations.~~
- ~~(2) Interim use permits.~~
- ~~(3) Site plans, except those eligible for administrative review per § .~~
- ~~(4) Variances.~~
- ~~(5) Zoning map and text amendments.~~

~~(B)(A) Application requirements.~~

- ~~(1) Applications shall be filed by the property owner or designated agent on an application form provided for the purpose and filed with the City Manager.~~
- ~~(2) The City has the authority to request additional information from the applicant or to retain experts with the consent and at the expense of the applicant.~~
- ~~(3) Said application shall be accompanied by a fee in accordance with the City fee schedule.~~
- ~~(4) The City Manager determines if the required information is complete. If the information is determined to be incomplete such that a thorough review of the application is not possible, the item may not be placed on the Planning Commission or City Council agenda for consideration until the required information is submitted. The applicant will be notified within 10 days following the receipt of the application describing the information that is missing.~~

~~(C) Notification. All applications for development proposals requiring a public hearing must be advertised to allow informed participation by all interested parties and conform with the applicable state statute. The City Manager may maintain copies of the city policy concerning notification. Review and approval.~~

~~(B)~~

- ~~(1) Applications shall be subject to Minnesota's 60-day rule. Failure to approve or deny a request within the statutory time period is considered an approval per Minn. Stat. § 15.99.~~
- ~~(2) The Planning Commission shall review the application and may recommend to the City Council such actions or conditions relating to the application as it deems necessary to carry out the intent and purpose of this chapter and the Comprehensive Plan.~~
- ~~(3) The City Council shall review the application and may adopt, modify, or reject any recommendation of the Planning Commission.~~

~~(D) Withdrawal or continuation. At any time before final action is taken on an application, the applicant may request a continuance of action by the Planning Commission and City Council or withdraw the application by submitting a written statement to the City Manager stating the applicant's desire to do so. Application fees and any portion of escrow spent in the processing of the application may be retained by the City. The City Manager may establish a time limit on any continuation.~~

~~(C) Applications requiring public hearings. The following applications for development proposals require public hearings:~~

- ~~(1) Approval of Site Plan.~~

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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.

- ~~(1) Planning Commission and City Council action. Appeals.~~
- ~~(2) Applicants aggrieved by a decision of the City Manager may appeal the decision to the City Council.~~
- ~~(3) Any unresolved dispute as to an administrative interpretation of City Code, ordinance, or policy may be appealed to the Planning Commission in its role as the Board of Adjustments and Appeals subject to §§ 31.15 through 31.19 of the City Code. The appeal must be submitted in writing to the City Manager on or before the next application filing deadline for a Planning Commission meeting.~~

~~(E) Re-submitting denied applications. No application which has been denied wholly or in part may be resubmitted for at least 365 days from the date of its denial unless substantial changes have been made which warrant reconsideration, as determined by the City Manager.~~

~~(F)(D) Expiration of action (except for conditional use permits, which may remain in effect as long as the conditions are observed).~~

~~(1) The Planning Commission may recommend such actions or conditions relating to the application as it deems necessary to carry out the intent and purpose of this chapter and the Comprehensive Plan. Unless otherwise specified by the City Council, an approved application becomes null and void after 365 days following the date of its approval unless the property owner or applicant has begun construction of any building, structure, addition, or alteration, or use as evidenced by the issuance of a building permit or grading permit in compliance with the approved plan. The property owner or applicant has the right to request a time extension in accordance with this chapter.~~

~~(2) The City Council may adopt, modify or reject any recommendation of the Planning Commission.~~

~~(1)(3) At any time before final action is taken on an application, the applicant may request a continuance of action by the Planning Commission and City Council, or withdraw the application by submitting a letter to the City Manager stating the applicant's desire to do so. Any portion of fees spent in the processing of the application may be retained by the city. The City Manager may establish a time limit on any continuation.~~

~~(E) Appeals. This division is established to allow those aggrieved by the decision of the City Manager to attempt to remedy the grievance by appealing the decision to the City Council. Any unresolved dispute as to an administrative interpretation of City Code, ordinance, or policy requirements may be appealed to the Planning Commission in its role as the Board of Adjustments and Appeals subject to §§ 31.15 through 31.19 of the City Code. The appeal must be submitted in writing to the City Manager on or before the next application filing deadline for a Planning Commission meeting. Request for time extensions.~~

~~(F) Re-submitting denied applications. No application which has been denied wholly or in part may be resubmitted for at least one year from the date of its denial, unless substantial changes have been made which warrant reconsideration, as determined by the City Manager.~~

~~(G) Expiration of action. Unless otherwise specified in this Chapter, or as approved by the City Council, the approved applications for projects become null and void by December 31 of the year following the date of its approval, unless the property owner or applicant has begun construction of any building, structure, addition or alteration, or use as evidenced by the issuance of a building permit or grading permit in compliance with the approved plan. The property owner or applicant has the right to submit an application for a time extension in accordance with this chapter.~~

~~(G)(H) Request for time extensions.~~

- 1 (1) ~~A request for a time extension may be considered by the City Manager. Time extensions must be~~  
2 ~~submitted to the City Manager prior to the expiration of a final action by the City Council. If an~~  
3 ~~action has officially expired, no time extension may be granted. If the time extension request is~~  
4 ~~delayed in the review process and, through no fault of the applicant, cannot be reviewed by the~~  
5 ~~City Manager as anticipated, the request may proceed through the process to final resolution~~  
6 ~~without jeopardy. The applicant may request a maximum of one time extension. Time extensions~~  
7 ~~are valid for a maximum of one year from the original expiration date. A request for a time~~  
8 ~~extension may be considered by the City Manager. Time extensions must be submitted to the~~  
9 ~~City Manager prior to the expiration of a final action by the City Council. If an action has officially~~  
10 ~~expired, no time extension may be granted. If the time extension request is delayed in the review~~  
11 ~~process and, through no fault of the applicant, cannot be reviewed by the City Manager as~~  
12 ~~anticipated, the request may proceed through the process to final resolution without jeopardy.~~  
13 ~~The applicant may request up to two extensions. Time extensions are valid for a maximum of two~~  
14 ~~years from the original expiration date.~~
- 15 (2) The request may be reviewed with consideration of the following:  
16 (a) The Comprehensive Plan or any other city plan.  
17 (b) City policy changes.  
18 (c) Transportation conditions.  
19 (d) Applicable changes to any city, county, state or federal statutes, rules, requirements, or  
20 ordinances.  
21 (e) Park dedication fees and other financial guarantees may be redetermined as required by City  
22 Code to the date of approval of the extension.  
23 (f) Any negative escrow accounts from previous reviews must be paid and the escrow account  
24 must be updated to current minimum requirements prior to the City Manager’s consideration  
25 of the extension.

**§152.303 SITE PLAN.**

- 26 (A) Purpose. This section establishes site plan review procedures and provides regulations pertaining to  
27 the enforcement of site design standards consistent with the requirements of this chapter. These  
28 procedures are established to promote high quality development and enhance the built and natural  
29 environment within the city as new development and redevelopment activities occur.
- 30 (B) Applicability. ~~Without first obtaining site plan approval it is unlawful to do any of the following~~  
31 ~~Site plan~~  
32 ~~approval is required for the following development:~~  
33 (1) Construct a structure.  
34 (2) Relocate a structure from one property to another in the city.  
35 (3) Expand or change the use of a building or parcel of land or modify a building, accessory structure  
36 or site or land feature in any manner that results in a different intensity of use, including the  
37 requirement for additional parking.  
38 (4) Grade or take any action to prepare a site for development, except in conformance with the  
39 requirements for a grading permit, an approved neighborhood development plan or an approved  
40 conditional use permit.  
41 (5) Remove earth, soils, gravel, or other natural material from or place the same on a site, except in  
42 conformance with the requirements for a building or grading permit or an approved neighborhood  
43 development plan or an approved conditional use permit.
- 44 (C) Exemptions. The following are exempt from the site plan review process:  
45 (1) Agricultural structures in the UR Urban Reserve district provided they comply with all other code  
46 provisions.  
47 (2) Accessory structures in residential zones under 200 square feet and 18 feet in height or the  
48 height of the principal structure, whichever is less, provided they comply with all other code  
49 provisions.
- 50 (D) Review authority. Except in cases of administrative site plan review per subsection   , the Planning  
51 Commission and City Council shall have the review and approval authority to approve a site plan.

- 1 (E) Conditions. The City Council may impose conditions that affect the intent of this chapter to the
- 2 approval of a site plan review.
- 3 (F) Modification to approved site plan. A modification to plans previously approved through the site plan
- 4 review process that do not qualify for an administrative Site Plan Review under §\_\_\_ must follow the
- 5 City Council approved site plan review procedure.
- 6 (G) Administrative site plan review. Sites plans ~~may shall~~ be ~~approved-reviewed~~ by the City Manager in
- 7 lieu of City Council approval if they meet the following criteria, except as otherwise expressly provided
- 8 in this chapter:
- 9 (1) Residential properties with one dwelling unit per parcel that comply with the approved plan.
- 10 (2) Modifications or expansions of parking lots or driveways.
- 11 (3) Sites, buildings and uses that are permitted in the zoning district and do not require variances
- 12 from this chapter or any other city code, except for the following:
- 13 (a) Nonresidential uses in or adjacent to a residential district.
- 14 (b) Uses with drive-through service.
- 15 (c) Uses in the Public Institution District (PI).
- 16 (d) Religious institutions, either free-standing or within a multi-tenant building.
- 17 (e) Projects that received a conditional use permit or are in a special zoning overlay.
- 18 (f) Public and private elementary and secondary schools, including charter schools.
- 19 (4) Procedure.
- 20 (a) Administrative site plan review may be combined with the established building permit process
- 21 when applicable. The City Manager may impose conditions on the approval to implement the
- 22 intent of this chapter.
- 23 (b) Administrative approval, including all applicable conditions and requirements, may be made
- 24 either in writing separately or attached to the submitted plans. The applicant must fulfill all
- 25 applicable conditions of the approval prior to the issuance of any permits.
- 26 (H) Term of approval.
- 27 (1) If application has not been made for final site plan review for all or part of the property within the
- 28 development plan 365 days following the date of its approval, the development plan approval will
- 29 lapse unless the applicant requests an extension of that approval. An extension may be valid for
- 30 one year and may be approved by the City Council.
- 31 (2) If no construction has occurred on the property included within the development plan within 365
- 32 days following the date of final site plan approval, approval for the development plan will lapse
- 33 unless an extension has been approved by the City Council. An extension may be valid for one
- 34 year and may be approved by the City Council.
- 35 (I) Conformance to the approved site plan. All developments must remain in continual conformance with
- 36 the approved site plan review until or unless amended in compliance with this chapter.

37 **§152.304 ADMINISTRATIVE PERMIT**

- 38 (A) Purpose. Provide regulations which govern the procedure and requirements for the review and
- 39 approval, or denial, of proposed events or activities.
- 40 (B) Review authority. The City Manager shall have the review and approval authority to grant
- 41 administrative permits.
- 42 (C) Review standards. The City Manager may consider possible adverse effects of the proposed events
- 43 or activities based on the following factors:
- 44 (1) Compliance with and effect upon the Comprehensive Plan.
- 45 (2) The establishment, maintenance, or operation of the event or activity will not be detrimental to or
- 46 endanger the public health, safety, morals, or comfort.
- 47 (3) The event or activity will not be injurious to the use and enjoyment of other property in the
- 48 immediate vicinity for the purposes already permitted, nor substantially diminish and impair
- 49 property values within the neighborhood.
- 50 (4) The establishment of the event or activity will not impede the normal and orderly development
- 51 and improvement of surrounding property for uses permitted in the district.

- 1 (5) Adequate public facilities and services are available or can be reasonably provided to
- 2 accommodate the event or activity which is proposed.
- 3 (6) The event or activity may, in all other respects, conform to the applicable regulations of the district
- 4 in which it is located as outlined in the applicable sections of this chapter.
- 5 (7) The event or activity and site conform to the performance standards as outlined in the applicable
- 6 provisions of this chapter.
- 7 (D) Permit issuance.
- 8 (1) The City Manager shall approve or deny the administrative permit within 30 days from the date of
- 9 submission of a complete application.
- 10 (2) A written permit may be issued when a determination of compliance has been made. Specific
- 11 conditions to assure compliance with applicable evaluation criteria, codes, ordinances, and the
- 12 standards of this chapter must be attached to the permit.
- 13 (3) Determination of the applications noncompliance with applicable codes, ordinances, and the
- 14 standards in this division shall be communicated to the applicant in writing and the application for
- 15 the permit may be considered denied, unless, within 10 days of the date of such notice, the
- 16 applicant submits revised plans and/or information with which the City Manager is able to
- 17 determine compliance.
- 18 (E) Revocation. An administrative permit may be revoked by the City Manager or by an officer of the
- 19 Brooklyn Park Police Department if it is determined that the applicant has violated any conditions of
- 20 the administrative permit, any applicable provisions of the City Code, or any applicable provisions of
- 21 state or federal law.

22 **§152.305 CONDITIONAL USE PERMIT**

- 23 (A) Purpose. Pursuant to Minn. Stats. § 462.3595, the purpose of this section is to provide regulations
- 24 which govern the procedure and requirements for the review and approval, or denial, of proposed
- 25 conditional uses.
- 26 (B) Applicability. Only the specific uses classified as “conditional” in the zoning district where the property
- 27 is located may qualify for a conditional use permit.
- 28 (C) Review authority. The Planning Commission shall review and make recommendation to City Council.
- 29 The City Council shall have the review and approval authority to grant conditional use permits.
- 30 (D) Review standards. The Planning Commission and City Council shall consider the following factors
- 31 when making its determination on a conditional use permit application.
- 32 (1) Consistency with the Comprehensive Plan.
- 33 (2) Traffic generation, volume, and safety associated with the use and driveway location on adjacent
- 34 roads, sidewalks, and trail connections.
- 35 (3) The characteristics of the parking area of the use, including the number and design of parking
- 36 spaces, landscaping, traffic circulation, drainage, and lighting.
- 37 (4) The provision of adequate public infrastructure to the site where the use is proposed.
- 38 (5) The ability to screen and buffer incompatible off-site impacts of the proposed use on adjacent
- 39 property and the surrounding neighborhood.
- 40 (6) The degree that the site or building associated with the proposed use meets or exceed the
- 41 architectural design standards for the district in which it is located.
- 42 (7) Compliance with any other applicable section of this chapter or the city code.
- 43 (E) Conditions. The Planning Commission may recommend, and the City Council may impose,
- 44 reasonable conditions relating to this chapter. Such conditions must be related to the purpose of the
- 45 ordinance and be based on factual evidence. The City may, however, impose conditions that are
- 46 additional to or above those standards contained in this Chapter.
- 47 (F) Permit issuance. Conditional use permits shall be issued by resolution of the City Council and shall
- 48 include the legal description of the property included.
- 49 (G) Recordation. A certified copy of ~~any~~ all conditional use permits shall be recorded with the Hennepin
- 50 County recorder prior to issuance of a building permit.

- 1 (H) Construction. No building or grading permit can be issued except in compliance with the conditions of
- 2 the conditional use permit.
- 3 (I) Duration. The conditional use permit remains with the property as long as the property and use
- 4 comply with the conditions attached to the permit by the City Council.
- 5 (J) Certification. Upon request by the City Manager, the holder of a conditional use permit certifies that
- 6 the use, building, and site are in conformance with the conditional use permit and city codes, in
- 7 conjunction with § . The City Manager may maintain copies of the city policy concerning
- 8 certification.
- 9 (K) Revocation.
- 10 (1) The City may revoke a conditional use permit if there is not substantial compliance with
- 11 conditions. The revocation must be based upon factual evidence, after appropriate notice and
- 12 public hearing per § .
- 13 (2) If the city finds that exigent circumstances exist requiring immediate permit revocation, the city
- 14 may revoke the permit and provides a post revocation hearing before the City Council not more
- 15 than 15 days after holder's receipt of written notice of the hearing. Following such hearing, the
- 16 City Council may sustain or rescind the revocation, or may impose such other and further
- 17 discipline as it deems appropriate.
- 18 (3) Any decision to impose a penalty or other discipline must be in writing and supported by
- 19 substantial evidence contained in a written record.
- 20 (L) Amendment. Holders of a conditional use permit may propose amendments to the approved permit at
- 21 any time, subject to the procedures of § , except where administrative site plan review may be
- 22 granted as outlined in § .
- 23 (M) Changes in zoning classification. In the event a property is rezoned to a district where the use
- 24 becomes permitted, or a text amendment makes the use permitted in the zoning district, the
- 25 conditional use permit is voided.

26 **§152.306 INTERIM USE PERMIT**

- 27 (A) Purpose. The purpose of interim use permits is:
- 28 (1) To allow a use for a brief period of time until a permanent location is obtained or while the
- 29 permanent location is under construction.
- 30 (2) To allow a use that is presently judged acceptable by the City Council, but that with anticipated
- 31 development or redevelopment will not be acceptable in the future or will be replaced in the future
- 32 by a permitted or conditional use allowed within the respective district.
- 33 (3) To allow a use that complies with the Comprehensive Plan, provided that said use maintains
- 34 harmony and compatibility with surrounding uses and is in keeping with the architectural
- 35 character and design standards of existing uses and development.
- 36 (B) Applicability. An interim use permit applies to those uses that fit the criteria of subsection (A), above.
- 37 (C) Review standards. The Planning Commission and City Council shall consider the following factors
- 38 when making its determination on an interim use permit application.
- 39 (1) The use conforms to the zoning regulations.
- 40 (2) The date or event that will terminate the use can be identified with certainty.
- 41 (3) Permission of the use will not impose additional costs on the public if it is necessary for the public
- 42 to take the property in the future.
- 43 (4) The user agrees to any conditions that the governing body deems appropriate for permission of
- 44 the use.
- 45 (D) Conditions. The Planning Commission may recommend, and the City Council may impose,
- 46 reasonable conditions relating to this chapter. Such conditions must be related to the purpose of the
- 47 ordinance and be based on factual evidence. The City may, however, impose conditions that are
- 48 additional to or above those standards contained in this Chapter.
- 49 (E) Duration. An interim use permit shall terminate on the happening of any of the following events,
- 50 whichever occurs first:
- 51 (1) The date stated in the interim use permit.

- (2) Upon violation of conditions under which the permit was issued.
- (3) Upon change in the city's zoning regulations, which render the use nonconforming.
- (4) The redevelopment of the use and property.
- (F) Changes in zoning classification. In the event a property is rezoned to a district where the use becomes permitted, or a text amendment makes the use permitted in the zoning district, the interim use permit is voided.

**§152.307 VARIANCE**

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

(B) Review Standards.

- (1) Variances shall only be permitted:
  - (a) When they are in harmony with the general purposes and intent of the ordinance.
  - (b) When the variances are consistent with the Comprehensive Plan.
- (2) Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that:
  - (a) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
  - (b) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
  - (c) The variance, if granted, will not alter the essential character of the locality.
  - (d) Economic considerations alone do not constitute practical difficulties.
  - (e) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

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

(D) Variances for Communication Towers.

- (1) Initial criteria. The City Council may grant a variance to the setback, separation or buffer requirements, and/or maximum height provision of this subdivision based on the criteria set forth elsewhere in this chapter.
- (2) Additional criteria. In addition to taking the criteria set forth in § into consideration, the City Council may also grant a variance if the applicant demonstrates with written or other satisfactory evidence that:
  - (a) The location, shape, appearance or nature of the use of the proposed tower will not substantially detract from the aesthetics of the area nor change the character of the neighborhood in which the tower is proposed to be located.
  - (b) The variance will not create a threat to the public health, safety, or welfare.
  - (c) If the request is for a modification to the setbacks, the size of the parcel upon which the tower is proposed to be located makes compliance impossible, and the only alternative for the applicant is to locate the tower at another site that poses a greater threat to the public health, safety or welfare or is closer in proximity to residentially zoned land.
  - (d) If the request is for a modification of separation requirements, the applicant must provide technical evidence from an engineer that the proposed tower and antennas must be located at the proposed site in order to meet the coverage needs of the applicant's wireless communications system. The applicant must also submit a landscape plan showing buffers to screen the tower base from being visible from a residential area.
  - (e) If the request is for modification of the maximum height limit, the applicant must provide evidence documented by a qualified professional engineer licensed by the State of

Minnesota, showing the modification is necessary to facilitate collocation of telecommunication antennas and ground equipment to avoid the construction of a new tower, or to meet the coverage requirements of the applicant’s wireless communications system.

§152.308 ALTERNATIVE COMPLIANCE

- (A) (A) The city planning commission or zoning administrator may approve alternatives to any site plan review requirement upon finding any of the following:
(1) The alternative meets the intent of this chapter, and the site plan includes amenities or improvements that address any adverse effects of the alternative. Site amenities may include but are not limited to additional open space, additional landscaping and screening, green roof, decorative pavers, ornamental metal fencing, architectural enhancements, transit facilities, bicycle facilities, preservation of natural features, restoration of previously damaged natural environment, rehabilitation of existing structures that have been locally designated or have been determined to be eligible to be locally designated as historic structures, and design which is similar in form, scale and materials to existing structures on the site and to surrounding development.
(2) Strict adherence to the requirements is impractical because of site location or conditions and the proposed alternative meets the intent of this chapter.
(3) The proposed alternative is consistent with applicable development plans or development objectives adopted by the city council and meets the intent of this chapter.

§152.309 ZONING TEXT AND MAP AMENDMENTS

- (B) Purpose. This section specifies the procedures for text amendments to this chapter or the amendments to the official zoning map.
(C) Initiation. Amendments may be initiated by a simple majority of the City Council or Planning Commission. Any person owning property within the city, or their designated agent, may initiate an application to amend the district boundaries or designation on the official zoning map for property in which they have a real estate interest.
(D) Procedures. The procedures for application and public hearing of zoning amendment applications are described in §.
(E) Effective date. Any amendment to this chapter adopted by the City Council may be effective 30 calendar days after its publication or at such later date as may be specified in the amendment.

§152.310 DEVELOPMENT CONTRACTS, FINANCIAL GUARANTEES, AND CASH ESCROWS

- (A) Purpose. The purpose of a development contract is to guarantee satisfactory completion of public and private improvements and otherwise document the terms of subject development projects. The contract provides the city and the developer with assurances, thereby providing more certainty in the land development process.
(B) Development Contract.
(1) A development contract, incorporating any conditions or requirements imposed on the applicant must be executed by and between the City Council and the applicant before a building or grading permit can be issued for any development project that includes public off-site and private on-site improvements, including, but not limited to earthwork, erosion control, site utilities, curb, gutter, walks, paving, striping, landscaping, irrigation, sign monuments and site lighting.
(2) The development contract shall be prepared by the city and may be reviewed by the City Attorney. The agreement shall define the required work, reflect the terms, and guarantee the performance of the work by the applicant.
(C) Escrow.
(1) An engineering/administrative escrow must be paid and held in a non-interest-bearing city escrow account to be used to cover costs of city services, expenses, and materials provided in reviewing and processing an application. This includes, but is not limited to staff time, legal expenses incurred in the application approval, office and field checking, and similar expenses.

- (2) For projects that include public off-site improvements, the engineering/administrative escrow must be 6.5% of the estimated costs of the project, but not less than \$1,000. For projects with only on-site private improvements, the cash escrow account shall be 3% of the estimated project cost but not less than \$1,000.
- (3) If at any time the balance of the engineering/administrative escrow account is depleted to less than 5% of the originally required cash escrow amount, the applicant must deposit additional funds in the account sufficient to cover all costs to be incurred by the city.

(D) Financial Guarantee.

- (1) Any financial guarantee required by the development contract guarantees conformance and compliance with the conditions of the application approval and the ordinances of the city. If the conditions are not met, the financial guarantees may be forfeited to the city to cure the default or reimburse the city the cost of enforcement measures.
- (2) The amount of the financial guarantee must be established by the city, based upon an itemized estimate of the cost of all required work as documented by the applicant.
  - (a) An irrevocable letter of credit or similar financial security as approved by the City Attorney must be posted with the city in the amount of 95% of the approved estimated cost. This financial security must be automatically renewed and shall not expire until released by the city.
  - (b) The remaining 5% of the approved estimated costs must be posted with the city in cash to be held in a non-interest-bearing city account.
- (3) Upon completion and city acceptance of the project, any remaining financial securities must be returned to the depositor by the Finance Department after all claims and charges have been paid and following approval by City Council.
  - (a) If part of a project has been completed, inspected, and accepted by the city, the financial securities posted may be reduced by the city and partial payment be returned to the applicant.
  - (b) Landscaping improvements may not be deemed complete until the city has verified survivability of all required plantings through two winter seasons, which is defined for the purpose of this chapter as October 31 through May 31.
- (4) The city may hold the financial guarantee until the project is completed and approved by the city.
  - (a) The financial guarantee can only be released by the City Council.
  - (b) Periodically, the amount of the financial guarantee may be reduced by the City Council based on the projects progress, as determined by the city.
  - (c) Reduction and release actions will only be initiated after proper request from the applicant.
- (5) Failure to comply with the conditions of the application approval, the development contract, or a city ordinance may result in forfeiture of the financial guarantee to the extent necessary to achieve the project's total compliance with the approved site plan.

**§152.311 RELOCATING STRUCTURES**

All relocated structures must meet the requirements of the district in which they will be located. In addition, the applicant provides the following:

- (A) A report from the Building Official which specifies, at a minimum:
  - (1) The improvements to the house that may be required for the structure to meet all applicable, current codes, based on an inspection.
  - (2) If the applicant's submitted plans will successfully meet the required improvements.
  - (3) If the sewer and water connections have been plugged or discontinued at the curb line or at the main and that all other hazards have been eliminated.
- (B) Evidence that all taxes and sewer and water charges have been paid against the property the structure is being relocated.
- ~~(C) The applicant must submit evidence that upon completion, the relocated structure will have a fair market value equal to at least 80% of the assessed value of similar buildings within a 500-foot radius.~~

1 ~~(D)~~(C) A signed development contract stating that the applicant has agreed to complete the necessary  
 2 changes specified by the City Manager within a period of one year, and a performance bond or cash  
 3 deposit in compliance with §     .

4 ~~(E)~~(D) Evidence that the applicant has secured the necessary permits or permission for the  
 5 displacement of any overhead electrical or other wires from the person, association, or corporation  
 6 that owns, operates, or controls the wires.

7 ~~(F)~~(E) Evidence that the applicant or their designated person, firm or corporation engaged in moving  
 8 structures has a license, in compliance with Section 445, before moving any structure over streets  
 9 controlled by the City of Brooklyn Park.

## 10 11 **ARTICLE 2. ZONING DISTRICTS**

### 12 **ARTICLE 4SECTION 1. ESTABLISHMENT OF ZONING DISTRICTS**

#### 13 **§152.400 PURPOSE.**

14 The area located within the jurisdiction of this chapter is hereby divided into zoning districts of such  
 15 number as is necessary to achieve compatibility of land uses within each district, to implement the  
 16 Comprehensive Plan, and to achieve the other purposes of this chapter.

#### 17 **§152.401 ZONING DISTRICTS.**

18 For the purpose of this chapter, all areas within the jurisdiction of this chapter are hereby divided into the  
 19 following zoning districts:

- 20 (A) Residential Districts. The residential districts are intended to balance housing type, choice,  
 21 affordability, connectivity, style, and promote neighborhood stability and livability. The following  
 22 residential zoning districts are hereby established within the City of Brooklyn Park.
- 23 (1) UR Urban Reserve District.
  - 24 (2) R-1 Detached Single-Family District.
  - 25 (3) R-2 Detached Single-Family District.
  - 26 (4) R-3 Detached Single-Family and Two-Family District.
  - 27 (5) R-4 Multiple Family Residential District.
  - 28 (6) R-5 Multiple Family Residential District.
- 29 (B) Nonresidential Districts. The business districts as a whole are designed to balance the community  
 30 need for employment opportunities, goods, services, and tax base diversification with their impact on  
 31 neighboring uses. The following business zoning classifications are hereby established within the City  
 32 of Brooklyn Park.
- 33 (1) B-1 ~~Limited Business~~Office Park District.
  - 34 (2) B-2 Neighborhood Business District.
  - 35 (3) B-3 General Business District.
  - 36 (4) B-4 Vehicle Sales and Showroom District.
  - 37 (5) BP Business Park District.
  - 38 (6) I General Industrial District
  - 39 (7) Public Institution District
  - 40 (8) Conservancy Districts
- 41 (C) Mixed Use Districts.
- 42 (1) MU-1 Neighborhood Mixed Use District
  - 43 (2) MU-2 Community Mixed Use District
  - 44 (3) MU-3 Employment Mixed Use District
  - 45 (4) MU-4 Regional Mixed Use District
- 46 (D) Overlay Districts.
- 47 (1) APZ Airport Protection Zoning

- 1 (2) FHO Flood Hazard Overlay
- 2 (3) HO Highway Overland District
- 3 (4) ~~MCOMRCCA~~ Mississippi River Corridor Critical Area Overlay
- 4 (5) PD Planned Development Overlay

5 **§152.402 ZONING MAP.**

- 6 (A) This chapter divides the city into use districts and establishes regulations in regard to location,  
7 erection, construction, re-construction, alteration, and use of structures and land. The location and  
8 boundaries of the districts established by this text are set forth on the Zoning Map or the Zoning  
9 Overlay Map entitled “City of Brooklyn Park Zoning Map” and the “City of Brooklyn Park Zoning  
10 Overlay Map,” and referred to as the “Zoning Map” and the “Zoning Overlay Map.” Both maps are on  
11 file with the City Manager. The Zoning Map and the Zoning Overlay Map and all the notations,  
12 references and other information shown on them have the same force and effect as if fully set forth in  
13 this chapter and made a part of this chapter by reference.
- 14 (B) The district boundary lines on the Zoning Map are intended to follow street right-of-way lines, the  
15 center line of streets, or lot lines unless a boundary line is otherwise indicated on the map. In the case  
16 of unsubdivided property or in any case where street or lot lines are not used as boundaries, the  
17 district boundary lines may be determined by use of dimensions or the scale appearing on the map.
- 18 (C) All Flood Hazard Overlay boundary decisions will be based on elevations on the regional (100-year)  
19 flood profile and other available technical data. Persons contesting the location of the district  
20 boundaries may be given a reasonable opportunity to present their case to the Board of Appeals and  
21 Adjustments and to submit technical evidence as defined in §\_\_.

22  
23  
24 **ARTICLE 5 SECTION 2. RESIDENTIAL DISTRICTS**

25 **§152.500 UR URBAN RESERVE DISTRICT**

- 26 (A) The “UR” Urban Reserve District is intended to provide the following:  
27 (1) The orderly phasing and development of land until city services, including sanitary sewer, storm  
28 sewer, and water, are extended into the area in compliance with the Comprehensive Plan.  
29 (2) A district for uses that typically require significant amounts of open land area such as athletic and  
30 cultural facilities, country clubs, government buildings, educational uses, and land reclamation.  
31 (3) Short-term agriculture uses, very low-density residential uses, and those accessory uses  
32 customarily incidental to them.
- 33 (B) The district may be applied only to those areas guided as an urban reserve area in the  
34 Comprehensive Land Use Plan.

35 **§152.501 R-1 DETACHED SINGLE-FAMILY ESTATE DISTRICT**

- 36 (A) The “R-1” Detached Single-Family Estate District is intended to provide a district which allows for  
37 larger lot detached single-family dwellings and for uses customarily incidental to them.
- 38 (B) This district may be applied only to those areas guided for low density residential development on the  
39 Comprehensive Plan Future Land Use Map.

40 **§152.502 R-2 DETACHED SINGLE-FAMILY DISTRICT**

- 41 (A) The “R-2” Detached Single-Family ~~Residential~~ District is intended to provide a district which allows for  
42 smaller lot detached single-family dwellings and for uses customarily incidental to them.
- 43 (B) This district may be applied only to those areas guided for low density residential development on the  
44 Comprehensive Plan Future Land Use Map.

45 **§152.503 R-3 DETACHED SINGLE-FAMILY AND TWO-FAMILY DISTRICT**

- 46 (A) The “R-3” Detached Single and Attached Two-Family ~~Residential~~ District is intended to provide a  
47 district which allows for detached single and attached two-family dwellings and for uses customarily  
48 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.

(+) 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 square feet 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.

<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.

- (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.~~~~

(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	<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					

1  
2 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)	P	P	P	P	P	P
Commercial recreational facility (privately owned)	P	P	P	P	P	P
Community garden	P	P	P	P	P	P
Construction debris dumpster (oversize)	P	P	P	P	P	P
Day care facility (12 or fewer persons)	P	P	P	P	P	
Day care facility in schools and religious institutions	P	P	P	P	P	P
Domesticated and farm animals	P					
Garage sales	P	P	P	P	P	P
Gas/fuel tanks (above ground)	P	P	P	P	P	P
Ground source heat pump systems	P	P	P	P	P	P
Home vocations and avocations	P	P	P	P	P	P
Live/work uses within a dwelling unit		P	P	P	P	P
Outside storage of agricultural equipment	P					
Outside storage of recreational vehicles	P	P	P	P	P	P
Parking ramp					C	C
Parks and playgrounds, open spaces, natural areas	P	P	P	P	P	P
Private residential recreational equipment	P	P	P	P	P	P
Schools located within religious institutions	C	C	C	C	C	C
Sale of agricultural products grown on the property	P	P	P	P	P	P
Sale of residential motor vehicles and recreational vehicles	P	P	P	P	P	P
Satellite dish	P	P	P	P	P	P
Seasonal greenhouse and garden center	C					

Detached Accessory Structure	P	P	P	P	P	P
Solar energy system	P	P	P	P	P	P
Telecommunication tower	C	C	C	C	C	C
Temporary portable storage containers	P	P	P	P	P	P
Residential wind turbine (vertical axis only)	P	P	P	P	P	P

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**ARTICLE 6 SECTION 3. NONRESIDENTIAL DISTRICTS**

**§152.600 B-1 OFFICE PARK DISTRICT.**

- (A) Purpose. The “B-1” ~~Limited Business Office Park~~ District is intended to provide a district primarily for office uses, with other accessory retail and service uses offered on site to serve the primary use or their employees.
- (B) This district may be applied only to those properties designated for office, commercial, or mixed-use development on the Comprehensive Land Use Map.

**§152.601 B-2 NEIGHBORHOOD RETAIL BUSINESS DISTRICT.**

- (A) Purpose. The “B-2” Neighborhood Retail Business District is intended to provide a district which encourages compact centers for retail sales and services that serve the adjacent neighborhoods and to preserve and protect the general character of the adjacent areas. The city has determined that certain uses may present a greater impact on adjacent land uses than others due to characteristics unique to the function and design of the particular use.
- (B) This district may be applied only to those properties designated for commercial or mixed-use development on the Comprehensive Land Use Map.

**§152.602 B-3 GENERAL BUSINESS DISTRICT.**

- (A) Purpose. The “B-3” General Business District is intended to provide centralized areas for businesses that have a community or regional customer base in that they generally draw customers from farther away than the adjacent neighborhoods.
- (B) This district may be applied only to those properties designated for commercial or mixed-use development on the Comprehensive Land Use Map.

**§152.603 B-4 VEHICLE SALES AND SHOWROOM DISTRICT.**

- (A) Purpose. The “B-4” Vehicle Sales and Showroom District is intended to provide areas for vehicle sales businesses that draw from a regional customer base and has outdoor storage, display and/or sales of vehicles and/or recreational equipment.
- (B) This district may be applied only to those properties designated for commercial development on the Comprehensive Land Use Map.

**§152.604 BP BUSINESS PARK DISTRICT.**

- (A) Purpose. The “BP” Business Park District is designed to provide areas in which to locate businesses that enhance the city's tax base, have few customers coming to the site, but may have a large employee base, involve manufacturing, warehousing, office uses, and other accessory retail and service uses offered on site to service the primary use or their employees. The properties and buildings in this district must be designed to promote a campus-like setting that exhibits a landscape theme and high-quality exterior building materials.
- (B) This district may be applied only to those properties designated for office, commercial, industrial, or mixed-use development on the Comprehensive Land Use Map.

**§152.605 I GENERAL INDUSTRIAL DISTRICT**

- (A) Purpose. The “I” General Industrial District is designed to provide a district for warehousing and industrial uses that may present negative off-site impacts to adjacent properties and are potentially

environmentally sensitive due to the characteristics of the use of the property, and/or may have an extensive amount of outdoor storage requirements.

(B) This district may be applied only to those areas designated for industrial development on the Comprehensive Land Use Map.

**§152.606 PI PUBLIC INSTITUTION DISTRICT**

(A) The "PI" Public Institution District (~~PI~~) is intended to provide for a district for public buildings, uses and needs that otherwise may not fit into other zoning districts because of their specialized land use needs and public purpose.

(B) This district may be applied only to those properties designated for public-institutional uses on the Comprehensive Plan Land Use Map.

**§152.607 ~~CD CONSERVANCY DISTRICT OF OPEN SPACES AND PARKS DISTRICT~~**

(A) The Conservancy Open Space and Parks District is intended to provide for a district for areas that contain valuable environmental qualities which are to be preserved as park or open space amenities and to prevent the over-crowding of land, to avoid undue concentration of population, a specific public purpose, and/or alleviate the burden of development from environmentally sensitive lands. ~~These areas may also have been found to be unsuitable for residential, commercial, or industrial development due to flooding or bad drainage, slope, adverse soil conditions, rock formations, and/or unique natural features.~~

(B) Interpretation of district boundaries. When uncertainty exists with respect to the Conservancy District boundaries, the following rules apply:

- (1) District boundaries along a stream are intended to represent the high water time of a regional flood, provided, however, that along a stream such line must not be less than 50 feet from the center of such stream.
- (2) District boundaries in a wetland area are intended to represent the edge of a swamp, marsh, or other wetland area. The edge is defined as the mark delineating the highest water level which has been maintained for a sufficient period to leave evidence upon the landscape. The edge is commonly that point where the natural vegetation changes from predominately aquatic to predominately terrestrial.
- (3) District boundaries in a public park, common open space areas, or public lands are intended to represent the property lines of such area.

(C) Conditional uses.

- (1) No permit may be issued for construction for a building, structure or land use considered conditional unless a conditional use permit has been granted by the City Council in accordance with ~~##~~.
- (2) In addition to § , all conditional uses in this district must be reviewed to determine if, through good site and engineering designs, a development can be created which is compatible and harmonious with the natural amenities of the Conservancy District area and with surrounding land uses.
- (3) Applications must be accompanied by an overall plan of the entire site showing roads, parking areas, lot lines, easements, the location of tree cover including the designation of individual trees of 15 inches in diameter or more, the location of other natural and biological features such as wetlands and areas of valuable wildlife habitat, and the location of proposed structures in addition to any other information typically required for a conditional use permit.
- (4) The approval of an application requires a finding that:
  - (a) The development will not detrimentally affect or destroy natural features such as ponds, streams, wetlands, and forested areas, but will preserve and incorporate such features into the developments site design.
  - (b) The location of natural features and the site's topography have been considered in the designing and siting of all physical improvements.

- (c) Adequate assurances have been received that clearing of the site of topsoil, trees and other natural features before the commencement of building operations will not occur. Only those areas approved for the placement of physical improvements may be cleared.
- (d) The development will not substantially reduce the natural retention storage capacity of any watercourse, thereby increasing the magnitude and volume of flood at other locations.
- (e) The soil and subsoil conditions are suitable for excavation and site preparation and the drainage is designed to prevent erosion and environmentally deleterious surface runoff.
- (f) The development will be free from offensive noise, vibration, smoke, dust, and other particulate matter, odorous matter, fumes, water pollution and other objectionable influences.
- (g) The applicant will be substantially damaged by being required to place the intended development outside the Conservancy District.

**§152.608 NONRESIDENTIAL LOT AREA AND DIMENSIONAL REQUIREMENTS**

- (A) The purpose of this subchapter is to establish minimum area and dimensional requirements for nonresidential zoning districts to allow conformance with the policies of the Comprehensive Plan, promote open space around structures, provide green area and space for the enjoyment of all, and protect public easements.
- (B) General Requirements. The following standards are established for the following districts: B-1, B-2, B-3, B-4, BP, I, PI, and ~~GDOP~~:
  - (1) Unless otherwise approved through a site plan approval all non-residential uses on parcels adjacent to single or two-story residential uses in residential districts must be constructed at a height no greater than 40 feet or the height of any residential use, whichever is greater. Consideration to approve greater height may include, but not limited to, existing conditions, increased setbacks, and buffering.
  - (2) Height limitations do not apply to radio and T.V. antennas, belfries, steeples, cooling towers, and water towers.
  - (3) The minimum height for a principal building on any property must be no less than 15 feet in height as measured from the highest adjacent grade to the top of the roof.

Figure ##. Minimum Allowable Building Footprint and Maximum Impervious Surface

Zoning District	Minimum Lot Area	Lot Width	Minimum Building Footprint (as a percent of lot area)	Maximum Impervious Surface (as a percent of lot area)	Maximum Height <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.

- 1 (4) Principal buildings and accessory structures must comply with the setback restrictions from
- 2 property lines within the nonresidential districts. See Figure ##.
- 3 (5) The setback to an interior side or rear property line(s) may be reduced to zero feet where a
- 4 property has a railroad trackage abutting the interior side of the lot.
- 5 (6) The following features may extend into the required setback from a public right-of-way:
- 6 (a) 3 feet - Pilasters, lintels, stoops, ornamental features, cornices, eaves, bays, gutters, and
- 7 similar projections
- 8 (b) Canopies, awnings, and other similar features as regulated by the International Building
- 9 Code. These elements may extend into the right-of-way upon approval of an encroachment
- 10 agreement by the City Council.
- 11 (7) Accessible building entrance components may encroach into the setback to meet the running
- 12 slopes required by the Minnesota Accessibility Code.

13 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

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17 **§152.609 NONRESIDENTIAL DISTRICT LAND USE USES**

- 18 (A) Purpose. The following section establishes a listing of the permitted, conditional, and temporary uses
- 19 for the B-1, B-2, B-3, B-4, BP, I, PI, and CD zoning districts. The uses have been assigned to the
- 20 appropriate business districts to allow reasonable use of properties in a manner that is compatible
- 21 with the purpose of each business zoning district and the overall purpose of this zoning code and the
- 22 code of ordinances.
- 23 (B) Permitted and conditional uses for each business district are defined in the following listed in Figure
- 24 ##. See Section ## for additional performance standards for nonresidential uses.

25 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				

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					



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 § <span style="background-color: yellow;"> </span>	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.

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Use	B-1	B-2	B-3	B-4	BP	I	PI	OP
<b>Sales and Service</b>								
Animal Services	NP	P	P	P	P	P	NP	NP
Outdoor Pet Runs*	NP	NP	A	A	A	A	A	NP
Bank	P	P	P	P	P	P	P	NP
Body Art	NP	P	P	NP	NP	NP	NP	NP
Care Center, Convalescent Home or Assisted Living	C	C	C	C	NP	NP	NP	NP
Currency Exchange and Pawn Shop*	NP	NP	C	NP	NP	NP	NP	NP
Daycare Facility, licensed*	PA	PA	PA	PA	PA	PA	PA	NP
General Sales	P	P	P	P	A	A	NP	NP
General Services	P	P	P	P	A	A	NP	NP
Hospital	NP	NP	C	C	C	C	NP	NP
Hotel or Motel	NP	C	C	C	C	NP	NP	NP
Indoor recreational facility 2,450sq ft or under	NP	P	P	P	P	P	A	NP
Indoor recreational facility over 2,450sq ft	NP	C	C	C	C	C	A	NP
Medical or dental clinic	P	P	P	P	P	P	NP	NP
Multiple family dwelling and cluster housing in compliance with [insert code cite]	NP	C	C	NP	NP	NP	NP	NP
Office	P	P	P	P	P	P	P	NP
Outdoor recreational facility	NP	C	C	C	NP	NP	A	C
Self Service Storage	NP	NP	C	C	NP	C	NP	NP
Sexually oriented business*	NP	NP	P	NP	NP	NP	NP	NP
Theater, excluding drive-ins	NP	C	C	C	NP	NP	NP	NP
Veterinary Clinic	P	P	P	P	P	P	NP	NP
Farmers' Market*	A	A	A	A	A	A	A	A
<b>Automotive</b>								

<u>Auto repair services</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Bus or truck storage, service shops</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>

<u>Car wash</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Fabrication/assembly of heavy equipment or vehicles</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Fuel stations and gas sales*</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Propane exchanges*</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Indoor sales of motorvehicles</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Motorvehicle rental</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Parking Ramp</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>
<u>Vehicle impound yard</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Truck or motor freight terminal</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Wholesale broker, auction dealer of motorvehicles</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Overnight recreational vehicle parking or camping*</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>Repair of vehicles* (accessory to a vehicle sale business)</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<b>Assembly</b>								
<u>Banquet, convention hall or conference center</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>		<u>NP</u>
<u>Business, trade or non-academic colleges</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>NP</u>
<u>Night Club</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Funeral Home and mortuary</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>
<u>Crematory/ crematorium*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>
<u>Religious Institution</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>
<u>Rectory*</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>
<u>Columbarium*</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>
<u>Social Club</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>
<b>Food Service</b>								
<u>Brewery</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Brewery with a Taproom</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Cocktail Room</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Distillery</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Distillery with a Cocktail Room</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Restaurant</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Live entertainment in conjunction with a restaurant, brewery or distillery</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Live entertainment in conjunction with a taproom or cocktail room</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Live entertainment in conjunction with a restaurant, brewery or distillery where a cover charge is required</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Live entertainment in conjunction with a taproom or cocktail room where a cover charge is required</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Mobile food unit*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Exterior food and beverage vending machines, ice machines</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<b>Manufacturing, processing, fabricating, brewing, distilling</b>								
<u>Small batch manufacturing</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Construction Based Business</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Construction buildings*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Distribution center</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Fabrication</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</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>NP</u>
<u>Processing</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</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>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>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>
<u>Cemetery*</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>
<u>Communication towers and antennas</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Schools</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>Parks</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Public and Quasi-Public facilities</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>P</u>	<u>P</u>
<u>Essential services (electric, utilities, etc)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Conservation</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Accessory Uses Applicable to All Non-Residential Uses</u>								
<u>Drive-through windows</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>
<u>Gas tanks(above ground) for propane, liquid nitrogen, etc. (Excludes motor vehicle fuel)</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Loading docks*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>NP</u>
<u>Outdoor sales and display</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</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>Staging area*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>NP</u>
<u>Storage shed*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Waste and recycling storage as regulated in §98.01 through 98.16 of the City Code</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</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>
<u>Multiple Principal Structures on a single lot</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>

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P – Permitted

A – Accessory

C – Conditional

NP – Not Permitted

PA – Permitted or Accessory

\* Additional standards required by ordinance

**ARTICLE 7 SECTION 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.

- 1 (C) Use Mix. The mix of uses should include residential at densities between 9 and 50 units per acre as
- 2 well as retail, office and personal service establishments that are oriented to residents of the
- 3 immediate neighborhood areas that anticipate high pedestrian traffic.
- 4 (D) Design. Development in these areas shall follow a traditional neighborhood design where buildings
- 5 are within a close proximity to the street and pedestrian connections are abundant. Both horizontal
- 6 and vertical mixed use are encouraged in this district.

7 **§152.702 MU MIXED USE DISTRICT**

8 **§152.70321 MU-2TOD-C COMMUNITY MIXED USE TRANSIT ORIENTED DEVELOPMENT**

- 9 **CENTER DISTRICT**
- 10 (A) Purpose. The “MU-2” Community Mixed Use district is intended to provide both horizontal and vertical
- 11 mixed uses in areas near light rail transit stations or areas with regular frequent transit service.
- 12 (B) Applicability. This district may be applied to those areas and land uses within the LRT Overlay on the
- 13 Comprehensive 2040 Future Land Use Map and other areas with frequent transit service.
- 14 (C) Use Mix. The mix of uses may be in a common site, development area, or building. Individual
- 15 developments may consist of a mix of two or more complementary uses that are compatible and
- 16 connected to the surrounding area.

17 **§152.70423 MU-3TOD-E TRANSIT ORIENTED DEVELOPMENT EMPLOYMENT MIXED USE DISTRICT**

- 18 (A) Purpose. The “MU-3” Employment Mixed Use is intended to provide walkable urbanism with
- 19 complementary uses in industrial, warehousing, and office park areas.
- 20 (B) This district may be applied to those areas and land uses within the LRT Overlay centered on the 93<sup>rd</sup>
- 21 Avenue Transit Station on the Comprehensive 2040 Future Land Use Map.
- 22

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24 **§152.70543 TOD-G TRANSIT ORIENTED DEVELOPMENT GREENFIELD MU-4 REGIONAL**

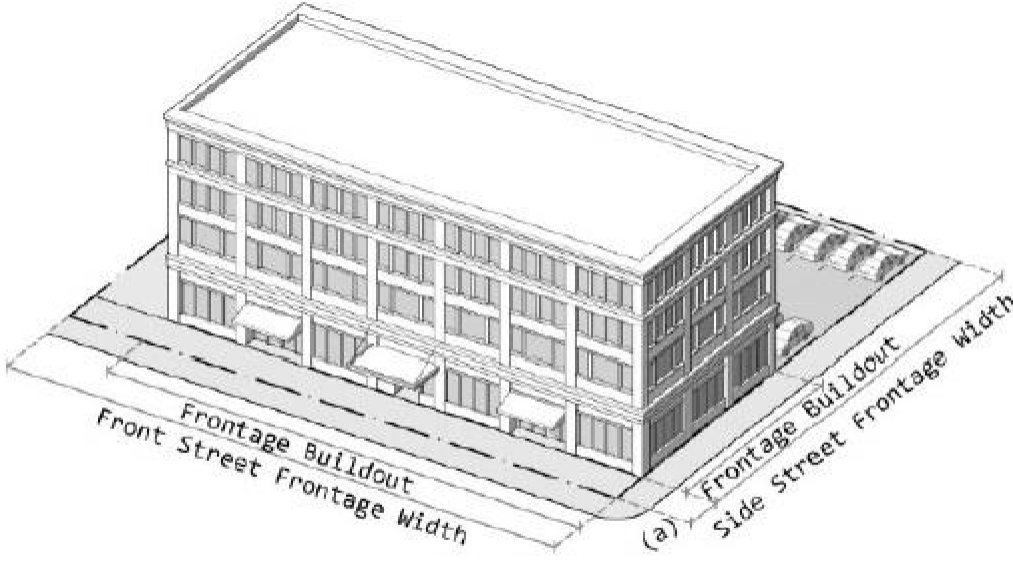
- 25 **MIXED USE DISTRICT**
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- 28 (A) Purpose. The “MU-4” Regional Mixed Use is intended to provide standards for new walkable, mixed-
- 29 use communities.
- 30 (B) This district may be applied to those areas and land uses within the LRT Overlay centered on the Oak
- 31 Grove Transit Station on the Comprehensive 2040 Future Land Use Map.

32 **§152.70654 MIXED USE DISTRICT LOT AREA AND DIMENSIONAL REQUIREMENTS**

- 33 (A) The purpose of this subchapter is to establish minimum area and dimensional requirements for mixed
- 34 use zoning districts to allow conformance with the policies of the Comprehensive Plan.
- 35 (B) Minimum frontage buildout indicates that lots must contain buildings along the prescribed length of
- 36 property line.
- 37 (1) At front streets the minimum frontage buildout is a percentage of the length of the abutting
- 38 property line.
- 39 (2) At side streets the minimum frontage buildout is a specified distance along the property line from
- 40 the corner.
- 41 (3) Facades must be within the minimum and maximum setback.
- 42 (4) At corner lots the width of the property, for frontage buildout calculation, may be reduced by the
- 43 setback of the perpendicular lot line as indicated by (a) in the illustration below.
- 44 (C) For buildings subject to a maximum front setback, the area between the building and the right-of-way
- 45 will be maintained as city easement for right-of-way maintenance.
- 46 (D) Building width is measured at the front setback. The maximum building width does not apply to
- 47 buildings with a forecourt frontage type where the forecourt is wider than 40 feet.

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**Figure X. Minimum Frontage Buildout Illustration**



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(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						

	<u>LW</u>	<u>MU-1</u> <u>NMU</u>	<u>MU</u>	<u>MU-2</u> <u>TOD-C</u>	<u>TOD-EMU-3</u>	<u>MU-4</u> <u>TOD-G</u>
Maximum Impervious Surface	<u>70%</u>	90%		100%	100%	100%
Building Coverage and Building Width						
Minimum Frontage Buildout	<u>None</u>	80%		100%	70%	100%
Maximum building width	<u>None</u>	350 FT		350 feet	600 feet	350 feet
Building Height						
Principal structure maximum stories	<u>3 stories</u>	4 stories or 50 feet		6 stories or 75 feet	No maximum	No maximum
Residential Density (if applicable)						
<u>Minimum Dwelling units per acre (minimum)</u>	<u>3</u>	<u>n/a</u> <u>9</u>	<u>12</u>	20	<u>Not Permitted</u> <u>n/a</u>	20
<u>Maximum dwelling units per acre</u>	<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%

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**§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 NMU	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		G		G	G	G
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

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Figure ###: Accessory land uses

	MU-1	MU-2	MU-3	MU-4
Antennas and satellite dishes	P	P	P	P
Assembly halls (other than for religious worship)	C	C	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	C	C	C	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	C	C	NP	C
Live entertainment in conjunction with a taproom or cocktail room where a cover charge is required	C	C	C	C
Parks and playgrounds, open spaces, patios, natural areas (private)	P	P	P	P
Outdoor sales and display	P	P	C	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

1

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

<u>Auto repair services</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>				<u>NP</u>
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<u>Bus or truck storage, service shops</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>Car wash</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Fabrication/assembly of heavy equipment or vehicles</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>Fuel stations and gas sales*</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Propane exchanges*</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>A</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Indoor sales of motorvehicles</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>NP</u>	<u>N</u>	<u>N</u>	<u>NP</u>
						<u>P</u>	<u>P</u>	
<u>Motorvehicle rental</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Parking Ramp</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>
<u>Vehicle impound yard</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>Truck or motor freight terminal</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>Wholesale broker, auction dealer of motorvehicles</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Overnight recreational vehicle parking or camping*</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>Repair of vehicles* (accessory to a vehicle sale business)</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>N</u>	<u>NP</u>
							<u>P</u>	
<u>Assembly</u>								
<u>Banquet, convention hall or conference center</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Business, trade or non-academic colleges</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Night Club</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>N</u>	<u>N</u>	<u>NP</u>
						<u>P</u>	<u>P</u>	
<u>Funeral Home and mortuary</u>	<u>C</u>	<u>C</u>	<u>C</u>		<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Crematory/ crematorium*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Religious Institution</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Rectory*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>NP</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Columbarium*</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Social Club</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Food Service</u>								
<u>Brewery</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Brewery with a Taproom</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Cocktail Room</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Distillery</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Distillery with a Cocktail Room</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Restaurant</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Live entertainment in conjunction with a restaurant, brewery or distillery</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Live entertainment in conjunction with a taproom or cocktail room</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Live entertainment in conjunction with a restaurant, brewery or distillery where a cover charge is required</u>	<u>NP</u>	<u>NP</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Live entertainment in conjunction with a taproom or cocktail room where a cover charge is required</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Mobile food unit</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Exterior food and beverage vending machines, ice machines</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Manufacturing, processing, fabricating, brewing, distilling</u>								
<u>Small batch manufacturing</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>C</u>	<u>N</u>	<u>NP</u>
							<u>P</u>	
<u>Construction Based Business</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Construction buildings*</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

<u>Distribution center</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>A</u>	<u>NP</u>	<u>N</u> <u>P</u>	<u>NP</u>
<u>Fabrication</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Manufacturing</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Processing</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Warehouse</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>NP</u>	<u>NP</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>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Cemetery*</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>Communication towers and antennas</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Schools</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Parks</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Public and Quasi-Public facilities</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>P</u>
<u>Essential services</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Conservation</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Residential</u>								
<u>Single family (detached)</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Two-family (attached)</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Townhouse (attached or detached)</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</u>
<u>Multifamily</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Manufactured home park</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>Bed and breakfast establishment</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Essential services, government</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
<u>Accessory Uses Applicable to All Non-Residential Uses</u>								
<u>Drive-through windows</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Gas tanks(above ground) for propane, liquid nitrogen, etc. (Excludes motor vehicle fuel)</u>	<u>NP</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>
<u>Loading docks*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Outdoor sales and display</u>	<u>NP</u>	<u>NP</u>	<u>NP</u>	<u>A</u>	<u>NP</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Outdoor Storage</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Staging area*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Storage shed*</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</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>

- 1
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- 6

P – Permitted  
A – Accessory  
C – Conditional

1 NP – Not Permitted

2 PA – Permitted or Accessory

3 \* Additional standards required by ordinance

5  
6 **SECTION 5. OVERLAY DISTRICTS**

7 **§152.800 AIRPORT PROTECTION ZONING**

8 **TBC.**

9 **§152.801 FLOOD HAZARD OVERLAY**

10 The legislature of the State of Minnesota has, in M.S. Ch. 103F and 462 delegated the responsibility to  
11 local government units to adopt regulations designed to minimize flood losses. The intent of the  
12 designation on a property is to protect and preserve areas and investments on properties that are subject  
13 to periodic inundation by flood waters. This designation includes Floodway (FW), Flood Fringe (FF) and  
14 General Flood Plain (FP). The Official Zoning Map together with all materials attached thereto is hereby  
15 adopted by reference and declared to be part of this chapter. The attached material includes the Flood  
16 Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016, and  
17 the Flood Insurance Rate Map panels enumerated as follows: 27053C0069F, 27053C0088F,  
18 27053C0089F, 27053C0093F, 27053C0182F, 27053C0184F, 27053C0201F, 27053C0202F,  
19 27053C0203F, 27053C0204F, 27053C0206F, 27053C0207F, 27053C0208F, 27053C0209F, dated  
20 November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on  
21 file in the office of the City Clerk.

- 22 (A) Purpose. The purpose of these overlays includes:
- 23 (1) To protect areas with environmental sensitivity.
  - 24 (2) To promote the public health, safety, and general welfare of the city.
  - 25 (3) To minimize losses of life, property, health and safety hazards, disruption of commerce and  
26 governmental services, public expenditures for flood protection and relief, and impairment of the  
27 tax base due to periodic inundation.
  - 28 (4) To comply with the rules and regulations of the National Flood Insurance Program codified as 44  
29 CFR Parts 59-78, as amended, to maintain the community's eligibility in the National Flood  
30 Insurance Program.
  - 31 (5) To preserve the natural characteristics and functions of watercourses and flood plains in order to  
32 moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect  
33 aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and  
34 enhance community and economic development.
- 35 (B) General provisions.
- 36 (1) This subchapter adopts the flood plain maps applicable to the city and includes three flood plain  
37 districts: Floodway, Flood Fringe, and General Flood Plain.
    - 38 (a) Where Floodway and Flood Fringe districts are delineated on the flood plain maps, the  
39 standards in §      will apply, depending on the location of a property.
    - 40 (b) Locations where Floodway and Flood Fringe districts are not delineated on the flood plain  
41 maps are considered to fall within the General Flood Plain District. Within the General Flood  
42 Plain District, the Floodway District standards in §      apply unless the floodway boundary is  
43 determined, according to the process outlined in §     . Once the floodway boundary is  
44 determined, the Flood Fringe District standards in §      may apply outside the floodway.
  - 45 (2) Lands to which subchapter applies. This subchapter applies to all lands within the jurisdiction of  
46 the city shown on the official zoning map or the attachments to the map as being located within  
47 the boundaries of the Floodway, Flood Fringe, or General Flood Plain Districts.
    - 48 (a) The Floodway, Flood Fringe and General Flood Plain Districts are overlay districts that are  
49 superimposed on all existing zoning districts. The standards imposed in the overlay districts  
50 are in addition to any other requirements in this subchapter. In case of a conflict, the more  
51 restrictive standards will apply.

- 1 (3) Interpretation. The boundaries of the zoning districts are determined by scaling distances on the
- 2 Flood Insurance Rate Map.
- 3 (a) Where a conflict exists between the flood plain limits illustrated on the official zoning map and
- 4 actual field conditions, the flood elevations shall be the governing factor. The Zoning
- 5 Administrator must interpret the boundary location based on the ground elevations that
- 6 existed on the site on the date of the first National Flood Insurance Program map showing the
- 7 area within the regulatory flood plain, and other available technical data.
- 8 (b) Persons contesting the location of the district boundaries will be given a reasonable
- 9 opportunity to present their case to the Planning Commission and to submit technical
- 10 evidence.
- 11 (4) Abrogation and greater restrictions. It is not intended by this subchapter to repeal, abrogate, or
- 12 impair any existing easements, covenants, or other private agreements. However, where this
- 13 subchapter imposes greater restrictions, the provisions of this subchapter prevail. All other
- 14 ordinances inconsistent with this subchapter are hereby repealed to the extent of the
- 15 inconsistency only.
- 16 (5) This subchapter does not imply that areas outside a flood hazard area will be free from flooding
- 17 or flood damages. This subchapter does not create liability on the part of the city or any officer or
- 18 employee for any flood damages that result from reliance on this section, or any administrative
- 19 decision lawfully made based on regulations in this section.
- 20 (6) Severability. If any section, clause, provision, or portion of this subchapter is adjudged
- 21 unconstitutional or invalid by a court of law, the remainder of this subchapter shall not be affected
- 22 and shall remain in full force.
- 23 (7) Annexations. The Flood Insurance Rate Map panels adopted by reference into § [redacted] above may
- 24 include flood plain areas that lie outside of the corporate boundaries of the city at the time of
- 25 adoption of this subchapter. If any of these flood plain land areas are annexed into the city after
- 26 the date of adoption of this subchapter, the newly annexed flood plain lands will be subject to the
- 27 provisions of this subchapter immediately upon the date of annexation.
- 28 (8) Detachments. The Flood Insurance Rate Map panels adopted by reference into § [redacted] will include
- 29 flood plain areas that lie inside the city at the time of adoption of this subchapter. If any of these
- 30 flood plain land areas are detached from the city and come under the jurisdiction of another city
- 31 after the date of adoption of this subchapter, the newly detached flood plain lands will no longer
- 32 be subject to the provisions of this subchapter as of the date of detachment.
- 33 (C) Amendments and administration. All amendments to this subchapter must follow the procedures as
- 34 defined in § [redacted].
- 35 (1) Designations shown on the Zoning Overlay Map may not be removed unless an applicant
- 36 provides evidence that the designation is in error or that the area has been filled to or above the
- 37 elevation of the regulatory flood protection elevation and is contiguous to lands outside the flood
- 38 hazard area. Special exceptions to this rule may be permitted by the Commissioner of Natural
- 39 Resources determined that, through other measures, lands are adequately protected for the
- 40 intended use.
- 41 (2) All amendments, either to the text of this section or the Zoning Overlay Map must be submitted to
- 42 and approved by the Commissioner of Natural Resources prior to adoption. Changes in the
- 43 boundaries for flood hazard area must meet the Federal Emergency Management Agency's
- 44 (FEMA) Technical Conditions and Criteria and must receive prior FEMA approval before
- 45 adoption. The Commissioner of Natural Resources must be given ten days written notice of all
- 46 hearings to consider an amendment to this section and said notice must include a draft of the
- 47 amendment or technical study under consideration.
- 48 (3) Zoning Administrator: A Zoning Administrator or other official designated by the city shall
- 49 administer and enforce this chapter. If the Zoning Administrator finds a violation of the provisions
- 50 of this chapter the Zoning Administrator shall notify the person responsible for such violation in
- 51 accordance with the procedures stated in § 152.522.
- 52 (4) Permit requirements:
- 53 (a) Permit required. For that portion of the property or structures in the floodplain, a permit issued
- 54 by the Zoning Administrator in conformity with the provisions of this subchapter shall be
- 55 secured prior to the erection, addition, modification, rehabilitation (including normal
- 56 maintenance and repair over \$500), or alteration of any building, structure, or portion thereof;

1 prior to the use or change of use of a building, structure, or land; prior to the construction of a  
2 dam, fence, or on-site septic system; prior to the change or extension of a nonconforming  
3 use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any  
4 other source, and prior to the placement of fill, excavation of materials, or the storage of  
5 materials or equipment within the flood plain; relocation or alteration of a watercourse  
6 (including new or replacement culverts and bridges), unless a public waters work permit has  
7 been applied for; any other type of development as defined in this subchapter. Exceptions to  
8 this requirement include dog houses, non-habitable structures such as storage units less than  
9 36 square fee in size, normal household storage, such as lawn furniture or equipment  
10 storage, such as a canoe, all of which may easily be moved if necessary and normal  
11 landscaping and maintenance, provided no fill is placed within the Flood Hazard Overlay.

12 (b) Notifications for watercourse alterations. The Zoning Administrator shall notify, in riverine  
13 situations, adjacent communities and the Commissioner of the Department of Natural  
14 Resources prior to the community authorizing any alteration or relocation of a watercourse. If  
15 the applicant has applied for a permit to work in the beds of public waters pursuant to M.S.  
16 Chapter 103G, this shall suffice as adequate notice to the Commissioner of Natural  
17 Resources. A copy of said notification shall also be submitted to the Chicago Regional Office  
18 of the Federal Emergency Management Agency (FEMA).

19 (c) Notification to FEMA when physical changes increase or decrease the 100-year flood  
20 elevation. As soon as is practicable, but not later than six months after the date such  
21 supporting information becomes available, the Zoning Administrator shall notify the Chicago  
22 Regional Office of FEMA of the changes by submitting a copy of said technical or scientific  
23 data.

24 (5) The flood plain district regulations adopted by this subchapter will be amended to incorporate any  
25 revisions by the Federal Emergency Management Agency to the flood plain maps adopted by §  
26 152.491.

27 (D) Floodway, flood fringe, and general floodplain performance standards and uses.

28 (1) Districts.

29 (a) Floodway District. The Floodway District includes those areas within Zones AE that have a  
30 floodway delineated as shown on the Flood Insurance Rate Map adopted in § 152.491. For  
31 lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the  
32 Floodway District also includes those areas that are at or below the ordinary high water level  
33 as defined in M.S. § 103G.005, Subd. 14.

34 (b) Flood Fringe District. The Flood Fringe District includes areas within Zones AE that have a  
35 floodway delineated on the Flood Insurance Rate Map adopted in § 152.491, but are located  
36 outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not  
37 have a floodway delineated, the Flood Fringe District also includes those areas below the 1%  
38 annual chance (100-year) flood elevation but above the ordinary high water level as defined  
39 in M.S. § 103G.005, Subd. 14.

40 (c) General Flood Plain District. The General Flood Plain District includes those areas within  
41 Zones A, AE, or AH that do not have a delineated floodway as shown on the Flood Insurance  
42 Rate Map adopted in § 152.491.

43 (2) Applicability. Within the Flood Plain Districts established in this subchapter, the use, size, type  
44 and location of development must comply with the terms of this subchapter and other applicable  
45 regulations. In no cases shall flood plain development adversely affect the efficiency or unduly  
46 restrict the capacity of the channels or floodways of any tributaries to the main stream, drainage  
47 ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or  
48 conditional uses in divisions (C), (D) and (E) below are prohibited. In addition, critical facilities, as  
49 defined in § [redacted], are prohibited in all Flood Plain Districts.

50 (3) Floodway District (FW).

51 (a) Permitted uses. The following uses, subject to the standards set forth in division (C)(2) below  
52 and § 152.514, are permitted uses if otherwise allowed in the underlying zoning district or any  
53 applicable overlay district:

- 54 (1) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming,  
55 forestry, sod farming, and wild crop harvesting.
- 56 (2) Industrial-commercial loading areas, parking areas, and airport landing strips.

- 1 (3) Open space uses, including but not limited to private and public golf courses, tennis
- 2 courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming
- 3 areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting
- 4 preserves, hunting and fishing areas, and single or multiple purpose recreational trails.
- 5 (4) Residential lawns, gardens, parking areas, and play areas.
- 6 (5) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the
- 7 Department of Natural Resources Area Hydrologist is notified at least ten days prior to
- 8 issuance of any permit.
- 9 (b) Standards for Floodway permitted uses.
- 10 (1) The use must have a low flood damage potential.
- 11 (2) The use must not obstruct flood flows or cause any increase in flood elevations and must
- 12 not involve structures, obstructions, or storage of materials or equipment.
- 13 (3) Any facility that will be used by employees or the general public must be designed with a
- 14 flood warning system that provides adequate time for evacuation if the area is inundated
- 15 to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per
- 16 second) would exceed a product of four upon occurrence of the regional (1% chance)
- 17 flood.
- 18 (4) No on-site sewage treatment, holding tanks or water supply systems are permitted in the
- 19 floodway.
- 20 (c) Conditional uses. The following uses may be allowed as conditional uses following the
- 21 standards and procedures set forth in § 152.519 and further subject to the standards set forth
- 22 in division (C)(4) below, if otherwise allowed in the underlying zoning district or any applicable
- 23 overlay district.
- 24 (1) Structures accessory to the uses listed in divisions (C)(1)(a) through (c) and the uses
- 25 listed in divisions (C)(3)(b) and (c).
- 26 (2) Extraction and storage of sand, gravel, and other materials.
- 27 (3) Marinas, boat rentals, docks, piers, wharves, and water control structures.
- 28 (4) Storage yards for equipment, machinery, or materials.
- 29 (5) Placement of fill or construction of fences that obstruct flood flows. Farm fencing, as
- 30 defined in M.S. § 344.02, Subd. 1(a)-(d), is permitted as it relates to this section.
- 31 (6) Travel-ready recreational vehicles meeting the exception standards in § 152.514(F)(2).
- 32 (7) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to
- 33 or less than the ten-year frequency flood event.
- 34 (d) Standards for Floodway conditional uses.
- 35 (1) All uses. A conditional use must not cause any increase in the stage of the 1% chance or
- 36 regional flood or cause an increase in flood damages in the reach or reaches affected.
- 37 (2) Fill; storage of materials and equipment:
- 38 (a) The storage or processing of materials that are, in time of flooding, flammable,
- 39 explosive, or potentially injurious to human, animal, or plant life is prohibited.
- 40 (b) Fill, dredge spoil, and other similar materials deposited or stored in the flood plain
- 41 must be protected from erosion by vegetative cover, mulching, riprap or other
- 42 acceptable method. Permanent sand and gravel operations and similar uses must be
- 43 covered by a long-term site development plan.
- 44 (c) Temporary placement of fill, other materials, or equipment which would cause an
- 45 increase to the stage of the 1% chance or regional flood may only be allowed if the
- 46 City Council has approved a plan that ensures removal of the materials from the
- 47 floodway based upon the flood warning time available.
- 48 (3) Accessory structures. Accessory structures, as identified in division (C)(3)(a) above, may
- 49 be permitted, provided that:
- 50 (a) Structures are not intended for human habitation;
- 51 (b) Structures will have a low flood damage potential;
- 52 (c) Structures will be constructed and placed so as to offer a minimal obstruction to the
- 53 flow of flood waters;
- 54 (d) Service utilities, such as electrical and heating equipment, within these structures
- 55 must be elevated to or above the regulatory flood protection elevation or properly
- 56 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

- 1 applications, due consideration must be given to the needs of industries with operations  
2 that require a flood plain location.
- 3 (11) Manufactured homes must meet the standards of § 152.514 (E) and recreational vehicles  
4 must meet the standards of § 152.514(F).
- 5 (c) Conditional uses. The following uses and activities may be allowed as conditional uses, if  
6 allowed in the underlying zoning district(s) or any applicable overlay district, following the  
7 procedures in § 152.519.
- 8 (1) Any structure that is not elevated on fill or floodproofed in accordance with division (D)(2)  
9 (a) and (b) above.
- 10 (2) Storage of any material or equipment below the regulatory flood protection elevation.
- 11 (3) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being  
12 used to elevate a structure in accordance with division (D)(2)(a) above.
- 13 (d) Standards for Flood Fringe conditional uses.
- 14 (1) The standards listed in divisions (D)(2)(c) through (j) apply to all conditional uses.
- 15 (2) Basements, as defined by § 152.008, are subject to the following:
- 16 (a) Residential basement construction is not allowed below the regulatory flood  
17 protection elevation.
- 18 (b) Non-residential basements may be allowed below the regulatory flood protection  
19 elevation provided the basement is structurally dry floodproofed in accordance with  
20 division (D)(4)(c) below.
- 21 (3) All areas of nonresidential structures, including basements, to be placed below the  
22 regulatory flood protection elevation must be floodproofed in accordance with the  
23 structurally dry floodproofing classifications in the State Building Code. Structurally dry  
24 floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building  
25 Code, which requires making the structure watertight with the walls substantially  
26 impermeable to the passage of water and with structural components capable of resisting  
27 hydrostatic and hydrodynamic loads and the effects of buoyancy.
- 28 (4) The placement of more than 1,000 cubic yards of fill or other similar material on a parcel  
29 (other than for the purpose of elevating a structure to the regulatory flood protection  
30 elevation) must comply with an approved erosion/sedimentation control plan.
- 31 (a) The plan must clearly specify methods to be used to stabilize the fill on site for a flood  
32 event at a minimum of the regional (1% chance) flood event.
- 33 (b) The plan must be prepared and certified by a registered professional engineer or  
34 other qualified individual acceptable to the City Council.
- 35 (c) The plan may incorporate alternative procedures for removal of the material from the  
36 flood plain if adequate flood warning time exists.
- 37 (5) Storage of materials and equipment below the regulatory flood protection elevation must  
38 comply with an approved emergency plan providing for removal of such materials within  
39 the time available after a flood warning.
- 40 (5) General Flood Plain District (GF).
- 41 (a) Permitted uses.
- 42 (1) The uses listed in division (C)(1) above, Floodway District permitted uses, are permitted  
43 uses.
- 44 (2) All other uses are subject to the floodway/flood fringe evaluation criteria specified in  
45 division (E)(2) below. Division (C) above applies if the proposed use is determined to be  
46 in the Floodway District. Division (D) above applies if the proposed use is determined to  
47 be in the Flood Fringe District.
- 48 (b) Procedures for Floodway and Flood Fringe determinations.
- 49 (1) Upon receipt of an application for a permit or other approval within the General Flood  
50 Plain District, the Zoning Administrator must obtain, review and reasonably utilize any  
51 regional flood elevation and floodway data available from a federal, state, or other  
52 source.
- 53 (2) If regional flood elevation and floodway data are not readily available, the applicant must  
54 furnish additional information, as needed, to determine the regulatory flood protection  
55 elevation and whether the proposed use would fall within the Floodway or Flood Fringe

- 1 District. Information must be consistent with accepted hydrological and hydraulic
- 2 engineering standards and the standards in division (E)(2)(c) below.
- 3 (3) The determination of floodway and flood fringe must include the following components,
- 4 as applicable:
- 5 (a) Estimate the peak discharge of the regional (1% chance) flood.
- 6 (b) Calculate the water surface profile of the regional flood based upon a hydraulic
- 7 analysis of the stream channel and overbank areas.
- 8 (c) Compute the floodway necessary to convey or store the regional flood without
- 9 increasing flood stages more than one-half (0.5) foot. A lesser stage increase than
- 10 0.5 foot is required if, as a result of the stage increase, increased flood damages
- 11 would result. An equal degree of encroachment on both sides of the stream within
- 12 the reach must be assumed in computing floodway boundaries.
- 13 (4) The Zoning Administrator will review the submitted information and assess the technical
- 14 evaluation and the recommended Floodway and/or Flood Fringe District boundary. The
- 15 assessment must include the cumulative effects of previous floodway encroachments.
- 16 The Zoning Administrator may seek technical assistance from a designated engineer or
- 17 other expert person or agency, including the Department of Natural Resources. Based on
- 18 this assessment, the Zoning Administrator may approve or deny the application.
- 19 (5) After the Floodway and Flood Fringe District boundaries have been determined, the
- 20 Zoning Administrator must process the permit application consistent with the applicable
- 21 provisions of divisions (C) and (D) above.
- 22 (E) Standards for all flood plain districts.
- 23 (1) Public utilities. All public utilities and facilities such as gas, electrical, sewer, and water supply
- 24 systems to be located in the flood plain must be floodproofed in accordance with the State
- 25 Building Code or elevated to the regulatory flood protection elevation.
- 26 (2) Public transportation facilities. Railroad tracks, roads, and bridges to be located within the flood
- 27 plain must comply with § 152.513(C) and (D). These transportation facilities must be elevated to
- 28 the regulatory flood protection elevation where failure or interruption of these facilities would
- 29 result in danger to the public health or safety or where such facilities are essential to the orderly
- 30 functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower
- 31 elevation where failure or interruption of transportation services would not endanger the public
- 32 health or safety. None of these uses shall increase flood elevations.
- 33 (3) Non-habitable park shelters and other community assembly structures when accessory to park
- 34 uses shall be permitted, but shall be constructed using flood proofing measures to the regulatory
- 35 flood protection elevation, in accordance with the State Building Code, and shall not increase
- 36 flood elevations. Buildings over 500 square feet must be dry flood proofed to the flood proofing
- 37 standards in the State Building Code.
- 38 (4) On-site water supply and sewage treatment systems. Where public utilities are not provided:
- 39 (a) On-site water supply systems must be designed to minimize or eliminate infiltration of flood
- 40 waters into the systems and are subject to the provisions in Minnesota Rules Chapter
- 41 4725.4350, as amended; and
- 42 (b) New or replacement on-site sewage treatment systems must be designed to minimize or
- 43 eliminate infiltration of flood waters into the systems and discharges from the systems into
- 44 flood waters, they must not be subject to impairment or contamination during times of
- 45 flooding, and are subject to the provisions in Minnesota Rules Chapter 7080.2270, as
- 46 amended.
- 47 (5) Manufactured homes. New manufactured home parks and expansions to existing manufactured
- 48 home parks are prohibited in any Flood Plain District. For existing manufactured home parks or
- 49 lots of record, the following requirements apply:
- 50 (a) Placement or replacement of manufactured home units is prohibited in the Floodway District.
- 51 (b) If allowed in the Flood Fringe District, placement or replacement of manufactured home units
- 52 is subject to the requirements of § 152.513(D) and the following standards:
- 53 (1) New and replacement manufactured homes must be elevated in compliance with §
- 54 152.513(D) and must be securely anchored to an adequately anchored foundation
- 55 system that resists flotation, collapse and lateral movement. Methods of anchoring may
- 56 include, but are not limited to, use of over-the-top or frame ties to ground anchors. This

1 requirement is in addition to applicable state or local anchoring requirements for resisting  
2 wind forces.

3 (2) New or replacement manufactured homes in existing manufactured home parks must  
4 meet the vehicular access requirements for subdivisions in § 152.517(B).

5 (6) Recreational vehicles. New recreational vehicle parks or campgrounds and expansions to  
6 existing recreational vehicle parks or campgrounds are prohibited in any Flood Plain District.  
7 Storage of recreational vehicles and equipment shall be in conformance with the regulations of  
8 the city, less than 400 square feet in size and equipment may be temporarily stored (for a  
9 maximum period of 180 days) if permitted in the underlying district and in compliance with all  
10 other sections of the City Code. Placement of recreational vehicles in existing recreational vehicle  
11 parks or campgrounds or as storage in the flood plain must meet the exemption criteria below or  
12 be treated as new structures meeting the requirements of this subchapter.

13 (a) Recreational vehicles are exempt from the provisions of this subchapter if they are placed in  
14 any of the following areas and meet the criteria listed in division (F)(2) below:

- 15 (1) Individual lots or parcels of record.
- 16 (2) Existing commercial recreational vehicle parks or campgrounds.
- 17 (3) Existing condominium-type associations.

18 (b) Criteria for exempt recreational vehicles:

- 19 (1) The vehicle must have a current license required for highway use.
- 20 (2) The vehicle must be highway ready, meaning on wheels or the internal jacking system,  
21 attached to the site only by quick disconnect type utilities commonly used in  
22 campgrounds and recreational vehicle parks.
- 23 (3) No permanent structural type additions may be attached to the vehicle.
- 24 (4) The vehicle and associated use must be permissible in any pre-existing, underlying  
25 zoning district.
- 26 (5) Accessory structures are not permitted within the Floodway District. Any accessory  
27 structure in the Flood Fringe District must be constructed of flood-resistant materials and  
28 be securely anchored, meeting the requirements applicable to manufactured homes in  
29 division (E)(2) above.

30 (6) An accessory structure must constitute only a minimal investment.

31 (c) Recreational vehicles that are exempt in (F)(2) above lose this exemption when development  
32 occurs on the site that exceeds a minimal investment for an accessory structure such as a  
33 garage or storage building. The recreational vehicle and all accessory structures will then be  
34 treated as new structures subject to the elevation and floodproofing requirements of §  
35 152.513(D). No development or improvement on the parcel or attachment to the recreational  
36 vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

37 (7) Building sites. If a proposed building site is in a flood prone area, all new construction and  
38 substantial improvements (including the placement of manufactured homes) must be:

- 39 (a) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral  
40 movement of the structure resulting from hydrodynamic and hydrostatic loads, including the  
41 effects of buoyancy;
- 42 (b) Constructed with materials and utility equipment resistant to flood damage;
- 43 (c) Constructed by methods and practices that minimize flood damage; and
- 44 (d) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and  
45 other service facilities that are designed and/or located so as to prevent water from entering  
46 or accumulating within the components during conditions of flooding.

47 (F) Procedures for submission of technical data for boundary.

48 (1) Upon receipt of an application for a development for a use within a Flood Hazard Overlay, the  
49 applicant is required to furnish as is applicable to the application as determined by the City  
50 Manager for the determination of the regulatory flood protection elevation and whether the  
51 proposed use is within the flood way or flood fringe. If the proposed use is located within the flood  
52 way, § 152.513 of this chapter applies. If the proposed use is located in the flood fringe, §  
53 152.514 of this chapter applies.

54 (a) A typical valley cross-section showing the channel of the stream, elevation of land areas  
55 adjoining each side of the channel, cross-sectional areas to be occupied by the proposed  
56 development, and high water information.

- 1 (b) Plan (surface view) showing the following:  
2 (1) Elevations or contours of the ground.  
3 (2) Pertinent structure, fill, or storage elevations.  
4 (3) The size, location, and spatial arrangement of all proposed and existing structures on the  
5 site.  
6 (4) Location and spatial arrangement of all proposed and existing structures on the site.  
7 (5) The location and elevations of streets.  
8 (6) Photographs showing existing land uses and vegetation upstream and downstream.  
9 (7) The soil type(s).
- 10 (c) Profile showing the slope of the bottom of the channel or flow line of the stream for at least  
11 500 feet in either direction from the proposed development.
- 12 (2) The applicant must be responsible to submit a copy of the above information to a designated  
13 engineer or other expert person or agency for technical assistance in determining whether the  
14 proposed use is in the flood way or flood fringe and to determine the regulatory flood protection  
15 elevation. Procedures consistent with Minnesota Rules parts 6120.5000 - 6120.6200 must be  
16 followed in this expert evaluation. The designated engineer or expert is strongly encouraged to  
17 discuss the proposed technical evaluation methodology with the respective Department of Natural  
18 Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or  
19 expert must:
- 20 (a) Estimate the peak discharge of the regional flood.  
21 (b) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of  
22 the stream channel and overbank areas.  
23 (c) Compute the floodway necessary to convey or store the regional flood without increasing  
24 flood stages and providing compensation storage volumes on a 1:1 basis below the 100-year  
25 flood elevation. An equal degree of encroachment on both sides of a stream within the reach  
26 must be assumed in computing floodway boundaries.
- 27 (G) The City Manager must present the technical evaluation and findings of the designated engineer or  
28 expert to the Board of Adjustment and Appeals. The board may formally accept the technical  
29 evaluation and the recommended floodway and flood fringe delineations for the Flood Hazard Overlay  
30 Area or deny the permit. The Board, prior to official action, must submit the application and all  
31 supporting data and analyses to the Federal Emergency Management Agency and Department of  
32 Natural Resources for review and comment. Once the flood way and flood fringe boundaries have  
33 been determined, the Board will refer the matter back to the City Manager who will process the permit  
34 application consistent with the applicable provisions of §§ 152.030 through 152.039 of this chapter.
- 35 (H) Procedures for submission of technical data for all development within a flood hazard overlay. In  
36 addition to the requirements of §§ 152.030 through 152.039, the following additional requirements  
37 apply to an application for development within all Flood Hazard Overlays.
- 38 (1) Upon receipt of an application for a development for a use within a Flood Hazard Overlay, the  
39 applicant is required to furnish the following as is applicable to the application as determined by  
40 the City Manager for the determination of the flood hazard area boundary and the adequacy of  
41 the proposed use for the particular site:
- 42 (a) Plans drawn to scale showing the following information:  
43 (1) The nature, location, dimensions, and elevation of the lot.  
44 (2) The existing or proposed structures, fill, or storage of materials.  
45 (3) Flood-proofing measures, and the relationship of the above to the location of the stream  
46 channel.  
47 (4) The relationship of the above to the location of the stream channel.
- 48 (b) Specifications for building construction and materials, flood-proofing, filling, dredging,  
49 grading, channel improvement, storage of materials, water supply and sanitary facilities.
- 50 (c) The applicant is required to submit certification by a registered engineer or surveyor licensed  
51 by the State of Minnesota that the floodproofing, finished fill and building elevations were  
52 accomplished in compliance with the provisions of this section.
- 53 (2) One copy of the plans and specifications defined above must be given to a designated engineer  
54 or other expert person or agency for technical assistance, where necessary, in evaluating the  
55 proposed project in relation to flood heights and velocities, the seriousness of flood damage to  
56 the use, the adequacy of the plans for protection, and other technical matters. Based upon the

1 technical evaluation of the designated engineer or expert, the City Manager shall determine the  
 2 specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the  
 3 flood hazard.

4 (3) Review standards. In addition to the review standards listed in §§ 152.030 through 152.039. The  
 5 City Council must also consider the following in its review of any application in the Flood Hazard  
 6 Overlay. These standards include:

- 7 (a) The danger to life and property due to increased flood heights or velocities caused by  
 8 encroachment.
- 9 (b) The danger that materials may be swept onto other lands or downstream to the injury of  
 10 others or they may block bridges, culverts or other hydraulic structures.
- 11 (c) The proposed water supply and sanitation systems and the ability of these systems to  
 12 prevent disease, contamination, and unsanitary conditions.
- 13 (d) The susceptibility of the proposed facility and its contents to flood damage and the effect of  
 14 such damage on the individual owner.
- 15 (e) The importance of the services provided by the proposed facility to the community.
- 16 (f) The requirements of the facility for a waterfront location.
- 17 (g) The availability of alternative locations not subject to flooding for the proposed use.
- 18 (h) The compatibility of the proposed use with existing development and development  
 19 anticipated in the foreseeable future.
- 20 (i) The relationship of the proposed use to the comprehensive plan and flood plain management  
 21 programs for the area.
- 22 (j) The safety of access to the property in times of flood for ordinance and emergency vehicles.
- 23 (k) The expected heights, velocity, duration rate of rise, and sediment transport of the flood  
 24 waters expected at the site.
- 25 (l) Such other factors which are relevant to the purposes of this chapter.

26 (4) Reasonable conditions. The City Council shall attach any reasonable conditions as it deems  
 27 necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited  
 28 to, the following:

- 29 (a) Modification of waste treatment and water supply facilities.
- 30 (b) Limitations on period of use, occupancy or operation.
- 31 (c) Imposition of operational controls, sureties, and deed restrictions.
- 32 (d) Requirements for construction of channel modifications, compensatory storage, dikes,  
 33 levees, and other protective measures.
- 34 (e) Flood proofing measures, in accordance with the State Building Code and this chapter. The  
 35 applicant must submit a plan or documentation certified by a registered professional engineer  
 36 or architect that the flood proofing measures are consistent with the regulatory flood  
 37 protection elevation and associated flood factors for the particular area.

38 (5) State and federal permits. Prior to granting approval for any application for development, the City  
 39 Manager shall determine that the applicant has obtained all necessary state and federal permits.

40 (I) Subdivision review criteria.

- 41 (1) In general. Recognizing that flood prone areas may exist outside of the designated Flood Plain  
 42 Districts, the requirements of this section apply to all land within the city.
- 43 (2) No land shall be subdivided which is unsuitable for the reason of flooding, inadequate drainage,  
 44 water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle  
 45 parks or campgrounds are considered subdivisions for purposes of this subchapter. All lots within  
 46 Flood Plain Districts shall be able to contain a building site outside of the Flood Plain Districts. All  
 47 subdivisions must have water and sewage treatment facilities that comply with the provisions of  
 48 this chapter and have road access both to the subdivision and to the individual building sites no  
 49 lower than two feet below the regulatory flood protection elevation. For all subdivisions in the  
 50 Flood Plain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection  
 51 elevation and the required elevation of all access roads must be clearly labeled on all required  
 52 elevations of all access roads and must be clearly labeled on all required subdivision drawings  
 53 and platting documents.
- 54 (3) In the General Flood Plain Overlay, applicants must provide the information required in § 152.515  
 55 of this chapter to determine the 100-year flood elevation, the floodway and flood fringe district  
 56 boundaries and the regulatory flood protection elevation for the subdivision site.

- 1 (4) Removal of special flood hazard area designation. The Federal Emergency Management Agency  
2 (FEMA) has established criteria for removing the special flood hazard area designation for certain  
3 structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements  
4 incorporate specific fill compaction and side slope protection standards for multi-structure or  
5 multi-lot developments. These standards should be investigated prior to the initiation of site  
6 preparation if a change of special flood hazard area designation will be requested.
- 7 (5) If a subdivision proposal or other proposed new development is in a flood prone area, any such  
8 proposal must be reviewed to assure that:  
9 (a) All such proposals are consistent with the need to minimize flood damage within the flood  
10 prone area,  
11 (b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located  
12 and constructed to minimize or eliminate flood damage, and  
13 (c) Adequate drainage is provided to reduce exposure of flood hazard.
- 14 (J) Conditions for a variance to the flood hazard overlay performance standards.  
15 (1) Applications for variance will be reviewed in accordance with the procedures in §§ 152.030  
16 through 152.039.  
17 (2) Any projects granted a variance to high water mark must submit an Erosion and Sedimentation  
18 Control Plan prepared by a Registered Engineer licensed by the State of Minnesota in  
19 accordance with the guidelines of the West Mississippi Watershed District. This plan must be  
20 approved by the city prior to issuance of a permit.  
21 (3) Proposals for variance must be the minimum necessary to allow for the reasonable use of the  
22 property.  
23 (4) Proposals must meet the requirements defined in § 152.516 for development in the Flood Hazard  
24 Overlay.  
25 (5) All habitable structures applying for a variance and proposed in the Flood Hazard Overlay must  
26 be constructed in accordance with the flood plain management standards for the State of  
27 Minnesota as found in Minnesota Rules parts 6120.5000 - 6120.6200 and the Code of Federal  
28 Regulations, 44 CFR 60.3(a)-(d).  
29 (6) No variance shall have the effect of allowing in any district uses prohibited in that district, permit a  
30 lower degree of flood protection than the regulatory flood protection elevation for the particular  
31 area or permit standards lower than those required by state law.  
32 (7) The City Manager must submit hearing notices for proposed variances to the DNR sufficiently in  
33 advance to provide at least 10 days' notice of the hearing. The notice may be sent by electronic  
34 mail or U.S. Mail to the respective DNR area hydrologist.  
35 (8) Required notification. The City Manager must notify the applicant for a variance of the impacts of  
36 the action and must maintain a record of such notification. The city must maintain a record of all  
37 variance actions, including justification for their issuance, and report such variances issued in its  
38 annual or biennial report submitted to the Administrator of the National Flood Insurance Program.  
39 The impacts necessitating notification include:  
40 (a) The issuance of a variance to construct a structure below the base flood level will result in  
41 increased premium rates for flood insurance.  
42 (b) Such construction below the 100-year or regional flood level increases risks to life and  
43 property.  
44 (9) Submittal of final decisions to the DNR. A copy of all decisions granting variances must be  
45 forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or  
46 U.S. Mail to the respective DNR area hydrologist.  
47 (10) The following additional variance criteria of the Federal Emergency Management Agency must be  
48 satisfied:  
49 (a) Variances shall not be issued by a community within any designated regulatory floodway if  
50 any increase in flood levels during the base flood discharge would result.  
51 (b) Variances shall only be issued by a community upon:  
52 (1) A showing of good and sufficient cause,  
53 (2) A determination that failure to grant the variance would result in exceptional hardship to  
54 the applicant, and

1 (3) A determination that the granting of a variance will not result in increased flood heights,  
2 additional threats to public safety, extraordinary public expense, create nuisances, cause  
3 fraud on or victimization of the public, or conflict with existing local laws or ordinances.

4 (c) Variances shall only be issued upon a determination that the variance is the minimum  
5 necessary, considering the flood hazard, to afford relief.

6 (11) All new principal structures must have vehicular access at or above an elevation not more than  
7 two feet below the regulatory flood protection elevation. If a variance to this requirement is  
8 granted, the Board of Adjustment must specify limitations on the period of use or occupancy of  
9 the structure for times of flooding and only after determining that adequate flood warning time and  
10 local flood emergency response procedures exist.

11 (12) Record-keeping. The Zoning Administrator must maintain a record of all variance actions,  
12 including justification for their issuance, and must report such variances in an annual or biennial  
13 report to the Administrator of the National Flood Insurance Program, when requested by the  
14 Federal Emergency Management Agency.

15 (K) Approval of site plan review, conditional use permits, and/or grading permits.

16 (1) The City Council may attach conditions to the approval of Site Plan Review or any permits on  
17 flood hazard overlay properties including, but not limited to, the modification of the waste disposal  
18 and water supply facilities; limiting the period of use, occupancy, and/or operation; imposing  
19 operational controls, sureties, and deed restriction requirements; aesthetic considerations to  
20 protect wetlands, open space or those amenities, and requirements for construction of channel  
21 modifications, compensatory storage, dikes, levees, and other protective measures; floodproofing  
22 measures, in accordance with the State Building Code and this subchapter. The applicant must  
23 submit a plan or document certified by a registered professional engineer or architect that the  
24 floodproofing measures are consistent with the regulatory flood protection elevation and  
25 associated flood factors for the particular area.

26 (2) In passing upon conditional use applications governed by this subchapter, the City Council must  
27 consider all relevant factors specified in other sections of this subchapter, and those factors  
28 identified in § 152.516(C).

29 (3) The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR  
30 sufficiently in advance to provide at least ten days notice of the hearing. The notice may be sent  
31 by electronic mail or U.S. Mail to the respective DNR area hydrologist.

32 (4) Submittal of final decisions to the DNR. A copy of all decisions granting conditional uses must be  
33 forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or  
34 U.S. Mail to the respective DNR area hydrologist.

35 (L) Nonconformities. A structure or the use of a structure or premises which was lawful before the  
36 passage or amendment of this chapter but which is not in conformity with the provisions of this  
37 chapter may be continued subject to §§ 152.050 through 152.055 and the following:

38 (1) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or  
39 altered in a way that increases its flood damage potential or degree of obstruction to flood flows  
40 except as otherwise provided in division (B) below. Expansion or enlargement of uses, structures  
41 or occupancies within the Floodway District is prohibited.

42 (2) Any structural alteration or addition to a nonconforming structure or nonconforming use which  
43 would result in increasing the flood damage potential of that structure or use shall be protected to  
44 the regulatory flood protection elevation in accordance with flood plain management standards for  
45 the State of Minnesota as found in Minnesota Rules parts 6120.5000 - 5120.6200 and the Code  
46 of Federal Regulations, 44 CFR 60.3(a)-(d).

47 (3) The cost of any structural alterations or additions to any non-conforming structure over the life of  
48 the structure must not exceed 50% of the market value of the structure unless the conditions of  
49 this section are satisfied. The cost of all structural alternations and additions constructed since  
50 the adoption of the city's initial flood plain controls shall be calculated into today's current cost  
51 which will include all costs such as construction material and a reasonable cost placed on all  
52 manpower or labor. If the current cost of all previous and proposed alterations and additions  
53 exceeds 50% of the current market value of the structure, then the structure must be located  
54 outside the floodway and meet the floodplain management standards for the State of Minnesota  
55 as found in Minnesota Rules parts 6120.5000 - 5120.6200 and the Code of Federal Regulations,  
56 44 CFR 60.3(a)-(d).

- 1 (4) If any nonconforming use is discontinued for 12 consecutive months, any future use of the
- 2 building premises shall conform to this subchapter. The Assessor shall notify the Zoning
- 3 Administrator in writing of instances of nonconforming uses that have been discontinued for a
- 4 period of 12 months.
- 5 (5) If any nonconforming use or structure is substantially damaged, as defined in § 152.008, it shall
- 6 not be reconstructed except in conformity with the flood plain management standards for the
- 7 State of Minnesota as found in Minnesota Rules parts 6120.5000 - 5120.6200 and the Code of
- 8 Federal Regulations, 44 CFR 60.3(a)-(d).
- 9 (6) If a substantial improvement occurs, as defined in § 152.008, from any combination of a building
- 10 addition to the outside dimensions of the existing building or a rehabilitation, reconstruction,
- 11 alteration, or other improvement to the inside dimensions of an existing nonconforming building,
- 12 then the building addition (as required by division (B) above) and the existing nonconforming
- 13 building must meet the flood plain management standards for the State of Minnesota as found in
- 14 Minnesota Rules parts 6120.5000 - 5120.6200 and the Code of Federal Regulations, 44 CFR
- 15 60.3(a)-(d).
- 16 (7) If any nonconforming use or structure experiences a repetitive loss, it must not be reconstructed
- 17 except in conformity with the provisions of this subchapter
- 18 (M) Record of first floor elevation. The City Manager must maintain a record of the elevation of the lowest
- 19 floor (including basement) of all new structures and alterations or additions to existing structures in
- 20 the Flood Hazard Overlay. The City Manager must also maintain a record of the elevation to which
- 21 structures or alterations and additions to structures are flood-proofed.
- 22 (N) Enforcement of penalties. In addition to the enforcement and penalties defined in §§ 152.020 through
- 23 152.023, other action may be taken by the city to ensure compliance with this section, including a
- 24 request to the National Flood Insurance Program to deny flood insurance availability to the subject
- 25 property. If the structure and/or use suspected to be in violation of this section is in the process of
- 26 construction, the City Manager must immediately order the construction or development halted until
- 27 the proper permit or approval is granted. The City Manager will also notify the landowner to restore
- 28 the land to the condition which existed prior to the violation. Each day a violation exists shall be
- 29 treated as a separate offense.

30 **§152.802 HIGHWAY OVERLAY**  
 31 ~~The permitted and conditional uses allowed in the Highway Overlay shall be the same as the underlying~~  
 32 ~~zoning district, with the exception that distribution centers/warehousing uses are not permitted.~~

- 33 **§152.803 MISSISSIPPI RIVER CRITICAL AREA OVERLAY**
- 34 (A) The intent of this designation is to protect and preserve the Mississippi River corridor as a unique and
  - 35 valuable natural resource for the city, region, state, and nation.
  - 36 (B) The boundaries of this overlay were determined by the State of Minnesota in Executive Order No. 79-
  - 37 19 and are not under the jurisdiction of the City of Brooklyn Park to alter.
  - 38 (C) Areas with Critical Area designation must be maintained largely for low-density residential, and park
  - 39 uses. Where development or redevelopment occurs, site alteration and building construction may not
  - 40 disturb the natural state of shoreline, slopes, and bluff and must not be readily visible from the river.
  - 41 (D) Setbacks. Front, side, and rear setbacks are determined by the underlying zoning district of the
  - 42 subject property, with the following requirements for bluff, slopes over 12% and ordinary high water
  - 43 level setbacks:
  - 44 (1) Undeveloped Properties.
  - 45 (a) All buildings shall be placed at least 100 feet from the ordinary high water level of the
  - 46 Mississippi River.
  - 47 (b) All buildings, decks or other appurtenances shall be set back 40 feet from the edge of a bluff
  - 48 with slopes 12% or greater.
  - 49 (2) Properties upon which a principal structure was constructed prior to March 26, 2001.
  - 50 (a) The foundation footprint of an existing principal structure, or of a new principal structure
  - 51 constructed to replace a principal structure that has been damaged, destroyed or removed
  - 52 from the property, may be expanded and/or reconstructed in any direction that does not
  - 53 encroach further toward bluffs or the river and complies with §   .

- (b) Existing attached garages, detached accessory structures, decks, patios, three-season porches and other residential structures may be rebuilt or expanded or reconstructed provided that they do not encroach further toward bluffs or the river and comply with § [redacted].
- (c) Attached garages, detached accessory structures, decks, patios, three-season porches and other residential structures that are damaged, destroyed or removed from the property may be reconstructed in the same location as previously existed and may be expanded in any direction that do not encroach further toward bluffs and/or the river and comply with § [redacted].

**§152.804 PLANNED DEVELOPMENT OVERLAY**

(A) Purpose. The purpose of the Planned Development Overlay is to promote creative and efficient use of land by providing design flexibility in the application of the provisions of a primary zoning district by providing an overlay district on top of any of the primary zoning districts. It is the applicant's responsibility to demonstrate that the proposed Planned Development is not simply for enhanced gain and accomplishes one or more of the following:

- (1) Introduce flexibility of site design and architecture for the conservation of land, natural features and open space through clustering of structures, facilities, amenities and activities for public benefit.
- (2) Improve the efficiency of public streets and utilities through a more efficient and effective use of land, open space and public facilities through assembly and development of land in larger parcels.
- (3) Internal organization and adequacy of various uses or densities, circulation and parking facilities, urban services, recreation areas, open spaces, screening and landscaping, and the ability to demonstrate that a viable development will be created.
- (4) Provide mixed land use and land use transitions in keeping with the character of adjacent land uses and the underlying zoning districts; and,
- (5) Provide for the clustering of land parcels for development as an integrated, coordinated unit as opposed to a parcel by parcel, piecemeal approach and to maintain these parcels by central management including integrated and joint use of parking, maintenance of open space and similar features, and harmonious selection and efficient distribution of uses.

(B) Intent. The intent of this designation is to encourage development that is superior in quality and design than could be achieved through traditional zoning. The boundaries of this overlay are amended for each application as approved through on the Development Plan through the rezoning process outlined elsewhere in this chapter.

(C) Flexibilities. The City Council may grant certain flexibility to zoning requirements if the applicant demonstrates to the Council's satisfaction that the purpose and intent have been satisfied. Such flexibilities may include:

- (1) Land Use. Flexibility in land use may be provided by a PDO, however, the uses in the underlying zoning district may be further restricted.
- (2) Density. Flexibility in density may be granted if consistent with the land use designation in the comprehensive plan.
- (3) Site Design. Specific lot area, lot width, setbacks, height, yard, floor area ratio, landscaping, and open space requirements may be established for the PDO.
- (4) Parking and Loading. Flexibility in the design and location of off-street parking facilities and loading areas is permitted with the approval of such facilities by the city engineer; however, in no case shall gravel parking areas be permitted.
- (5) Signage. Flexibility in the design and location of signage is permitted; however, in no case shall pylon signs be permitted.
- (6) Stormwater. Stormwater facilities may be shared between parcels if part of an approved PDO.

(D) Procedures. Planned Development projects shall adhere to the rezoning procedure listed in § [redacted] and site plan review listed in § [redacted].

(E) Maintenance requirements. If common open space or service facilities are provided within the PDO, the PDO shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard. Open space and facilities may be placed under the ownership of one of the following, as approved by the City Council:

- (1) Dedicated to the public, where a community-wide use is anticipated, and the City Council agrees to accept the dedication.

- 1 (2) Landlord control, where only use by tenants is anticipated.
- 2 (3) Property owners' association, provided all the following conditions are met:
- 3 (a) Prior to the use, occupancy, sale, or the execution of contract for sale of individual buildings,
- 4 units, lots, parcels, tracts or common areas, a recorded declaration of covenants, conditions
- 5 and restrictions, or an equivalent document as specified by state statute, must be filed with
- 6 the city.
- 7 (b) Such document shall be filed with and reviewed and approved by the City Attorney prior to
- 8 recordation with the county.
- 9 (F) Phasing of public and common open space. When a PDO provides for common private or public
- 10 open space, and is planned for a phased development over a period of time, the total area of
- 11 common or public open space or land escrow security in any phase of development may, at a
- 12 minimum, bear the same relationship to the total open space to be provided in the entire PDO as the
- 13 phases or units completed or under development bear to the entire PDO.
- 14 (G) Modifications or amendments. Minor modifications, as determined by the City Manager, are subject to
- 15 the site plan review process established in § . Major modifications or amendments, including
- 16 changes in land use, density, maintenance of open space or common areas, or extensive changes to
- 17 road, utility, or open space must follow the same procedures for submittal, notification, and public
- 18 hearing as the original PDO.
- 19 (H) List of approved active Planned Development Overlays and ordinance numbers:
- 20

#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)

- 21 (A) ~~TBC~~ Purpose. The Pedestrian Priority Overlay District (PPOD) is established to provide
- 22 pedestrian-oriented development on streets designated as Pedestrian Priority Streets in the
- 23 Comprehensive Plan. This district is applied at a 150-foot depth from the front lot line of parcels
- 24 fronting a Pedestrian Priority Street.
- 25 (B) District Standards.
- 26 (1) Minimum Floor Area Ratio. Notwithstanding the regulations of the underlying zoning district, the
- 27 minimum floor area ration for new development in the PPOD is 0.5, subject to all requirements of
- 28 152.604(H).
- 29 (2) Required commercial uses. The first floor of all new developments in the PPOD shall provide
- 30 commercial uses, subject to the requirements of this section.
- 31
- 32

- 1       (3) Size of required commercial use space. In a multi-story building the commercial use or uses shall
- 2       occupy at least sixty (60) percent of the building’s ground-floor street frontage and a minimum
- 3       depth of twenty (20) feet. In a single-story building the commercial use or uses shall occupy one
- 4       hundred (100) percent of the building’s street frontage and a minimum interior depth of twenty
- 5       (20) feet.
- 6       (4) Use of required commercial space. Required commercial use areas shall be occupied by one or
- 7       more of the following uses. Building amenities intended for use solely by building occupants and
- 8       not open to the general public shall not qualify as a required commercial use.
- 9       (a) Retail and service.
- 10      (b) Restaurant and brewpubs.
- 11      (c) Medical clinics.
- 12      (d) Child care.
- 13      (e) Adult day care.
- 14      (f) Breweries and micro-distilleries.
- 15      (g) Taprooms and cocktail rooms.

## 5.4B - TECHNICAL CHANGES

Section	Title	Summary of Changes
<b>152.101</b>	Severability	Added severability clause
<b>152.104</b>	Application	Revised from “No buildings, structures or land may be erected, used, relocated, or altered except in conformance with this chapter” to “All buildings, structures, and land uses must be erected, used, relocated or altered in conformance with this chapter”
<b>152.105</b>	Interpretation	152.105(B)(2) removed, consistent with City Policy
<b>152.107</b>	Definitions	<p>Definitions that were moved:</p> <ul style="list-style-type: none"> <li>• Accessory Structure to Structure, Accessory</li> <li>• Accessory use to Use, Accessory</li> <li>• Arterial streets to Streets, Arterial</li> <li>• Collector Streets to Streets, Collector</li> <li>• Interim use to Use, Interim</li> <li>• Local streets to Streets, Local</li> <li>• Place of worship to Religious institution</li> </ul> <p>Definitions removed, with explanation:</p> <ul style="list-style-type: none"> <li>• Boarding or rooming house, defined but did not exist within the code</li> <li>• Building area, removed in favor of “Buildable area”</li> <li>• Flood plain, general, changed with MRCCA update</li> <li>• Conditional Use Permit, redundant</li> <li>• Interim Use Permit, redundant</li> </ul> <p>Definitions changed, with explanations:</p> <ul style="list-style-type: none"> <li>• Basement, revised from 2 to 1 definition</li> <li>• Bluff, updated to DNR standards (MRCCA update)</li> <li>• Bluff impact zone, updated to DNR standards (MRCCA update)</li> <li>• Buildable area, updated to DNR standards (MRCCA update)</li> <li>• Comprehensive Plan, revised for clarity</li> <li>• Floodplain, updated to DNR standards (MRCCA update)</li> <li>• Impervious surface, updated to DNR standards (MRCCA update)</li> <li>• Licensed residential facility, removed Dept. of Corrections statement for legal reasons</li> <li>• Storage, revised from 2 to 1 definitions</li> <li>• Tower, revised from 2 to 1 definitions</li> <li>• Transient merchant, revised from 2 to 1 definitions</li> <li>• Wetland, updated to DNR standards (MRCCA update)</li> </ul> <p>Definitions added:</p> <ul style="list-style-type: none"> <li>• Certificate of compliance</li> <li>• Essential services</li> <li>• Overlay District</li> </ul>

## 5.4B - TECHNICAL CHANGES

		<ul style="list-style-type: none"> <li>• Place of Worship</li> <li>• Planned Use Development</li> <li>• Retaining wall</li> </ul>
<b>152.203</b>	Enforcement and Penalties	152.203(A)(4) replaced “may also have” with “has”
<b>152.205</b>	Nonconformities	152.205(B)(3) Replaced “reconstruction begins” to “building permit is issued” consistent with MN Statute.
<b>152.301</b>	Public Hearings	152.301(C) removed, consistent with City Policy
<b>152.302</b>	General Procedures	152.302 revised to include all application types, and processes as referenced through all zoning districts
<b>152.303</b>	Concept Plan	Added process adopted with 610 Moratorium
<b>152.303</b>	Site Plan	<ul style="list-style-type: none"> <li>• 152.303(B) Replaced “Without first obtaining site plan approval it is unlawful to do any of the following” with “Site plan approval is required for the following development:”</li> <li>• 152.303(G) replaced “may” with “shall” and “approved” with “reviewed”</li> <li>• 152.303(G)(3)(a) added “or adjacent to”</li> </ul>
<b>152.305</b>	Conditional Use Permit	152.305(G) replaced “any” with “all” to reflect the intent that all CUPs be filed
<b>152.308</b>	Alternative Compliance	Section added
<b>152.311</b>	Relocating Structures	152.311(C) Removed discriminatory statement
<b>152.401</b>	Zoning Districts	<ul style="list-style-type: none"> <li>• 152.401(B)(1) Revised from “Limited Business” to “Office Park”</li> <li>• 152.401(D)(4) Revised from “MCO Mississippi Critical Overlay” to “MRCCA Mississippi River Corridor Critical Area Overlay”</li> </ul>
<b>152.501</b>	R-1 Detached Single-Family Estate District	Title of district updated to add “Estate”
<b>152.502</b>	R-2 Detached Single-Family District	152.502(A) Removed “Residential”
<b>152.503</b>	R-3 Detached Single-Family and Two-Family District	152.503(A) Removed “Residential”
<b>152.504</b>	R-4 Multiple Family District	152.504(A) Removed “Residential”
<b>152.505</b>	R-5 Multiple Family District	152.505(A) Removed “Residential”
<b>152.506</b>	Residential District Lot Area and Dimensional Requirements	<ul style="list-style-type: none"> <li>• 152.506(B)(1)(b) Removed statement of ownership</li> <li>• Figure ## amended lot size requirements</li> <li>• 152.506(B)(2)(b) replaced “dwelling unit” with “living space” and added “side” before setback for clarity</li> </ul>

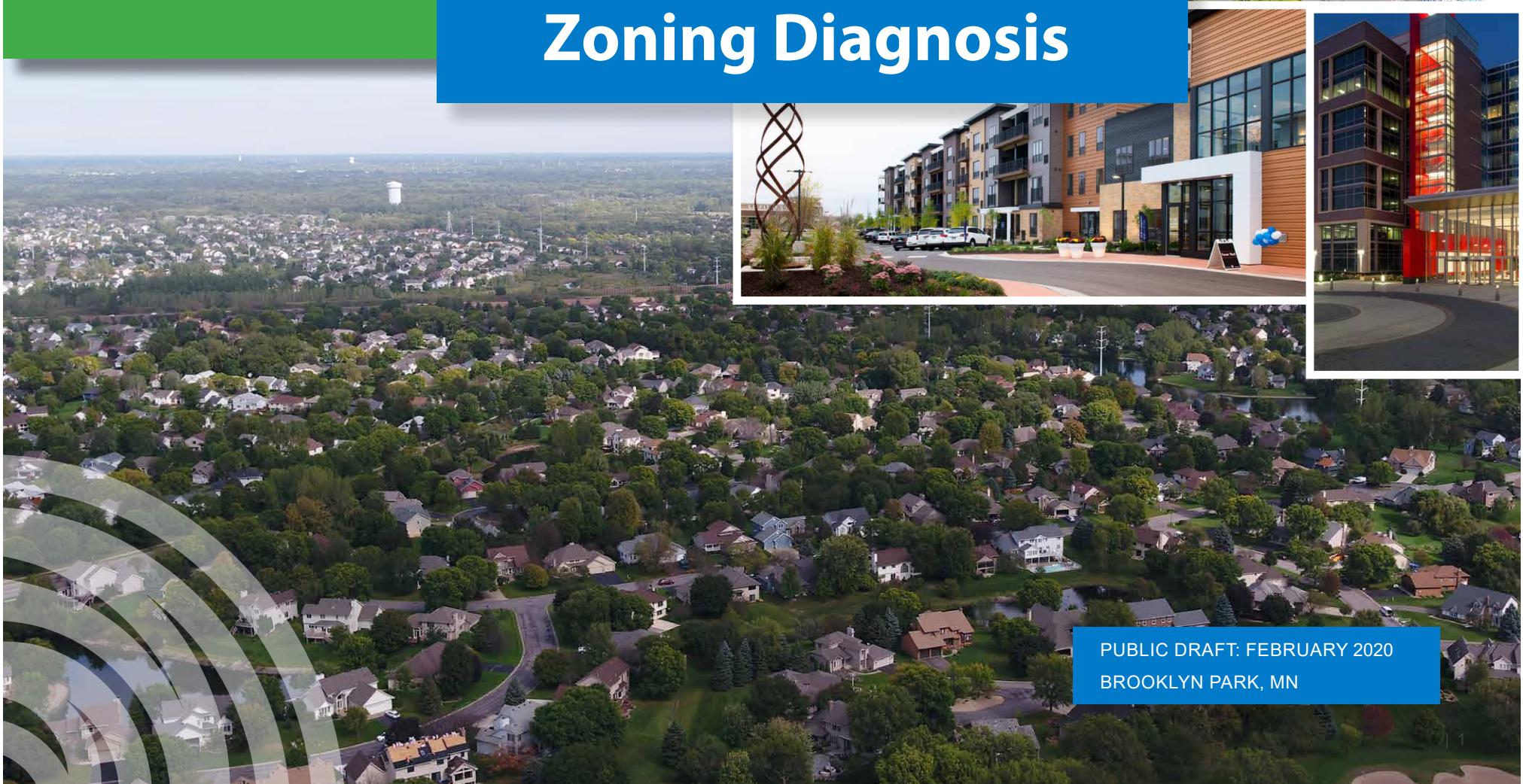
## 5.4B - TECHNICAL CHANGES

		<ul style="list-style-type: none"> <li>• 152.506(B)(3)(a) added “front, back or rear” and “provided there is no encroachment into existing easements” for clarification</li> <li>• 152.506(C) Changed text to Figure ## for clarity</li> </ul>
<b>152.507</b>	Residential District Land Uses	Updated use tables for principal and accessory/temporary uses to include Bed and breakfast establishments as a conditional use in some districts, and to permit essential services
<b>152.600</b>	B-1 Office Park District	Changed district name from “Limited Business” to “Office Park”
<b>152.605</b>	I General Industrial District	Removed text “extensive amount of”
<b>152.606</b>	PI Public Institution District	Added “PI” before district name, consistent with the formatting of the other zoning districts, and removed “(PI)”
<b>152.607</b>	OP Open Spaces and Parks District	152.607(A) Updated name of zoning district and removed “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>152.608</b>	Nonresidential Lot Area and Dimensional Requirements	Technical changes for consistency <ul style="list-style-type: none"> <li>•</li> </ul>
<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 14, 2024, Planning Commission Regular Session
<b>152.802</b>	Highway Overlay	Removed
<b>152.803</b>	MRCCA	Amended as recommended at the February 14, 2024, Planning Commission Regular Session

planned unit development

# Brooklyn Park

## Zoning Diagnosis



PUBLIC DRAFT: FEBRUARY 2020  
BROOKLYN PARK, MN

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# 1

## Introduction

# Introduction

The City of Brooklyn Park is a growing, dynamic, and diverse community. It is unique in the Twin Cities in that it is a majority minority suburb. It has the density of an urban center along with the vacant greenfields of the urban fringe. There is a history of development in “nodes” or places to be, each providing a different mix of services, shopping, dining and entertainment. The City has stated a commitment to racial equity, being age friendly and accessible to all. Light rail transit is coming to five station areas in the City. Each of these characteristics is tied to the zoning ordinance, which regulates all growth, development and redevelopment in the City.

The first and most important job of the zoning ordinance is to protect the health, safety and welfare of the City’s residents, business owners, and visitors. The main way zoning does this is by implementing the goals and policies set forth in the Comprehensive Plan. Brooklyn Park’s 2040 Comprehensive Plan lays out a bold vision for the future of housing, employment, economic development, and transportation. Policies in each of these areas require changes to the zoning ordinance which enable the types of change envisioned.

During this zoning diagnosis, we examine the current ordinance to determine where there are conflicts; where zoning may be an obstacle for the type of development the City wants; and where there is outdated language that needs to be updated.

Cities use zoning to guide development of privately-owned land to ensure the land is used in a way that promotes both the best use of that land and the prosperity, health, and welfare of its residents. Cities derive the authority to zone from Minnesota and United States supreme court cases and from the Municipal Planning Act found in Minnesota Statutes. The Municipal Planning Act establishes a consistent and comprehensive procedure for adopting, amending, and implementing a zoning ordinance.

While zoning is a primary way for communities to impact the built environment, it is important to understand what zoning can and cannot do.

## WHAT ZONING CAN DO:

- Allow the type of development envisioned in the Comprehensive Plan
- Describe what uses are permitted and where
- Establish the parameters for development related to:
  - Lot size, width, depth
  - Setbacks or build-to lines
  - Building coverage
  - Building height minimums and maximums
  - Landscaping requirements
  - Parking minimums and maximums
  - Design standards



## WHAT ZONING CAN'T DO:

- Guarantee development
- Take away allowed uses
- Preempt state and federal law
- Act as a building code
- Control behavior

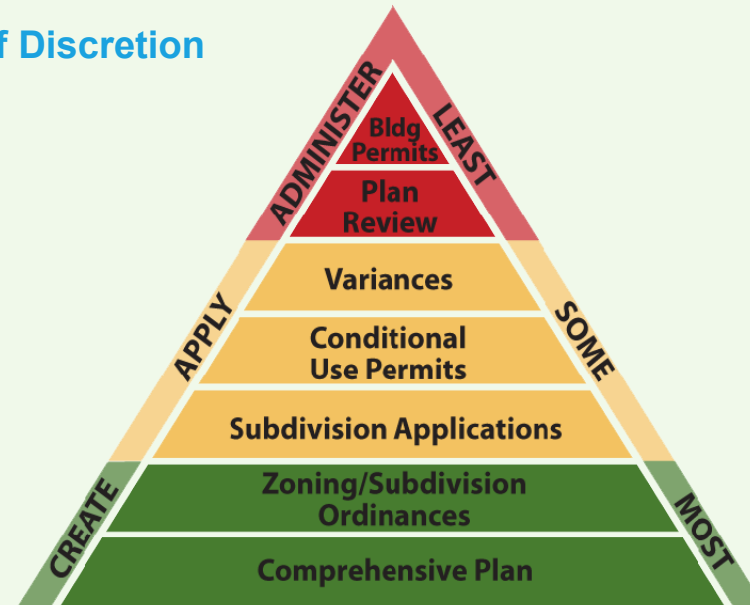


# Introduction

The limits to zoning are steeped in history and documented in case law. When creating, adopting and amending land use plans and zoning ordinances, a city is making law by exercising its so-called “legislative” authority. The city council creates new plans and laws (ordinances) for the entire community to advance its health, safety, and welfare. When acting legislatively, the council has broad discretion. In contrast, when applying existing plans and laws, a city council is exercising so-called “quasi-judicial” authority. It is limited to determining the facts of a specific request, and then applying those facts to the relevant law. A city council has less discretion when acting quasi-judicially.

It can be helpful to visualize this as a “**pyramid of discretion**” that shows cities have greater discretion when making land use decisions and policies at the base of the triangle, and less as decision-making moves up the pyramid. Discretion is greatest when officials are creating and drafting the comprehensive plan and writing the zoning code and the least when administering those plans and codes, such as when reviewing a building permit for compliance with the dimensional requirements of the zoning district.

## Pyramid of Discretion



Source: League of Minnesota Cities

When acting legislatively, such as with this update to the zoning ordinance, a city can engage in broad policy discussions, and sort through competing views about what plans and laws would be in the best interest of the city. Although not everyone may be on board with the outcome, the more public participation in the planning (comprehensive plan) and law-making (zoning code update) stage, the better the understanding among the public of why the city has put a plan or law in place.

The zoning ordinance begins with a purpose statement which outlines the community’s reasons for adopting the ordinance. The purpose statement links the rules and regulations listed in the ordinance to the community’s values, plans, and goals. What follows is a side-by-side comparison of Brooklyn Park’s current purpose statement and that for the City of Duluth, MN. Duluth’s purpose statement clearly conveys its values and goals. This update is an opportunity for Brooklyn Park to be clear about the type of development it intends to promote with its ordinance.

# Introduction

## Brooklyn Park

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;
- 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.

## Duluth

The purpose of this unified development chapter is to protect public health, safety, and welfare and to implement the goals and objectives of the comprehensive land use plan using those authorities over the development, redevelopment, use, and occupancy of land and structures, and over the protection of the environment, granted to the city by the state. This general purpose includes, but is not limited to, the following:

- a. To provide for more sustainable development within the city by reducing carbon emissions, vehicle miles traveled, energy consumption, and water consumption, and by encouraging production of renewable energy and food production;
- b. To control or eliminate soil erosion and sedimentation within the city;
- c. To protect and enhance the city's attractions to residents, tourists and visitors, and serve as a support and stimulus to business and industry;
- d. To enhance the visual and aesthetic character, diversity and interest of the city;
- e. To promote the use and preservation of historic landmarks and districts for the educational and general welfare of the

people of the city;

- f. To regulate erection and maintenance of signs in the city in order that signs might fulfill their necessary and useful function in such a way to preserve the public welfare and safety;
- g. To preserve the integrity of residential areas and the character and dignity of public structures, parks and other open spaces;
- h. To enhance property values and the general appearance and natural beauty of the city;
- i. To protect the public investment in streets and highways;
- j. To establish a comprehensive system of sign controls governing the display, design, construction, installation and maintenance of signs and to promote the orderly and effective display of outdoor advertising;
- k. To promote, preserve, and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development in wetlands, shorelands and floodplains.

# 2

## Executive Summary





# Executive Summary



**2. Beautiful spaces** and quality infrastructure make Brooklyn Park a unique destination

## What it looks like:

- Modern **transportation options** (drive, ride, walk, bike) connect people to education, jobs, and recreation.
- Quality **recreation** and **park** amenities inspire activity for all ages and interests.
- Our rich **diversity** is showcased through our vibrant music, arts, food, entertainment, and cultural scene.
- **Attractive key corridors, corners, and city centers** create destinations that meet community needs.
- Quality and **well-maintained** housing for all ages and incomes are integrated throughout the community.



**3. A balanced economic environment** that empowers businesses and people to **thrive**.

## What it looks like:

- People of all ages and backgrounds enjoy **financial stability**.
- Residents and visitors support an **abundance** of retail stores, restaurants, and entertainment venues.
- Our **business environment inspires** private investment and job growth for the purpose of increasing the tax base.
- Businesses and organizations of **all types, sizes** and specialties start, stay and grow here. (e.g. local networks and resources support businesses)
- We are a leader in **environmental sustainability**, benefiting our economy and community.

# Executive Summary



**4. People** of all ages have what they need to feel **healthy** and **safe**

## What it looks like:

- Neighborhoods are empowered and supported by strengthened positive **relationships with police**.
- **Youth are engaged** in positive and quality experiences.
- Aging adults have services and amenities to thrive and **age in place**.
- Everyone has access to quality healthy **food options**.
- People have access to quality **medical** and emergency care.



**5. Partnerships** that **increase** racial and economic **equity** empower residents and neighborhoods to prosper.

## What it looks like:

- Each resident has **access** to the **training** and **support** needed to **get** and **keep** a **living wage** job. (e.g. Job skills training, **childcare**)
- Each student graduates high school with a pathway to college or career. (e.g. Pre-k, rec programs, Brooklynk)
- Aging neighborhoods and commercial centers are **revitalized** through continuous investment.
- The community provides necessary **supports** and **services** for community members to overcome life challenges such as hunger, mental illness, and homelessness.

# Executive Summary



## 6. Effective and engaging government recognized as a leader.

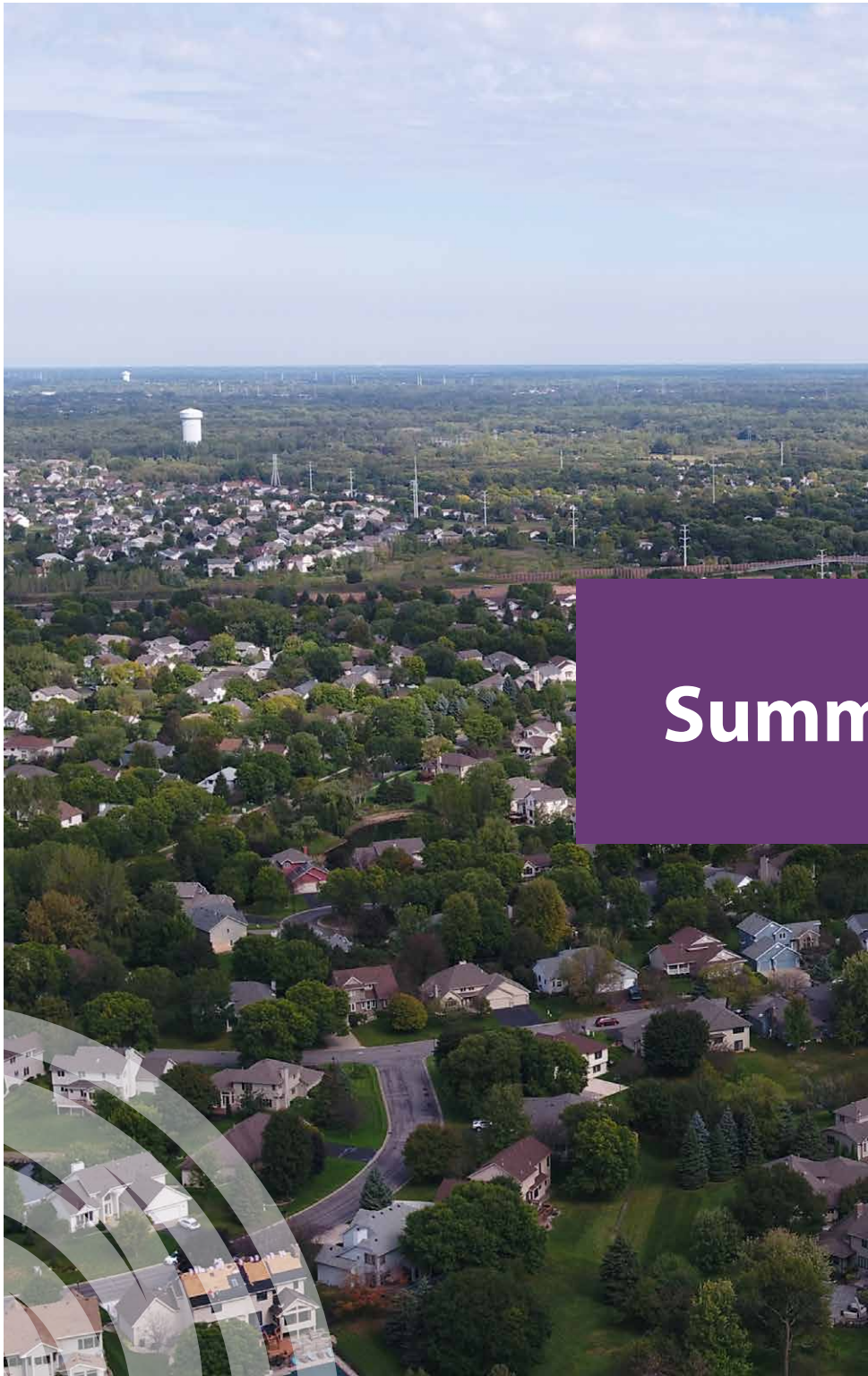
### What it looks like:

- The City provides **quality services** at a **reasonable cost**.
- Elected **officials**, commissions, and city staff reflect the **diversity of the community** and are **culturally competent**.
- City information is **clear, accessible**, and delivered in ways that **meet the community's needs**.
- City laws are **understandable, equitably enforced, and relevant** to the community.
- The City is well-managed and recognized as a **great place to work**.



# 3

## Summary of Key Findings



# Summary of Key Findings

Brooklyn Park's current ordinance does not reflect the goal of providing regulations that are responsive to the community's needs, accessible, and clear. The issues to be addressed with this update fall into four broad categories: **substance; procedures; organization and maintenance; and policies.**

## Substance.

The impetus for this update is the Brooklyn Park 2040 Comprehensive Plan. The City has a bold vision that necessitates revisions to its regulatory tools to enable and promote the build out of the City according to this vision. The comprehensive plan and recently adopted mixed-income housing policies advance the City as an equitable, united, and welcoming community. The current code is too

conventional, restrictive, and complex to successfully partner with residents, businesses, and the development community to realize this vision.

The American Planning Association's Planning for Equity Policy Guide defines equity as "just and fair inclusion into a society in which all can participate, prosper, and reach their full potential." (APA 2019) Broadly, we suggest the City address equity through zoning by focusing more on neighborhood building and the

supportive function of zoning than the use-separating function of zoning. Land use regulations have direct and measurable impacts on household affordability and choice. There are three broad categories where we identify areas of inequity in the City's planning and zoning, but a lack of housing choice is perhaps the most critical category to address.

**Residential:** Brooklyn Park is a thriving community with a diverse population with diverse housing preferences and needs. Minimum lot size and unit size and width become arbitrary in mature communities where new and redevelopment often occur on (what have become) nonconforming lots. The code's requirements for basements, garages, and storage space impose costly lifestyle requirements on by-right development. Single family housing is the prevailing unit type allowed by the code, with 7 of 10 residential districts being single-family districts. Limiting housing choice is not consistent with the City's vision. Additional unit types should be considered in single family districts. "Missing Middle" housing is discussed later. What follows are examples of unit types that would blend seamlessly in a single-family zoning district and could be allowed by-right, with performance (design) standards.



Example of Stacked Duplex



This structure could be a duplex (side by side or stacked) or quadplex



This structure is a 5-unit multiplex but could be a single-family home, or anything in between.

# Summary of Key Findings

**Commercial:** The standards for commercial development are auto centric. Commercial uses are segregated from each other and are separated from sidewalks and residential uses. The code promotes isolating commercial uses in some districts and in some, few commercial uses are allowed, or none are allowed by-right. While the purpose statement and design standards are clear and could support by-right development, there are no permitted uses in the Town Center Zoning District. All uses require approval of a Conditional Use Permit. The auto-centric and segregating nature of the commercial standards are inconsistent with the goal of creating vibrant commercial and mixed-use nodes and make it difficult to access jobs and local businesses as well as placing barriers on starting a business in Brooklyn Park.

**Public Realm:** The Comprehensive Plan and the City's goals talk extensively about welcoming, abundant, and accessible public spaces for all. The transit station area plans do a wonderful job of addressing the public realm. Existing commercial nodes will require retrofit to achieve such public spaces. Retrofitting existing nodes with streetscape amenities, robust crosswalks, context sensitive pocket parks, and achieving parking lot landscaping on private property will require participation by the City, landowners with new or redevelopment, and public-private partnerships.

## Procedures.

Procedures are needed to support development of the residential, commercial, and public realm envisioned in the 2040 Comprehensive Plan and outlined in the City's goals. Through its procedures, the City engages private landowners in community building. Procedures should provide a clear and efficient path to enable the type of development the community envisions. The uses and form of development the City wishes to promote should be allowed by-right, by-right with performance

standards, or by approval from the City Council using a process that is transparent, reliable and efficient; where approval criterion are directly related to encouraging the development clearly defined in the ordinance. The more uses allowed by-right or by-right with performance standards the better. The code currently relies on conditional use permits (CUP) and application of the Planned Community Development District (PCDD) zoning designation to regulate uses and enable a desired form of development. Often, the uses

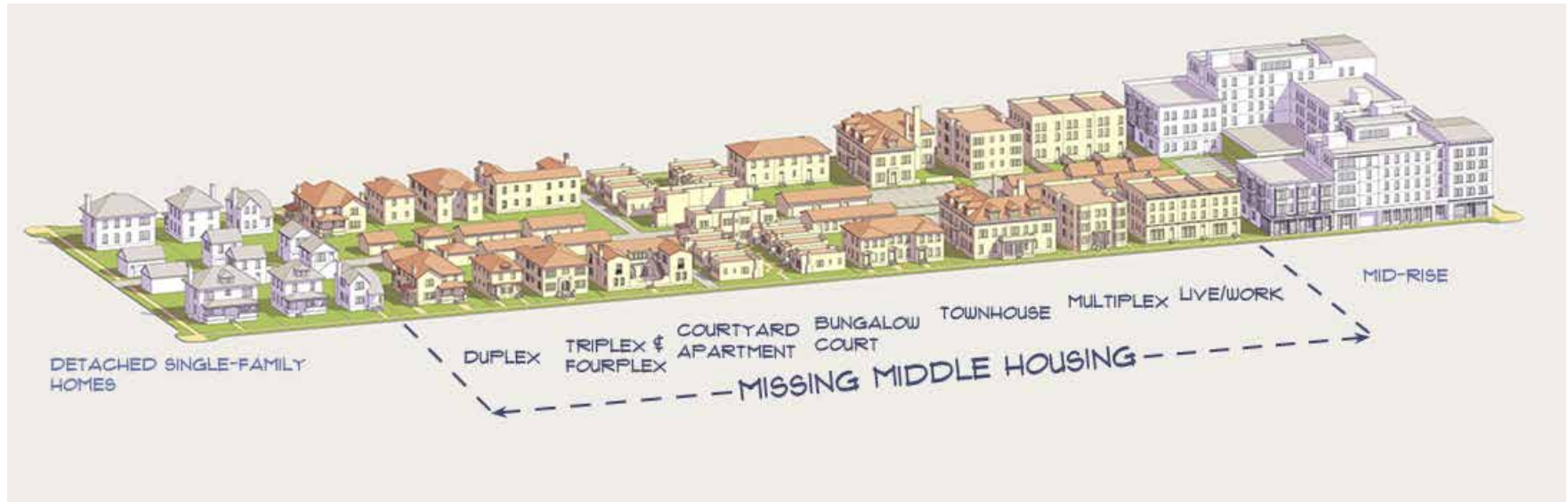
and desired development could be achieved by-right with performance standards or with fewer approvals.

## Organization and Maintenance.

The code could be improved through maintenance alone. Consolidation of districts, modernization of uses and use tables, updates to reflect recent court cases, and elimination of unnecessary and repetitive provisions would result in a satisfactory code refresh but would not meet the City's goals. Brooklyn Park has a goal of being an effective

and engaging government that is recognized as a leader in this regard. To that end, city information should be clear, accessible, and delivered in ways that meet the community's needs. City laws should be understandable, equitably enforced, and relevant to the community. We will address sections from the code from which variances are frequently sought. Land use regulations should be consolidated into one document that is made easy to find and easy use on the City's website.

# Summary of Key Findings



## Policy Considerations.

In addition to changes related to the land use chapter of the comprehensive plans, there are policies in other chapters with zoning implications. Before finalizing the work plan, we are seeking direction on these policy matters. Major examples that would require changes to the zoning ordinance include:

**Expanding Housing Choice.** With the changes in the post-World War II

development patterns came changes in both the development and financial lending systems. These changes lent themselves to models of development that were narrowly focused and targeted to individual markets, such as single-family homes on large lots, large apartment complexes, commercial strip centers, and indoor malls. Each was developed and placed in isolation in contrast to the older patterns of neighborhoods where single-family, multifamily, and commercial were more

integrated and mixed. The art of both mixing these kinds of development and building smaller lower- and middle-density housing types were lost.

These “Missing Middle” housing types continue to provide a range of housing choices in scale with nearby single-family residential uses and provide a residential intensity that help support neighborhood centers. Existing in between single-family development and higher intensity and mixed-use residential development, the Missing

Middle housing types provide the housing that is needed and desired by a broader range of age groups and the full spectrum of income levels. Providing a full range of housing options is critical to the prosperity of Brooklyn Park’s residents and employers.

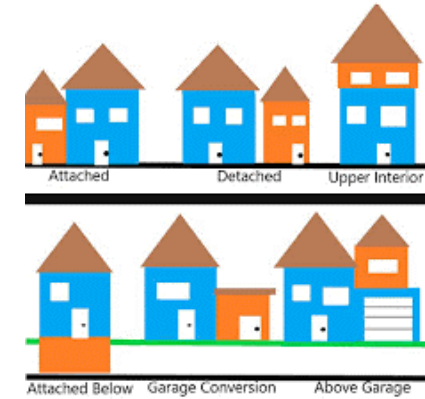
# Summary of Key Findings

A place to start to increase housing choice and affordability within the current single-family zoning structure is Accessory Dwelling Units. An accessory dwelling unit (ADU) is a smaller, independent residential dwelling unit located on the same lot as single-family home. ADUs provide an opportunity to house a family member, gain additional income, and provide attainable housing for others. ADUs go by many different names throughout the country, including accessory apartments, secondary suites, mother-in-law suites, and granny flats. ADUs can be converted portions of existing homes, additions to new or existing homes, or new stand-alone accessory structures or converted portions of existing stand-alone accessory structures. ADU ordinances often address lot size, unit placement, parking, and design criteria. The zoning code specifies the allowed ADU types. Examples include:

- an apartment over the garage;
- a small living quarters on a separate foundation in the backyard;
- a space within the primary residence with a separate entrance; or
- a space within the primary residence using the same entrance as the homeowners.



Example of Accessory Dwelling Unit Types



Attached Below Garage Conversion Above Garage



Detached



Attached to Primary Dwelling



Interior to Primary Dwelling



Attached to Accessory Structure

# Summary of Key Findings

**Mixed-Income Housing Policy.** To further the housing goals of the 2040 Comprehensive Plan and Brooklyn Park 2025, the City of Brooklyn Park has adopted a policy to create and preserve affordable housing opportunities. The City recognizes the need to provide affordable housing to households of a broad range of income levels in order to support a diverse population and to provide housing for those who live or work in the City. The requirements are intended to provide a structure for participation by both the public and private sector in the production of mixed-income housing developments across the city. Specifically, affordable rental housing is to be required when 10 or more residential units are developed and receive:

- i. A Comprehensive Plan amendment;
- ii. A zoning code or map amendment;
- iii. Approval of a PUD; or
- iv. Financial assistance from the City or Economic Development Authority (EDA)

Developers may choose from the following:

Options	Minimum Number of Affordable Units Required	Minimum Affordability Standard
1	At least 5% of total project units	Affordable for households at 30% Area Median Income (AMI)
2	At least 10% of total project units	Affordable for households at 50% Area Median Income (AMI)
3	At least 15% of total projects units	Affordable for households at 60% Area Median Income (AMI)

Additional terms include, but are not limited to:

- I. An affordability term of at least 20 years.
- II. The ability to provide units or enable the provision of affordable units off-site. The ordinance should include details and options for meeting the requirement off-site
- III. The City may grant incentives to developments providing affordable housing, such as relief from specific zoning provisions. Would these incentives be written into the zoning district or considered as part of a development agreement?
- IV. The City may grant a minimum 10% density bonus for the provision of affordable rental housing units. Would this density bonus be written into the zoning district or considered as part of a development agreement?

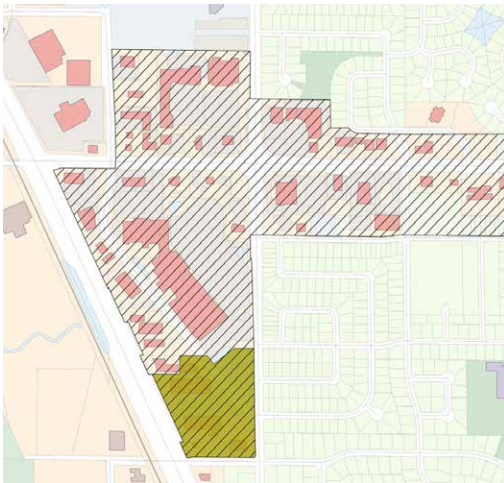
# Summary of Key Findings

**Transit Oriented Development.** One major change in the development pattern of the City since the last comprehensive plan is the planned introduction of light rail service at several station areas in the western part of the City. Station Area Plans are included in the Comprehensive Plan and the City has done some work establishing a Transit Oriented Zoning Overlay District. Most of the recommendations in the station area plans have been incorporated into the TOD Overlay, but there are a few outstanding items which are included in the work plan. We seek direction on which components of the station area plans should be built by developers, which will be built by the City, and which would be appropriate for a public-private partnership.

**Economic Development.** The Comprehensive Plan sets a goal of 50,000 jobs by 2040 (25,000 exist as of 2017). It is important to be able to understand how land use translates to jobs. The City should consider establishing an employment density ratio. Currently, the City has an overall employment density of 2.4 employees per thousand sq ft. Generally, the following accepted ratios would assist in monitoring progress toward achieving the goal.

- i. Office – 5 jobs per 1,000 sq ft
- ii. Industrial 2 jobs per 1,000 sq ft
- iii. Institutional – 5 jobs per 1,000 sq ft
- iv. Commercial – 4 jobs per 1,000 sq ft
- v. Medical – 4 jobs per 1,000 sq ft

For example, a 3,000 sq ft commercial space would yield 12 jobs; a 125,000 sq ft office building would yield 625 jobs; and a 20,000 sq ft industrial space would yield 40 jobs. If the goal is simply to increase the number of jobs in the City of Brooklyn Park, institutional and office uses would be best. However, these may have the greatest impacts on traffic and the lowest benefit to the City's tax base. The vibrant mixed-use community envisioned in the Comprehensive Plan and Brooklyn Park 2025 enable all of these uses and so the impact of one use would likely be offset by another use.



Transit Oriented Development Overlay



Oak Grove Station

# 4

## Work Plan



# Work Plan

The work of a zoning code update involves a broad, strategic look at the code, relative to the planning framework in which the update is taking place, as well as a detailed look to address common issues with zoning codes. The planning framework includes the existing conditions in Brooklyn Park as well as the 2040 Comprehensive Plan, Brooklyn Park 2025 and the current land use regulations (the City Code sections to be included with this update). With that in mind, we start with broad recommendations to modernize the code and then move on to necessary and suggested updates to the code and zoning map to realize the vision for the City of Brooklyn Park. Fundamental to realizing the vision for the City will be addressing the policy issues described above and adding them to this work plan. As we draft zoning updates, we will provide a range of options to address the policies through zoning.

**Compliance with the Comprehensive Plan.** We have identified code changes necessary for compliance with the Comprehensive Plan. The Metropolitan Council requires that all official controls be updated within nine months of the Plan's adoption. The zoning ordinance must incorporate the tools to enable private development to meet the City's vision. Some of the key changes that need to be made include:

- a. Ensure densities in all residential districts meet densities prescribed in the comp plan
- b. Ensure districts reflect the Future Land Use Plan designation
- c. Create a mechanism for tracking the mix of uses (as a percentage of area or floor area) as a whole where allowed/required districtwide.
- d. Enable affordable housing and senior housing near transit
- e. Require pedestrian connection to transit in high density housing and commercial areas.
- f. Modify the zoning near station areas to meet minimum density requirement of 20 units per acre

- g. Create a Mixed-Use district reflecting the Mixed-Use designation on the Future Land Use Plan

Per direction from the Metropolitan Council, cities will not be required to proactively rezone property so that it is in compliance with the Future Land Use map of the comprehensive plan. However, there may be some general changes the City wishes to consider at this time. For example, the City should consider whether changes should be made to the following areas.

- i. Areas North and west of 610/169 to be rezoned for mixed use
- ii. Parcels just north of 94 and east of 169 to be rezoned for mixed use
- iii. B2 parcel to the south of 610, west of 169 to be rezoned for mixed use

**Ease of Use.** To make administering the ordinance easier, there are several districts that we recommend for consolidation, as they are nearly identical. During the consolidation process, it is important to take inventory of the existing conditions in these areas to make sure that the new districts reflect the existing character and development patterns.

- a. Consider consolidation of single-family residential districts (R-2 through R3A). This would consolidate five zoning designations into one, with no change to the purpose (single-family detached residential) and land use guidance (low density residential).
- b. Consider consolidation of multi-family residential districts (R5-R7). The primary difference between these designations is that R5 does not allow for more than two stories. This form of development can be achieved other ways within the current ordinance. The R6 and R7 designations both call for multi-story development in areas guided for high density residential development.

# Work Plan

## Existing Zoning Districts

Zoning District		Description
R-1	Urban Reserve	Allows for the orderly phasing and development of land until city services, including sanitary sewer, storm sewer, and water, are extended into the area; Typically requires significant amounts of open land area such as athletic and cultural facilities, country clubs, government buildings, educational uses, and land reclamation; Short-term agriculture uses and very low density residential uses and those accessory uses customarily incidental to them.
R-2	Detached Single-Family Estate	Large lot detached single-family dwellings
R-2B	Detached Single-Family Residential	Detached single-family dwellings
R-3	Detached Single-Family Residential	Detached single-family dwellings
R-3A	Detached Single-Family Residential	Detached single-family dwellings
R-4	Detached Single and Attached Two-Family Residential	Detached single and attached two-family dwellings
R-4A	Townhouse	Low or medium density attached residential dwellings
R-4B	Detached Single Family	Low or medium density single family homes within association-maintained communities
R-5	Multiple Family Residential	Two story multiple family structures
R-6	Multiple Family Residential	Multiple family dwellings over two stories
R-7	Multiple Family Residential	Multiple family dwellings
B-1	Office Park	Office uses, with other accessory retail and service uses offered on site to serve the primary use or their employees
B-2	Neighborhood Retail Business	Commercial or mixed use development centers for retail sales and services that serve the adjacent neighborhoods and to preserve and protect the general character of the adjacent areas.
B-3	General Business	Centralized areas for commercial or mixed use development that have a community or regional customer base in that they generally draw customers from farther away than the adjacent neighborhoods
B-4	Vehicle Sales and Showroom	Vehicle sales businesses that draw from a regional customer base and has outdoor storage, display and/or sales of vehicles and/or recreational equipment

# Work Plan

## Existing Zoning Districts

Zoning District		Description
<b>BP</b>	<b>Business Park</b>	Office, commercial, industrial, or mixed use 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.
<b>I</b>	<b>General Industrial</b>	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 have an extensive amount of outdoor storage requirements.
<b>PCDD</b>	<b>Planned Community Development District</b>	Designed for use where the general areas contain a unique physical or recreational feature or require detailed, coordinated planning efforts to achieve specific goals.
<b>PUB</b>	<b>Planned Unit Development</b>	Development that is in compliance with the land use designation that allows innovation in development standards.
<b>TC</b>	<b>Town Center</b>	High quality, comprehensively designed commercial and residential neighborhoods with developments designed to promote walking, bicycling and transit use.
<b>CD</b>	<b>Conservancy</b>	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.
<b>PI</b>	<b>Public Institution</b>	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>VR</b>	<b>Village Redevelopment</b>	Implement the goals and objectives of the Village Redevelopment Plan and to define strategies and design standards for the implementation of the Plan. The district is intended to promote creative and efficient use of land within the Redevelopment District by providing flexibility in design and to allow mixed land uses while encouraging compact and pedestrian oriented development

# Work Plan

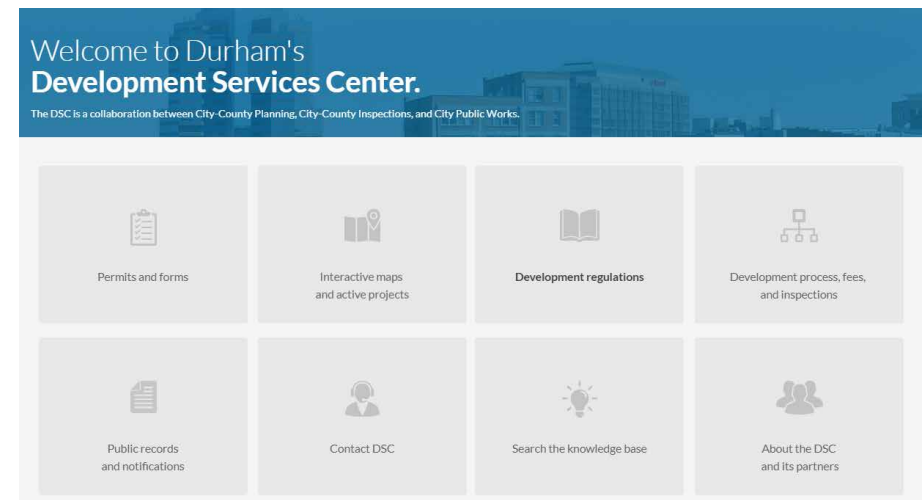
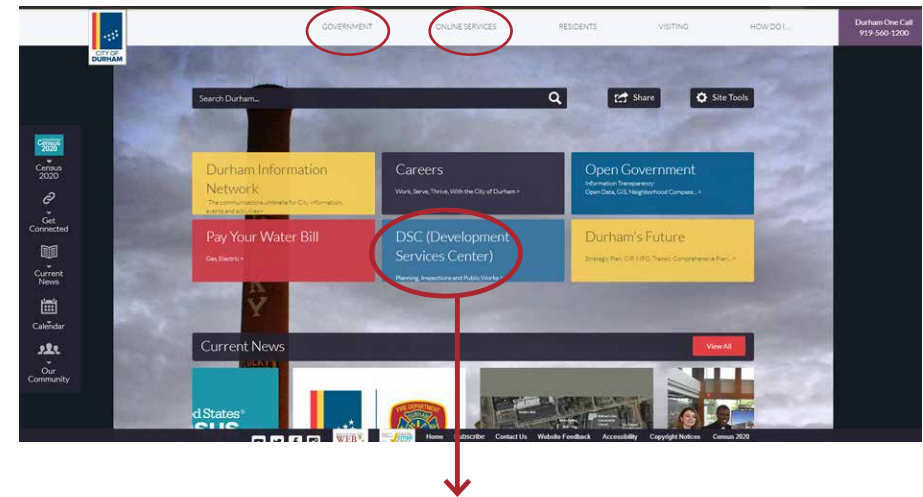
**Maintenance.** Federal and state law relating to zoning and land use are consistently changing and this update provides an opportunity to ensure compliance with changes to laws such as:

- Federal Telecommunications Act
- Fair Housing Act Amendments
- Americans with Disabilities Act
- Religious Land Use and Institutionalized Persons Act
- In 2011 MN Statute changed regarding the threshold for obtaining a variance. The threshold had been the requirement to demonstrate that the code represented an undue hardship but that changed to practical difficulty. Both standards are currently referenced in the ordinance.

**Accessibility of the Code.** Brooklyn Park has a goal of being an effective and engaging government that is recognized as a leader in this regard. City information should be clear, accessible, and delivered in ways that meet the community's needs. City laws should be understandable, equitably enforced, and relevant to the community.

- On-line Presence.** Successful engagement with planning and zoning customers outside of City Hall requires an on-line experience that is reflective of the way online searches are conducted today. From the homepage of the City's website, it should be clear how to find the planning department or find planning and zoning information. Getting from the homepage to the planning department should only take one click. The City's website should enable developers, potential residents, and prospective businesses to buy into the City's vision. What follows is an example of this "one click" approach.

## Sample Website



## Work Plan

- b. **Ineffective Digital Code.** A digital zoning code should be a tool to improve the usability and clarity of the code. A zoning code update is an opportunity to address outdated and unrefined formatting and user interface that is unclear and does not enable effective engagement with government. There can be a tension between the hosting website for the City Code and the city's goals for their on-line presence. Resolving this tension may require a more comprehensive departmental webpage where the desired information is presented in a context sensitive and user-friendly manner.

***Unified Development Code.*** We recommend consolidating the City regulations governing land use and development into a Unified Development Code (UDC). The UDC is the official body of rules and regulations to guide land use and development. It is a document in which traditional zoning and subdivision regulations are combined with other desired city regulations such as design guidelines and water management. It serves as a local policy instrument in implementing the City's land use plans and goals.

We have created an outline of a UDC for the City of Brooklyn Park which can be viewed on the next page.

# Work Plan

## Proposed Unified Development Code Structure

### Article 1. General Provisions

### Article 2. Zoning Districts

### Article 3. Permitted Uses

- A. Permitted Use Table
- B. Use Specific/ Performance Standards

### Article 4. Development Standards

- A. Dimensional Standards
- B. Building Form Standards
- C. Connectivity and Circulation
- D. Parking and Loading
- E. Landscaping
- F. Screening and Fences
- G. Signs\*
- H. Stormwater Management\*
- I. Sustainability Standards
- J. Design Standards
- K. Exterior Lighting
- L. Housing and Property Maintenance Code\*
- M. Plat Design\*
- N. Maintenance and Operating Standards

### Article 5. Administration and Procedures

- A. Summary Table (new feature)
- B. Reviewers and Decision-Makers (new feature)
- C. Review and Approval Procedures
  - a. Comprehensive Plan adoption or amendment
  - b. UDC Text or zoning map amendment
  - c. Subdivision plat approval or amendment\*
  - d. Vacation of Street\*
  - e. Variance (sign, lot, structure)
  - f. Conditional use
  - g. Interim use
  - h. Temporary use
  - i. Site plan
  - j. Administrative Review
  - k. Zoning permit
  - l. Building permit\*
  - m. Certificate of occupancy\*
  - n. Accessory home share permit (Airbnb)
- D. Nonconformities
- E. Enforcement and Penalties

### Article 6. Definitions

- A. Rules of Constructions
- B. Definitions

### Appendix: Zoning Map

# Work Plan

What follows is a typical approach to addressing uses and establishing districts in a Unified Development Code.

1. Analyze and consolidate zoning districts
2. Create a use table based on broad use categories and use-specific performance or design standards for the use whether by-right or conditional use permit.
  - a. Residential Use Categories. For each subcategory, provide its characteristics, accessory uses, examples, and exceptions.
    - i. Group living
    - ii. Household living
  - b. Commercial Use Categories. For each possible subcategory, provide its characteristics, accessory uses, examples, and exceptions.
    - i. Commercial Outdoor Recreation
    - ii. Commercial Parking
    - iii. Quick Vehicle Servicing
    - iv. Major Event Entertainment
    - v. Office
    - vi. Retail Sales and Service
    - vii. Self-Service Storage
    - viii. Vehicle Repair
  - c. Industrial Use Categories. For each possible subcategory, provide its characteristics, accessory uses, examples, and exceptions.
    - i. Bulk Fossil Fuel Terminal
    - ii. Industrial Services
    - iii. Manufacturing and Production
    - iv. Railroad Yards
    - v. Warehouse and Freight Movement
    - vi. Waste Related
    - vii. Wholesale Sales
    - viii. Enable medical device and technologies, biosciences, precision manufacturing, R&D facilities, and professional offices (employment-focused uses)
  - d. Institutional Use Categories. For each possible subcategory, provide its characteristics, accessory uses, examples, and exceptions.
    - i. Basic Utilities
    - ii. Colleges
    - iii. Community Services
    - iv. Daycare
    - v. Medical Centers
    - vi. Parks and Open Areas
    - vii. Religious Institutions
    - viii. Schools
  - e. Mixed Use
    - i. Check Town Center district for appropriate allowable uses and densities to match future land use map in the vicinity of Zane and 610
    - ii. Include allowance for mixed use in the neighborhood retail (B2) district (or rewrite this district as a mixed-use district)
  - f. Transit Oriented Development

# Work Plan

- i. Density / activity: right now, there are no minimum density or FAR requirements
  - 1. Recommended 20 units/acre for any residential
  - 2. Target 40-75+ units/acre
  - 3. Min. activity threshold 7,000 residents, jobs or students within station areas (min. FAR?)
- ii. Density / activity: right now, there are no minimum density or FAR requirements
  - 1. Add crosswalk requirements (one mention of mid-block crossings in TOD-G District) – safe crossings
  - 2. Require interior connections / pedestrian improvements on private property (i.e.- through parking lots, to building entrances)
  - 3. Require pedestrian connections to public non-motorized network
  - 4. Include requirements for short- and long-term bicycle storage
  - 5. Consideration/incentives for public art?
  - 6. Consider restrictions on first floor residential in TOD-C?
  - 7. Require vehicular access in rear lanes, alleys or side streets (some of this is in there now)
- iii. Parking
  - 1. Include reduced parking ratios for all uses in the TOD districts (there is currently an allowance for a 10% reduction in required parking within ¼ mile of a transit stop, but this needs to be revised and made more specific)
  - 2. Also, in general, consider allowing for parking reductions in other circumstances outside of the PUD process (such as shared uses, presentation of demand information, provision of car sharing spaces, proximity to on-street public parking or parking structures and others)
  - 3. Incentivize structured parking
- g. Other Possible Use Categories. For each subcategory, provide its characteristics, accessory uses, examples, and exceptions.
  - i. Agriculture
  - ii. Aviation and Surface Passenger Terminals
  - iii. Detention Facilities
  - iv. Mining
  - v. Radio Frequency Transmission Facilities
  - vi. Rail Lines and Utility Corridors
  - vii. Enable solar energy systems



## Memorandum

To: Erin Perdu, AICP

From: Molly Just, AICP

Date: 8/25/20

Re: Brooklyn Park Code Update: Review for Consistency with State and Federal Law  
WSB Project No. 015207

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What follows are my findings on review of the City's ordinance for consistency with certain elements of state and federal law. These findings do not replace those of an attorney. My findings are based on my experience with the subject matter and my knowledge of best practices.

### Federal Telecommunications Act

City Code Chapter 102 complies with current laws and the League of Minnesota Cities (LMC) model codes on Right-of-Way Regulations and Undergrounding.

### Fair Housing Act Amendments (FHAA)

Under the FHAA, the definition of family shall not be applied to prevent reasonable accommodation for handicapped persons. The Minnesota Department of Human Services licenses such housing which is further regulated by local zoning ordinances. Generally, small facilities (1-6 person(s)) should be a permitted use where detached single-family dwellings are allowed. Medium facilities (7-16 persons) should be allowed by Conditional use Permit (CUP) where multiple family structures are permitted. Some communities also provide for large facilities (17-32 persons) but the City is not obligated to do so. I suggest the following changes to the City's ordinance

152.008 Definitions:

**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 ~~day care~~ residential facility.

**LICENSED RESIDENTIAL FACILITY (~~GROUP HOME~~).** A facility required to be licensed by the state or county that provides one or more persons with 24 hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation or treatment that cannot be furnished in the person's own home. Licensed residential facilities (~~Group Homes~~) are limited to those facilities licensed and/or regulated by the Department of Human Services and the Department of Health. This does not include licensed facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or facilities licensed by the Department of Corrections.

Or adopt this simpler definition

LICENSED RESIDENTIAL FACILITY. A facility where one (1) 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).

While detached single-family dwellings are not permitted in the R-5 – R-7 districts, consider permitting small facilities in these zones.

As multiple family dwellings are allowed by CUP in the B-2 and B-3 business districts, I suggest allowing medium facilities by CUP in these districts.

While I am hesitant to suggest adding regulations for this type of use, it is common and reasonable to apply spacing and compatibility standards to prevent clustering of facilities and promote neighborhood fit. To that end, the following may be reasonable:

(1) The use shall be located at least one-fourth (1/4) mile from all existing community residential facilities.

(2) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood. and

(3) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, and/ or other site improvements consistent with the character of the neighborhood.

#### **Americans with Disabilities Act (ADA)**

The ADA provides that a person with a disability, or an organization serving people with disabilities, is entitled to a reasonable accommodation, meaning an exception to the requirements of a comprehensive plan or zoning code. Accessibility is most frequently addressed in zoning by allowing modifications to setbacks to allow for ramps. Currently only the front and rear setbacks may be modified and only in Residential zones. This modification is not allowed in Business districts. I suggest enabling modifications to all setbacks in all zones. The adjustments are depicted below.

#### **Religious Land Use and Institutionalized Persons Act (RLUIPA)**

The law mandates that land-use regulations grant "equal treatment" to a religious assembly or institution as compared with secular assemblies or institutions; not discriminate against any assembly or institution based on religion or religious denomination; and not impose or implement a land-use regulation that totally excludes religious assemblies from a jurisdiction or unreasonably limits religious institutions within a jurisdiction. RLUIPA does not exempt religious uses from land-use regulations.

Currently, the City's ordinance allows churches as a permitted use in all Residential districts and all Business districts except Business Park (BP) and General Industrial (I) districts where they are not permitted. While the use is allowed "by-right" Site Plan approval is required, and the use is further regulated in Section 152.181 (attached as Exhibit LLL).

I suggest that the Site Plan process is not the right tool for considering this use and that the additional use standards in 152.181 are somewhat arbitrary.

I suggest the City allow the use by Conditional Use Permit (CUP) in all districts. This is a commonly used way to review the use on a case-by-case basis and apply conditions as may be appropriate. This is also a way to enable the City to review the use as it may change. Contemporary religious institutions change and adapt to serve their communities. The approval procedure for a Conditional Use Permit is generally the same as for a Site Plan. Site Plan approval would still be required if triggered by Section 152.033.

Where the use would collocate within an established primary use, I suggest the use be allowed on an interim basis, though an Interim Use Permit (IUP), pursuant to Section 152.193-196

Lastly, I find the parking requirement is high at 1 space per 2.5 seats or 1 space per 22 inches of pew space. I suggest 1 space per 3 persons at the maximum occupancy load of the main assembly hall. Furthermore, where the use is part of a large retail center complex, consider allowing 1 space for every 4 persons. Shared parking arrangements should also be considered.

### Variance

Minnesota statutes delegate to local governments the authority to approve a variance. In 2011, statute was revised to reduce the threshold for approval of a variance. The threshold was reduced from undue hardship to practical difficulty. The City's variance provisions are clear and succinct but there are some inconsistencies. I suggest adoption of the model variance language provided by the LMC which is provided below and deleting the definition for undue hardship.

~~**UNDUE HARDSHIP.** Undue hardship, as used in connection with the granting of a variance, means that the property in question cannot be put to a reasonable use if used under conditions allowed by the controls defined in this chapter, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone may not constitute an undue hardship if reasonable use for the property exists under the terms of the chapter. Undue hardship also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems and ability to construct earth sheltered homes when in harmony with this chapter.~~

### Conditional Use Permit (CUP)

Minnesota statutes delegate to local governments the authority to approve a CUP. Conditional uses are generally allowed but they must be reviewed on a case-by-case basis for impacts inherent in the use itself or impacts that its proposed location may present. State statute provides that a CUP is in effect as long as the conditions of approval are met. City code Section 152.035 provides the process for CUPs in Brooklyn Park. I suggest staff consider making the following changes as statute does not clearly provide for revocation other than for noncompliance. Staff may want to confer with the City Attorney on this matter.

(F) *Duration.* The Conditional Use Permit remains with the property as long as the property and use are in compliance with the conditions attached to the permit by the City Council. ~~A Conditional Use Permit expires if the use has been discontinued for more than 364 consecutive days from the date that the use ceased or the business owner fails to meet the certification requirement of the Conditional Use Permit. The revocation of the Conditional Use Permit may be recorded with the county by the city.~~

### **Nonconformities**

Minnesota statutes provide for the continuation of use or occupation of land or premises in a manner no longer allowed by local ordinance. In 2004, statute changed to prohibit amortization of nonconformities, except for adult uses. While nonconformities may continue, including through repair, replacement, restoration, maintenance, and improvement, they may not be expanded.

I suggest that the City revise its provisions for nonconformities (Section 152.050 – 152.055) to refer to statute, which may change from time to time. The suggested approach is simple, concise, and less likely to be misinterpreted. The suggested language is included below.

### Suggested changes for compliance with the Americans with Disabilities Act (ADA)

#### REQUIRED LOT AREA AND DIMENSIONAL REQUIREMENTS FOR RESIDENTIAL DISTRICTS

152.222.02 (B) *Front setbacks* (measured in feet, from the property line):

~~—(5) Handicap access ramps may encroach into the front setback in order to meet the running slopes required by the Minnesota Accessibility Code.~~

152.222.04 (D) *Rear setbacks* (measured in feet, from the property line):

~~—(2) Handicap access ramps may encroach into the rear setback in order to meet the running slopes required by the Minnesota Accessibility Code.~~

(G). Accessible building entrance components may encroach into the setback in order to meet the running slopes required by the Minnesota Accessibility Code.

#### REQUIRED LOT AREA AND DIMENSIONAL REQUIREMENTS FOR BUSINESS DISTRICTS

152.322 Principal buildings and accessory structures must comply with the following setback restrictions from property lines within the business districts:

(F). Accessible building entrance components may encroach into the setback in order to meet the running slopes required by the Minnesota Accessibility Code.

### Suggested changes for compliance with statutes for variances

#### 152.034 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

- i. when they are in harmony with the general purposes and intent of the ordinance and
- ii. 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

- i. the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- ii. the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- iii. the variance, if granted, will not alter the essential character of the locality.
- iv. Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(C) Procedure. The procedures for application and public hearing of a variance request is described in Sec.152.031

(D) Conditions. Variances shall be granted for earth sheltered construction when in harmony with the ordinance. The board of appeals and adjustments may not permit as a variance any use that is not allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board may permit as a variance the temporary use of a one family dwelling as a two-family dwelling. The board 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.

**Suggested changes for compliance with statutes for nonconformities**

152.050 Purpose.

It is the purpose of this subchapter to provide for the regulation of non-conforming buildings, structures, uses, and lots, and to specify those requirements, circumstances, and conditions under which non-conforming buildings, structures, uses, and lots will be operated, maintained, and regulated. It is necessary and consistent with the establishment of this chapter that non-conforming buildings, structures, uses, and lots not be allowed to continue in compliance with Minnesota Statutes §462.357, Subd. 1e. Nonconforming uses at the time of the adoption of this Chapter shall be allowed to remain so long as the use is not expanded or expired.

152.051 Conditional Uses

Any established use, building or lot legally existing prior to adoption of this ordinance and which is herein classified by this Chapter as requiring a CUP may be continued in like fashion and activity and shall automatically be considered as having received CUP approval. Any change to such a use or building shall however require a new CUP be processed according to 152.035.

152.052 Interim Uses

Any established use, building or lot legally existing prior to adoption of this ordinance and which is herein classified by this Chapter as requiring an IUP may be continued in like fashion and activity and shall automatically be considered as having received IUP approval. Any change to such a use or building shall, however, require a new IUP be processed according to 152.035.



## Memorandum

To: Brooklyn Park Planning Commission Members  
 CC: Cindy Sherman, Planning Director

From: Erin Perdu, Planning Consultant

Date: 08/20/2020

Re: Zoning Update  
 WSB Project No. 015207

### Project Update/Overview

Since our last meeting (just before COVID-19), we have been working to implement the zoning changes discussed as part of the Zoning Diagnosis. Those have focused on changes required by the comprehensive plan, including updating density requirements in some districts and creating a transit station-area overlay. Other work has been done on modifying/creating mixed use districts to meet the intent of the Comprehensive Plan as well as adding some additional standards to the TOD district.

We have had much help from planning staff, and we have met with both planning and housing and economic development staff for feedback. We are now bringing forth the work done to date for confirmation, feedback and direction from the Planning Commission.

### Residential Densities

First, we revised minimum lot sizes in the existing zoning districts to match with the future land use categories in the Comprehensive Plan (shown in Attachment A). Note that these minimum lot sizes/maximum densities are carried over into the proposed district consolidations discussed in the next section. These changes mean that the maximum allowable densities in the comprehensive plan would be allowed in the associated zoning districts.

Also, to conform to the Comprehensive Plan's requirement that density within ½ mile radius of the new light rail station areas must be at least 25 units per acre, we have created a Light Rail Station Overlay District (Attachment B).

### Residential Consolidations (Attachment C)

Districts R-2, R-2A, R-2B, R-3, and R-3A were consolidated into one district, R-2. Those districts essentially shared the same purpose: accommodating detached single-family structures. Aside from minor location standards, the most significant difference between them was the minimum lot area. And among those districts, there are already lots that do not meet their respective district's minimum lot area requirement. So, to avoid a significant number of nonconforming lot sizes after consolidation, the minimum lot area for the new R-2 District is 9,750 square feet.

The current R-4B District has been maintained and renamed R-3. Consolidation was not warranted as lots within this district are approximately 5,000 square feet and exclusively feature detached, single-family residential structures.

Districts R-4 and R-4A were consolidated into one R-4 District. This new district now has both detached and attached single-family residential structures. It is set up with a minimum lot area standard that differs based on residential type. If a lot in the new R-4 District holds one townhome

unit as part of multiple townhome development, the minimum for that single unit is 3,600 square feet. If there is detached residential structure on a lot in the R-4 District, the minimum area of that lot is twice that of a townhome lot, or 7,200 square feet. This consolidation recognizes that some lots accommodating townhomes are mixed among lots with detached single-family structures, or are immediately adjacent to detached, single-family residential developments.

The proposed consolidation now shows only two multifamily districts as opposed to the current three. R-5 and R-6 are now R-5; R-7 has been renamed R-6. A significant difference between the new R-5 and R-6 is the density range for each, R-6 having a higher range than R-5. In addition to consolidation, some standards were altered, such as the removal of height restrictions, a lower minimum lot width, and smaller setbacks.

As part of this consolidation, we have also posed some questions that will help us address equity issues as we move forward with zoning updates. These are on the last page of the attachment and restated below.

### Mixed Use District (Attachment D)

The Comprehensive Plan includes a new mixed-use district designation. The designation is located mostly in the City's northwest corner and so is written with that area in mind. Consistent with the Comprehensive Plan guidance for the new designation, highlights of the Northwest Mixed-Use District (NWMUD) district include the following:

- Residential density between 12 and 50 units per acre
- Medium to large scale development consisting of medium to high intensity office, residential, retail, restaurant, and service uses in a suburban setting
- At least 30% of the land area is to be developed with residential uses
- Outside the highway 610 and 169 corridors, a mix of residential densities and unit types may be considered mixed use
- Compliance with the Mixed-Income Housing Policy is required and bonus residential density up to 10% may be considered by the City Council

### Removal of Town Center District (Attachment E)

As part of the strategy for changing how the City regulates Mixed Use, we discussed several options for changing the Town Center District to better reflect the aspirations of the Comprehensive Plan. In the end, the consensus from the team was to work toward eliminating the Town Center district and reverting to other existing districts. We came to this conclusion largely based on the fact that the Town Center district has not produced the type of development that was envisioned. Town Center also requires a Conditional Use Permit for all uses established in the district, something Planning Commission and staff want to move away from.

The proposed rezoning of lots within the Town Center District was informed by conversations with staff, alignment with the underlying land use described in the 2040 Comprehensive Plan, and observation of existing development patterns within the area.

A map showing the proposed rezonings is in Attachment E.

### Questions and Considerations for Discussion

As you read through the attached materials in preparation for the work session, please consider the following questions that we will discuss at the meeting:

- Do you have any concerns with the proposed district consolidations? Are there any development rights that you see are being lost? Does any of the additional flexibility or density concern you?
- Are you in favor of eliminating any/all of the items mentioned in Attachment C to help address equity concerns?

- The Northwest Mixed-Use District (NWMUD) would be the only reference in the zoning ordinance to the City's Mixed-Income Housing Policy. Do you have any concerns that the policy is not established formally elsewhere in the ordinance?
- Based on the anticipated market for residential development in the northwest corner of the City, it is likely that the higher end of the guided residential density (50 u/ac) will be the exception and that most residential land area may consist of single-family units. While it is possible to achieve an overall average density of 12 u/ac (the minimum guided density) this should be monitored and understood that to reduce the guided density in the NWMUD would require a comprehensive plan amendment.

### Next Steps

Once we complete the sections, we are reviewing with you at this meeting, we will be tackling the following:

- Revisions to B2 District to include mixed use as is contemplated in the district's intent
- Additions to the Transit Oriented Development District to include minimums for density and activity in non-residential areas as well as some additional design standards
- Revisions to Use Tables to de-emphasize the use of Conditional Use Permits and simplify the lists of uses
- Review for statutory and case law compliance
- Reorganization into UDC
  - Review of performance standards

## ATTACHMENT A

<b>Comp Plan District</b>	<b>Zoning Districts</b>
<u>Low Density Residential</u>	<u>R-1, R-2, R-2A, R-3, R-3A</u>
<u>Medium Density Residential</u>	<u>R-4, R-4A, R-4B</u>
<u>Medium-High Density Residential</u>	<u>R-5, R-6</u>
<u>High Density Residential</u>	<u>R-7, Convalescent Centers</u>

**REQUIRED LOT AREA AND DIMENSIONAL REQUIREMENTS FOR RESIDENTIAL DISTRICTS**

**§ 152.220 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.

(Ord. 2000-936)

**§ 152.221 STANDARDS.**

The following standards are established for all lots in the residential zoning districts (R-1, R-2, R-2A, R-2B, R-3, R-3A, R-4, R-4A, R-5, R-6, and R-7) and lots in the residential portions of the PCDD and PUD. Lots in residential portions of the PCDD and PUD may be further governed as defined elsewhere in City Code.

(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) The maximum total building footprint, including principal and accessory buildings, may not exceed 25% of the lot area. The maximum amount of impervious surface in front yards, as measured from the public right-of-way to the front facade of the principal building, may not exceed 40%.

(C) Minimum lot area and width for each residential zone are defined in the following table:

<b>Figure 152.221.01 Required Minimum Lot Width and Area <i>in Residential Districts</i></b>		
<b>Zoning District</b>	<b>Minimum lot area in square feet (unless otherwise specified)</b>	<b>Lot width in lineal feet as measured at the front setback</b>
R-1	20 Acres	330 feet*
R-2 <u>(LDR)</u>	13,500	100*
R-2A <u>(LDR)</u>	12,825	95*
R-2B <u>(LDR)</u>	11,475	85*
R-3 <u>(LDR)</u>	10,800	80*
R-3A <u>(LDR)</u>	9,750	75*
R-4 (lots for single-family dwellings) <u>(MDR)</u>	8,500	70*
R-4 <u>(MDR)</u> lots for two-family dwellings (for lots of record prior to	10,800	80

5.4C - SUPPORTING DOCUMENTS

<p>2/1/80 and on which two-family dwellings were existing on the effective date of this chapter) Each half of two-family dwelling to be subdivided (for lots of record prior to 2/1/80 and on which two-family dwellings were existing on the effective date of this chapter)</p>	<p>5,400</p>	<p>40</p>
<p>R-4 <u>MDR</u> lots for two-family dwellings (for lots of record after 2/1/80 and on which two-family dwellings were not existing on the effective date of this chapter) Each half of two-family dwelling to be subdivided (for lots of record after 2/1/80 and on which two-family dwellings were not existing on the effective date of this chapter)</p>	<p>16,200</p> <p><del>8,100</del><u>3,630 or 12 units per acre maximum</u></p>	<p>120</p> <p>60</p>
<p>R-4A for townhouse (<u>MDR</u>)</p>	<p><del>8,700</del><u>3,630 or 12 units per acre maximum with basements, 10,890 without basements</u> (buildable land only, excludes wetlands, surface waters, flood plains)</p>	<p>NA</p>
<p>R-4B (<u>MDR</u>)</p>	<p><del>5,000</del><u>3,630 square feet or 12 units per acre maximum</u></p>	<p>45</p>
<p>R-5 for multiple family dwellings (<u>MHDR</u>)</p>	<p><del>22,000 or 3,400 square feet for each 1 bdrm unit, 4,500 square feet for each 2 bdrm unit, and 6,300 square feet for each three bdrm unit plus 500 square feet for each bdrm over 3; whichever is greater</del><u>1,742 sf. per dwelling unit or 25 units per acre maximum</u></p>	<p>120</p>
<p>R-6 for multiple family dwellings (<u>MHDR</u>)</p>	<p><del>160,000 or 2,400 square feet for each 1 bdrm. unit, 3,000 square feet for each 2 bdrm unit, and 3,500 square feet plus 500 square feet for each bdrm over 3; whichever is greater</del><u>1,742 sf per dwelling unit or 25 units per acre maximum</u></p>	<p>400</p>

5.4C - SUPPORTING DOCUMENTS

<p>R-7 for multiple family dwellings <u>HDR</u></p>	<p><del>5 acres or 3,400 square feet for each 1 bdrm unit, 4,500 square feet for each 2 bdrm unit, and 6,800 square feet for each three bdrm unit plus 500 square feet for each bdrm over 3; whichever is greater</del> <u>871 sf. per dwelling unit or 50 units per acre maximum</u></p>	<p>500</p>
<p>R-5, R-6, and R-7 for Care centers and convalescent homes <u>HDR</u></p>	<p>750 square feet of lot area for each person cared for (design capacity)</p>	<p>See District Requirements Above</p>
<p>*See § 152.275.04 for additional lot width requirements on corner lots</p>		

(D) In order 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.  
(Ord. 2000-936; Am. Ord. 2001-961, passed 11-26-01; Am. Ord. 2004-28, passed 12-13-04; Am. Ord. 2006-1055, passed 2-6-06)

**ATTACHMENT B**

Overlay district or modification of existing districts to meet minimum 20-acre density requirement within the station area overlay districts shown on the 2040 FLU Map.

Title XV: Land Usage

Chapter 152: Zoning Code

Section 152.037: Zoning Overlays

152.495 Light Rail Station Area Overlay

The intent of this designation is to ensure that development within the designated overlay occurs at appropriate densities as a result of proximity to a light rail transit station. The boundary of the overlay extends 0.5 miles outward from each transit station. The overlay area is established and shown on the City's official Zoning map.

(Ord. \_\_\_\_\_)

Light Rail Station Area (LRSA) Overlay

152.575 Purpose.

The purpose of the Lightrail Station Area (LSA) Overlay is to ensure that development within the designated overlay occurs at appropriate densities as a result of proximity to a light rail transit station.

152.576 Uses.

Within the LSA overlay, permitted, conditional, and accessory uses are determined by the underlying zoning district and in harmony with the Comprehensive Plan. Section 152.342 provides the use tables allowed within business districts.

152.577 Applicability

(A) All provisions of the Zoning Code shall apply to the properties in the overlay, however, in any instance where the provisions of the overlay zoning conflict with the provisions of a primary zoning district, the more restrictive provisions take precedence and govern.

152.578 General Requirements

(A) Density

(1) Residential Development

(a) Residential development projects located within the LSA Overlay shall achieve a minimum density of 20 units per acre.

(2) Mixed-Use Development

## 5.4C - SUPPORTING DOCUMENTS

(a) That portion of the development dedicated to residential use shall achieve a minimum density of 20 units per acre.

(1) In this case density shall be measured based on the land area dedicated to residential use.

### (B) Design Guidelines

(1) Development shall be designed in accordance with the Brooklyn Park Station Area Plan to ensure a focus is placed on connectivity, land use, and placemaking.

## ATTACHMENT C

Existing District	Purpose	Guided	Uses	Lot Area	Lot Width	Front Setback	Side Setback <sup>1</sup>	Rear Setback <sup>2</sup>	Height	Proposed District	Purpose	Density (units/acre)	Lot Area	Lot Width	Front Setback	Side Setback <sup>3</sup>	Rear Setback	Height	
R-2	Det SF estate	Low	Same R2-R3	13,500	100	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40	R-2	Det SF	Min 1.5 Max 3	9,750	75	25	I - 7.5 C - 20	30	3 St or 40	
R-2A	Det SF	Low	Same R2-R3	12,825	95	75, 30 or 40	I - 7.5 C1 - *	S1 - 75 S2 - 30 S3 - **	3 St or 40										
R-2B	Det SF	Low	Same R2-R3	11,475	85	75, 40 or 40	I - 7.5 C1 - *	S1 - 75 S2 - 30 S3 - **	3 St or 40										
R-3	Det SF	Low	Same R2-R3	10,800	80	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40										
R-3A	Det SF	Low	Same R2-R3	9,750	75	50, 30 or 25	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40										
R-4B	SF	Low-Med		5,000	45	50 or 30			3 St or 40	R-3	Det SF	Min 3 Max 8	5,000	50	25	I - 7.5 C - 20	30	3 St or 40	
R-4	Det/Att SF	Med	Same as R3, plus Att SF & TH <7/1/1980	8,500	70	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40	R-4	Det/Att SF	Min 3 Max 12	Det - 7,200 Att - 3,600	60	25	I - 7.5 C - 20	30	3 St or 40	
R-4 <2/1/1980	Det/Att SF	Med	Same as R3, plus Att SF & TH <7/1/1985	10,800	80	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40										
R-4 >2/1/1980	Det/Att SF	Med	Same as R3, plus Att SF & TH <7/1/1985	16,200	120	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40										
R-4A w/ BSMT	TH	Med	Same as R3, plus Att SF & TH	8,700	NA	75 or 30	75 or 30	75 or 30	3 St or 40										
R-4A w/o BSMT	TH	Med	Same as R3, plus Att SF & TH	10,890	NA	75 or 30	75 or 30	75 or 30	3 St or 40										
R-5	2 St MF	Med-Hi	MF, TH	22,000	120	50	I - 15 C1 - 25	S1 & S2 - 40 S3 - 50	3 St or 40	R-5	≥2 St MF	Min 12 Max 25	22,000	120	25	I - 15 C - 25	40		
R-6	>2 St MF	Med-Hi	MF, TH	160,000	400	50	I - 15 C1 - 25	S1 & S2 - 40 S3 - 50	3 St or 40										
R-7	MF	High	MF, TH	5 acres	500	50	50	S1 & S2 - 40 S3 - 50	3 St or 40	R-6	≥2 St MF	Min 25 Max 50	22,000	120	25	I - 15 C - 25	40		

1 I = Interior lot  
C1 = Corner Lots - Principal, "A" or "B" Minor Arterials, or Class I Collector streets or any other public streets when the adjacent lot fronts the side street  
C2 = Corner Lots - All other public streets when the adjacent lot does not front the side street

2 S1 = Rear setback from Principal, "A" and "B" Minor Arterial and Class I Collectors  
S2 = All other public streets and interior property lines  
S3 = Double frontage lots

3 I = Interior lot  
C = Corner lot

\* Front setback of the adjacent property

\*\* Same as front setback of any adjacent residential zoned properties

**Residential Standards – Equity Considerations**

*Consider Eliminating These to Address Equity*

- (A) Basement requirement
- (B) Unit and bedroom minimum size requirement
- (C) Interior storage requirement
- (D) SF Attached - Two units side by side only and each unit with an exterior front door
- (E) Consider eliminating garage requirement
- (F) Front yard garden

DRAFT

## ATTACHMENT D

**Northwest Mixed-Use District**

§ XX PURPOSE. Mixed-Use districts promote and allow the emergence of complete neighborhoods with a mix of residential, commercial, and office activities. These districts de-emphasize use restrictions. Instead, design standards are used to promote and maintain the desired scale, connectivity, and character of the area. The Northwest Mixed-Use District (NWMUD) is guided Mixed-Use on the 2040 Future Lane Use Plan. The intent of the Northwest Mixed-Use District is to promote an integrated development pattern in a generally suburban setting that accomplishes the following objectives:

- (A) Establish a mixed-use land use pattern and neighborhood design that is consistent with the vision, goals, and policies of the Brooklyn Park comprehensive plan.
- (B) Medium to large scale development consisting of medium to high intensity office, residential, retail restaurant, and service uses in a suburban setting.
- (C) An overall mix of uses occurring both horizontally and vertically, on a common site, development area, or within the same building. In individual developments the mix of uses shall be complimentary and compatible.
- (D) Residential uses shall make up at least 30% of the land area in the district. The district shall consist of a range of housing options that respond to the needs of residents in each stage of their life.
- (E) Compliance with the Mixed-Income Housing Policy to meet the city's goal of preserving and promoting economically diverse housing options.

§ XX PROCEDURES. To ensure that the desired mix and connection of uses occur in the NWMUD, approval of a Master Plan is required to guide individual developments within the district. Master Plans require Site Plan approval pursuant to Section 152.033. Individual development consistent with an approved Master Plan may be approved administratively pursuant to the Administrative Site Plan Review procedures.

§ XX USES. All land uses within the district shall conform to the type and location of uses described in an approved Master Plan, and:

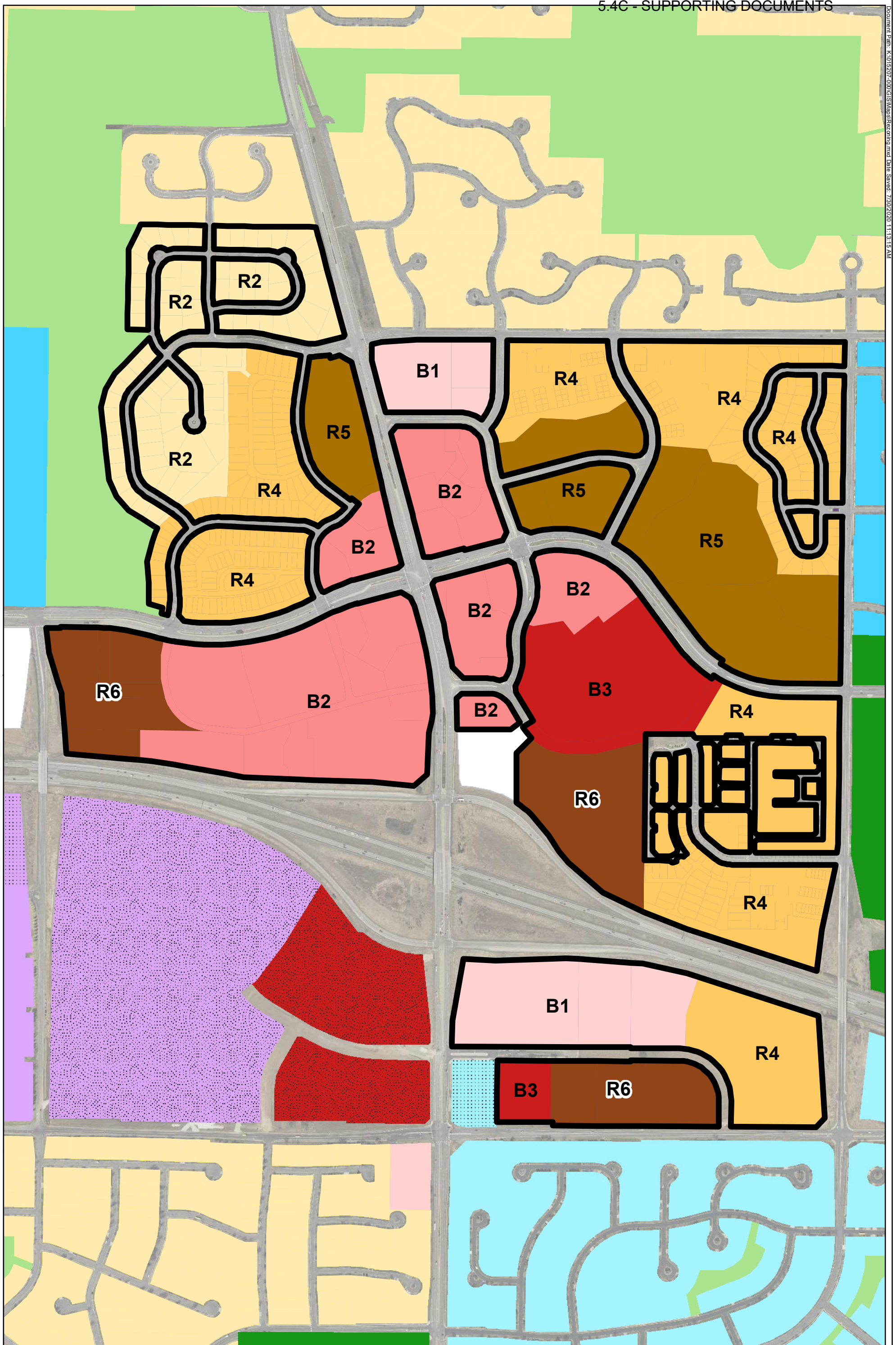
- (A) Along highways 169 and 610 there shall be a mix of land uses
- (B) Elsewhere in the district, a mix of residential unit types and densities may be considered mixed use
- (C) Mixed use shall be measured by acreage in the district

§ XX PERFORMANCE STANDARDS. The design of all sites and buildings within the district shall conform to the design guidelines established in the Master Plan. Variations from the Master Plan may be approved by Administrative Site Plan Review if the approval criteria are met and the variation is generally consistent with the Master Plan. The General Performance Standards of this chapter shall be considered the minimum standards. In addition, the following shall apply in the NWMUD:

- (A) Lot area, lot width and yard requirements
  - (1) There is no minimum lot size or width
  - (2) The Master Plan shall establish the build-to line
  - (3) Maximum block size
- (B) Residential use. The district shall consist of a minimum residential density of 12 units per acre and a maximum of 50 units per acre. Residential development shall address the City of Brooklyn Park Mixed-Income Housing Policy. Bonus residential density up to 10% may be considered by the City Council.

- (C) Building and site design. The Master Plan shall address:
- (1) Building height
  - (2) Minimum frontage build-out
  - (3) Parking and loading setbacks
  - (4) Façade types
  - (5) Minimum glazing

DRAFT





## Memorandum

To: Brooklyn Park Planning Commission Members  
 CC: Cindy Sherman, Planning Director

From: Erin Perdu, Planning Consultant

Date: 09/16/2020

Re: Zoning Update  
 WSB Project No. 015207

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### Project Update

Since our last meeting in August we have been working on the additional information you requested on the district consolidations and equity considerations. We have also moved ahead with revisions to the use tables and TOD districts, which we will discuss at the September meeting.

### Residential Consolidations (Attachment A)

Following up on our discussion at the last meeting, we have done some analysis of the R-2 and R-4 districts. Concern was expressed that the proposed reductions in lot area and lot width from current R-2 to proposed R-2 (and similarly for R-4 after 2/1/80 to new R-4) could result in infill development that would negatively impact the character of existing neighborhoods.

A map showing parcels that could potentially be split under the proposed R-2 consolidation based on lot size is included in Attachment A. The lots shown in red are currently zoned R-2 and are at least twice (19,500 sf) the minimum lot size in the proposed R-2 district (9,750 sf). So based on lot size, they could theoretically be split. These lots account for approximately 13% of proposed R-2 parcels. *However*, we estimate that about 3% (384 out of 11,293) of all proposed R-2 lots have the required lot area and width to be split.

A similar map in Attachment A shows the number and spatial distribution of parcels that have an area at least twice (14,400 sf) the minimum lot size in the R-4 district (7,200 sf for detached single-family structures). The amount of lots with an area of at least 14,400 sf is about 17%. We estimate about 2% (114 out of 6,276) of all proposed R-4 lots have the required lot area and width to be split.

We have also consolidated the changes to residential densities and the district consolidation table presented at the last meeting. This is also included in Attachment A.

### Residential Standards - Modifications for Equity

At the August meeting we discussed several areas of the ordinance that do not advance equity or allow for evolution in the residential real estate market. Our experience and research tell us that the ordinance is too specific and goes beyond the basic dimensional standards that are typical and necessary for residential zoning districts.

While our research of Plymouth, Maple Grove, Robbinsdale, Bloomington, and Burnsville reveal that not all require parking garages in order to meet the parking requirement most do, and we understand that this is important in Brooklyn Park. None have requirements for interior storage space or basements. We suggest elimination of the basement and interior storage requirement.

Here are two options to consider:

- A. For residential dwelling units, the parking requirements of this ordinance must be met within an attached or detached parking garage.

*Option A does not set a size requirement but requires that the parking required for the use be met within a structure. Option A does not set a requirement for storage space.*

- B. For residential dwelling units, the parking requirements of this ordinance must be met within an attached or detached parking garage.

In the R-2 district dwelling units are required to have either a basement or 120 square feet of contiguous interior storage area.

*Option B addresses parking the same way and requires interior storage space in either a basement or other storage in the newly consolidated R-2 district.*

### Use Tables

To help simplify the ordinance, we are proposing changes to the use tables as shown in Attachment B. There are notes included with some of the uses that we will review with you at the meeting. The idea is to consolidate uses where possible and put them into larger, more general use groups.

We have included references to other standards or state statute as applicable. Highlighted areas are districts where we feel those uses should be considered to be permitted

### TOD District Modifications

For this round of zoning amendments, we have made some additions to the Transit Oriented Development (TOD) districts that reflect the adopted station area plans. Edits made to the district are shown in excerpts in Attachment C, and generally include:

- Addition of site design features and “public art” to the purpose statement
- Minimum “activity levels” and dwelling unit densities
- Restrictions on first floor residential along certain roads
- Bicycle parking requirements
- Crosswalk and Interior Connections standards

### Next Steps

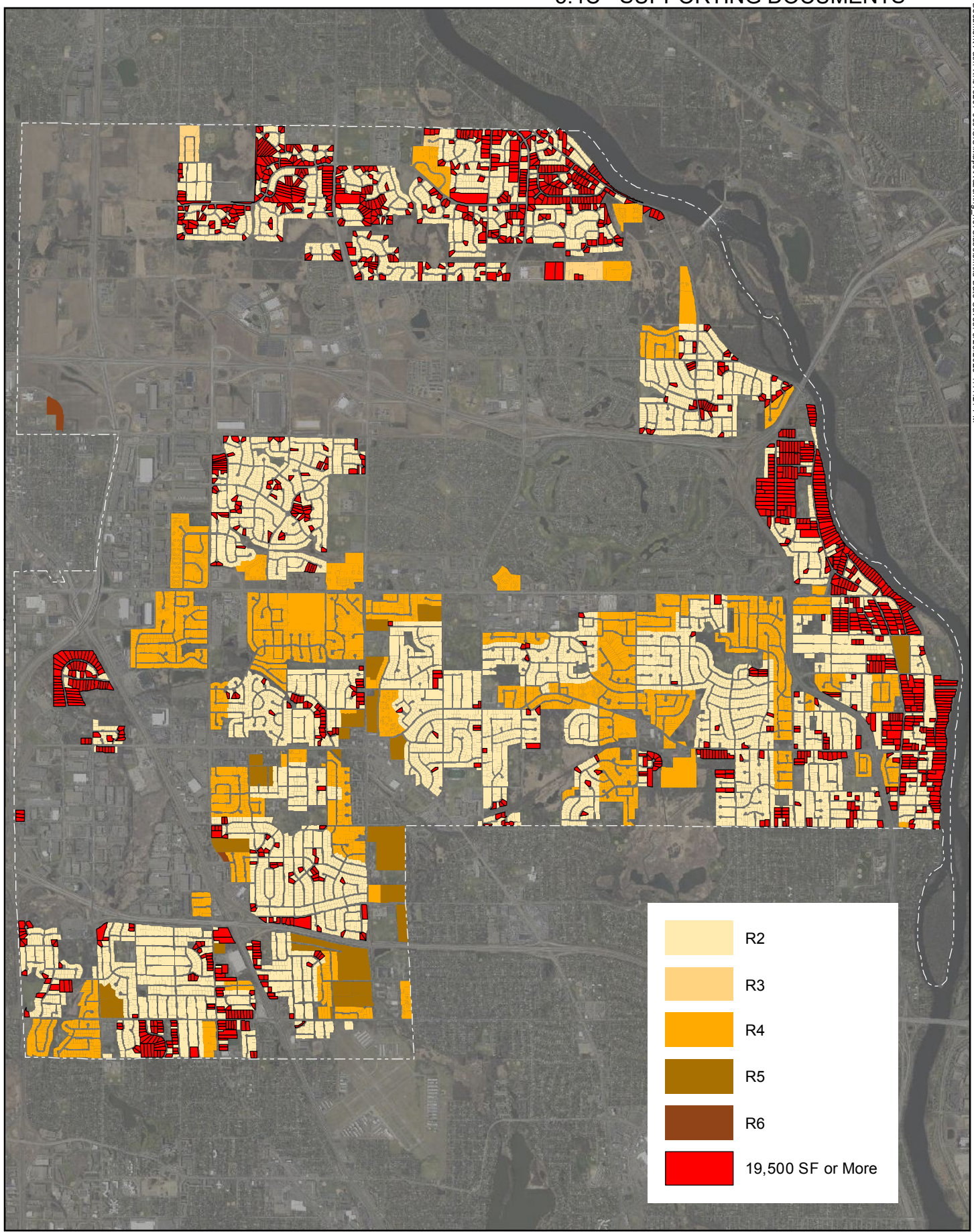
Once we complete the sections we are reviewing with you at this meeting, we will be tackling the following:

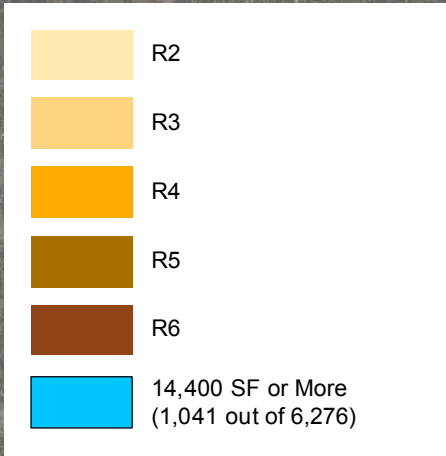
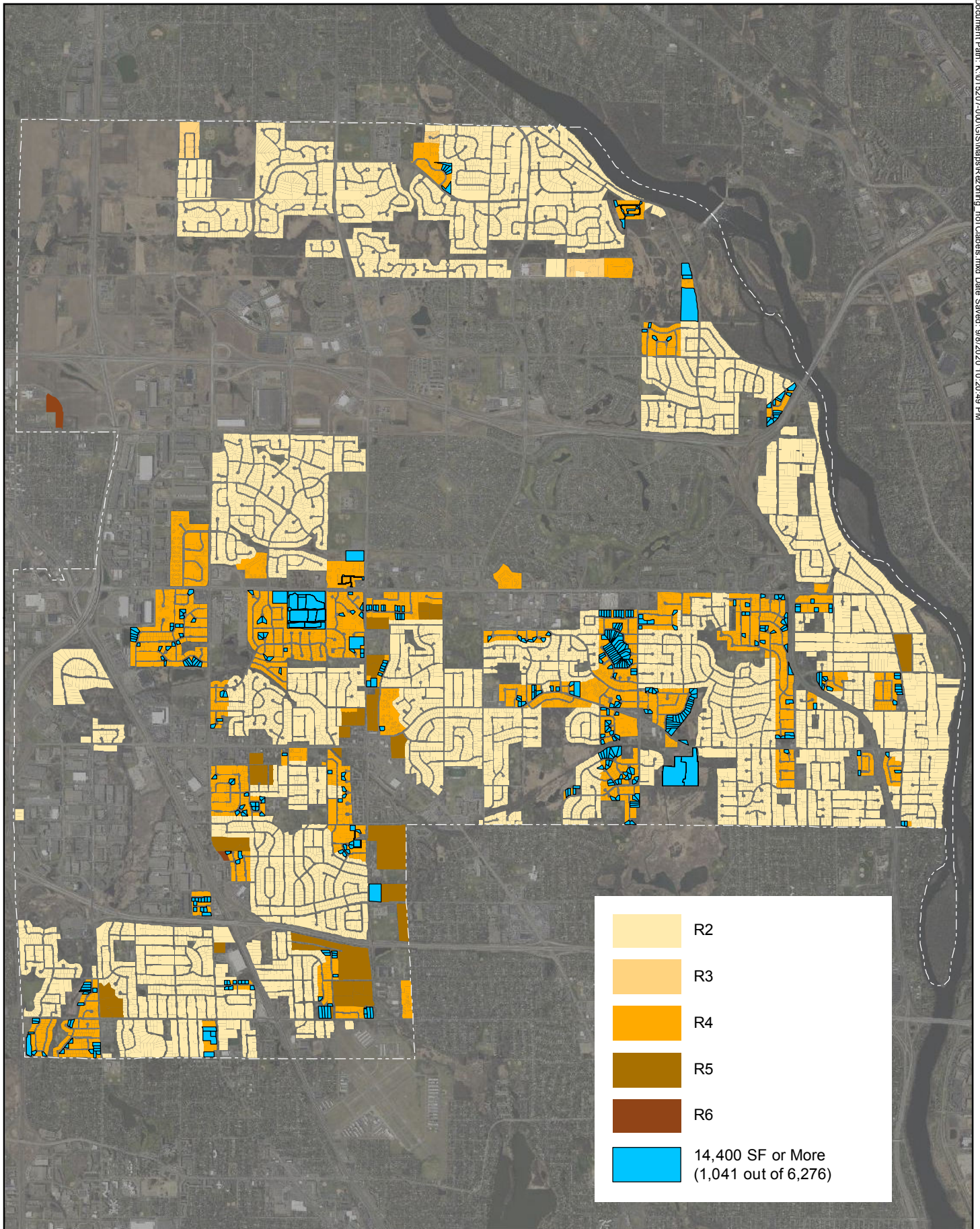
- Revisions to B2 District to include mixed use as is contemplated in the district's intent
- Review for statutory and case law compliance (in progress with City staff and the City Attorney)
- Reorganization into a Unified Development Code
  - Review of performance standards

## ATTACHMENT A

Existing District	Purpose	Guided	Uses	Lot Area	Lot Width	Front Setback	Side Setback <sup>1</sup>	Rear Setback <sup>2</sup>	Height	Proposed District	Purpose	Density (units/acre)	Lot Area <sup>4</sup>	Lot Width	Front Setback	Side Setback <sup>3</sup>	Rear Setback	Height
R-2	Det SF estate	Low	Same R2-R3	13,500	100	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40	R-2	Det SF	Min 1.5 Max 3	9,750	75	25	I - 7.5 C - 20	30	3 St or 40
R-2A	Det SF	Low	Same R2-R3	12,825	95	75, 30 or 40	I - 7.5 C1 - *	S1 - 75 S2 - 30 S3 - **	3 St or 40									
R-2B	Det SF	Low	Same R2-R3	11,475	85	75, 40 or 40	I - 7.5 C1 - *	S1 - 75 S2 - 30 S3 - **	3 St or 40									
R-3	Det SF	Low	Same R2-R3	10,800	80	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40									
R-3A	Det SF	Low	Same R2-R3	9,750	75	50, 30 or 25	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40									
R-4B	SF	Low-Med		5,000	45	50 or 30			3 St or 40	R-3	Det SF	Min 3 Max 8	5,000	50	25	I - 7.5 C - 20	30	3 St or 40
R-4	Det/Att SF	Med	Same as R3, plus Att SF & TH <7/1/1980	8,500	70	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40	R-4	Det/Att SF	Min 3 Max 12	Det - 7,200 Att - 3,600	60	25	I - 7.5 C - 20	30	3 St or 40
R-4 <2/1/1980	Det/Att SF	Med	Same as R3, plus Att SF & TH <7/1/1985	10,800	80	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40									
R-4 >2/1/1980	Det/Att SF	Med	Same as R3, plus Att SF & TH <7/1/1985	16,200	120	50 or 30	I - 10 C1 - *	S1 - 50 S2 - 30 S3 - **	3 St or 40									
R-4A w/ BSMT	TH	Med	Same as R3, plus Att SF & TH	8,700	NA	75 or 30	75 or 30	75 or 30	3 St or 40									
R-4A w/o BSMT	TH	Med	Same as R3, plus Att SF & TH	10,890	NA	75 or 30	75 or 30	75 or 30	3 St or 40									
R-5	2 St MF	Med-Hi	MF, TH	22,000	120	50	I - 15 C1 - 25	S1 & S2 - 40 S3 - 50	3 St or 40	R-5	≥2 St MF	Min 12 Max 25	22,000	120	25	I - 15 C - 25	40	
R-6	>2 St MF	Med-Hi	MF, TH	160,000	400	50	I - 15 C1 - 25	S1 & S2 - 40 S3 - 50	3 St or 40									
R-7	MF	High	MF, TH	5 acres	500	50	50	S1 & S2 - 40 S3 - 50	3 St or 40	R-6	≥2 St MF	Min 25 Max 50	22,000	120	25	I - 15 C - 25	40	

- 1 I = Interior lot  
C1 = Corner Lots - Principal, "A" or "B" Minor Arterials, or Class I Collector streets or any other public streets when the adjacent lot fronts the side street  
C2 = Corner Lots - All other public streets when the adjacent lot does not front the side street
- 2 S1 = Rear setback from Principal, "A" and "B" Minor Arterial and Class I Collectors  
S2 = All other public streets and interior property lines  
S3 = Double frontage lots
- 3 I = Interior lot  
C = Corner lot
- 4 Lot area refers to the minimum total lot area for the project, not lot area per unit. Density requirements are shown in the adjacent column
- \* Front setback of the adjacent property
- \*\* Same as front setback of any adjacent residential zoned properties





ATTACHMENT B

**Bold = additions**  
**Strikethrough = removals or consolidations**  
**Pink fill = consider adding uses in this district**  
**Blue = moved or consolidated**  
**P=Permitted C=Conditional Blank=Not Permitted**

	RES						BUS-IND						PUB	CON	TOD						NWMUD	Standards	Notes
	R-1	R-2	R-3	R-4	R-5	R-6	B-1	B-2	B-3	B-4	BP	I			C	CT	E	ET	GHI	GMD			
<b>RESIDENTIAL</b>																							
Household Living																							
Single-family dwelling	P	P		P	NP	NP													R	P			
<i>Dwellings, detached single-family</i>	<del>P</del>	<del>P</del>		<del>P</del>	<del>NP</del>	<del>NP</del>																	
<i>Single-family, two-family</i>																				R			
Two-family dwelling	NP	NP		P	P	NP													R	P			
<i>Dwellings, attached two-family</i>	<del>NP</del>	<del>NP</del>		<del>P</del>	<del>P</del>	<del>NP</del>																	
Townhouse dwelling	NP	NP		P	P	P								R				R	R	P			
<i>Dwellings, townhouses</i>	<del>NP</del>	<del>NP</del>		<del>P</del>	<del>P</del>	<del>P</del>																	
Multiple family dwelling	NP	NP		NP	P	P	NP	C	C	NP	NP	NP	R	R			R	R	R	P			
<i>Dwellings, multiple family structures</i>	<del>NP</del>	<del>NP</del>		<del>NP</del>	<del>P</del>	<del>P</del>																	
Multiple dwelling													R	R			R	R	R				
<i>Multiple family dwelling and cluster housing in compliance with § 152.344</i>																							
Mobile home park	NP	NP		NP	C	NP																	
Model home	P	P		P	P	P																	
Group Living																							
Care center, convalescent home, and assisted Living	NP	NP		NP	C	C	C	C	C	NP	NP			P	P			P	P	P			
<i>Care centers, convalescent homes, hospitals, and assisted living facilities</i>																							
<i>Care facility, convalescent home</i>														P	P			P	P	P			
Residential facility, licensed (6 or fewer persons)	P	P		P	NP	NP																	
Residential facility, licensed (7-15 persons)	NP	NP		NP	C	C																	
<b>CIVIC &amp; INSTITUTIONAL</b>																							
Cemetery	C	C		C	NP	NP																	
Public and quasi-public facilities							C	C	C	C	NP	C	P										
Government buildings																							
Library														R			P	R	R				
Museums														R			P	R	R				
Schools, elementary, or secondary							C	NP	NP	NP	NP	NP	P										
<i>Public schools, including charter schools in compliance with § 152.182</i>																							
<i>Schools and Daycares</i>																							
Day care facility, licensed							P	P	P	P	P	P	P	P	P	P	C	P	P	P			
<i>Daycare facilities, licensed</i>							<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>C</del>	<del>P</del>	<del>P</del>	<del>P</del>			
Day care facility, licensed (13 to 16 persons)	NP	NP		NP	P	P																	
Group day care facility, licensed (13 to 16 persons)	NP	NP		NP	P	P																	
<i>Daycare, licensed or group daycare facilities (13 to 16 persons)</i>	<del>NP</del>	<del>NP</del>		<del>NP</del>	<del>P</del>	<del>P</del>																	
Day care facility, licensed (12 or fewer persons)	P	P	P	P	NP	NP																	
Group family day care facility, licensed (14 or fewer children)	P	P	P	P	NP	NP																	
<i>Daycare facilities, licensed (12 or fewer children) or group family daycare facilities (14 or fewer children)</i>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>NP</del>	<del>NP</del>																	
Child Care														P	P	P	C	P	P	P			
Adult Day Care														P	P	C	C	P	P	C			
<i>Child and adult day care</i>														<del>P</del>	<del>P</del>	<del>C</del>	<del>C</del>	<del>P</del>	<del>P</del>	<del>C</del>			
Religious assembly	P	P		P	P	P	P	P	P	NP	NP	P											
<i>Religious institutions</i>																							
<i>Religious institutions subject to §§ 152.180 through 152.182</i>	<del>P</del>	<del>P</del>		<del>P</del>	<del>P</del>	<del>P</del>																	
<i>Religious institutions, in compliance with §§ 152.180 through 152.182</i>	<del>P</del>	<del>P</del>		<del>P</del>	<del>P</del>	<del>P</del>				NP	NP												
Non-profit community agencies, recreation centers, or youth centers																							
Clubs							NP	C	C	C	NP	NP											
Social clubs							NP	NP	C	NP	NP	NP											
Assembly, banquet, convention halls, or conference centers							NP	C	C	C	NP	NP											
Outdoor storage of equipment, landscaping materials, etc. when accessory to a government building or maintenance facility																							
Business, trade, or non-academic colleges operated for profit							P	P	P	P	P	NP					P						
<i>Adult training facilities</i>																							
<b>MEDICAL</b>																							
Hospital													P										
Medical clinic							P	P	P	P	P	P		P	P	P	P	P					
Dental clinic																							
<i>Medical and dental clinics</i>																							
Medical clinic, not to exceed 5,000 sq. ft.																				C			
<b>UTILITY</b>																							
Public and utility facilities	P	P	P	P	P	P																	
<i>Public and utility facilities</i>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>																	
Wireless Communication Facility																							
Telecommunication tower													C										



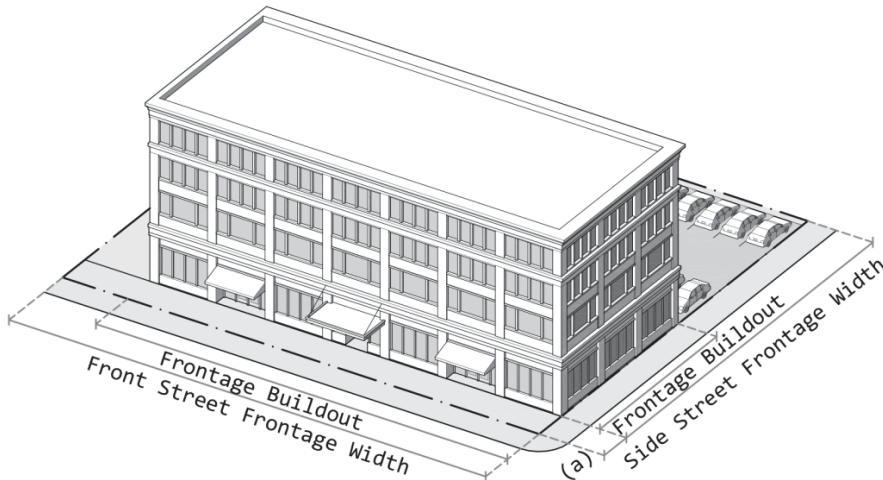
	RES						BUS-IND						PUB	CON	TOD						NWMUD	Standards	Notes
	R-1	R-2	R-3	R-4	R-5	R-6	B-1	B-2	B-3	B-4	BP	I			C	CT	E	ET	GHI	GMD			
Showrooms and sales of automobiles, trucks and recreational vehicles and equipment and the like							NP	NP	NP	C	NP	NP										§ 152.344	
Wholesale, broker and auction dealer of automobiles, trucks and recreational vehicles and the like							P	P	P	P	P	P										§ 152.343	
Automobile rental containing more than six cars on site							NP	C	C	C	NP	NP											
Bus or truck storage or service shops, including fuel stations							NP	NP	NP	NP	NP	C											
Fabrication or assembly of heavy equipment or vehicles							NP	NP	NP	NP	NP	C											
Truck or motor freight terminal							NP	NP	NP	NP	NP	C											
Vehicle impound yard							NP	NP	NP	NP	NP	C											Ensure definition excludes salvage activities.
<b>LIMITED PRODUCTION, PROCESSING, STORAGE</b>																							
Self-service storage facility							NP	NP	C	C	NP	C			NP	NP	NP	NP	NP	NP			
Warehousing							NP	NP	NP	NP	P	P											
Distribution center							NP	NP	NP	NP	P	P											
Distribution as a primary use																	NP	NP					
Distribution or products produced on site																	P	P					
Soil processing and mining	C	NP		NP	NP	NP																	
Concrete or asphalt mixing plants, concrete block fabrication, or builders' or contractors' yards, brick yards, and accessory sale of dirt, sand, gravel, rock, concrete blocks, bricks, etc.							NP	NP	NP	NP	NP	C											
Stone, marble or granite grinding and cutting							NP	NP	NP	NP	NP	C											
Manufacturing, assembly, processing, fabricating, brewing, distilling, and accessory sale of the product produced on site, except those uses further restricted in this ordinance							NP	NP	NP	NP	P	P					P	P					
<del>Manufacturing, assembly, processing, fabricating, brewing, distilling and accessory sale of the product produced on site</del>																	P	P					
<b>Agricultural uses</b>																							
Farming and cultivation of agricultural products	P	P		P	P	P									P								
Seasonal (temporary) greenhouse and garden center	C	NP		NP	NP	NP																§ 152.362(D)	Does a temporary use belong in a principal use table?
Domesticated and farm animals	P	NP		NP	NP	NP																	
Open space area connected with residential, institutional, or business development															P								
Nature study area and arboretum															P								
<b>Multiple principal structures on a single lot</b>																							
							€	€	€	€	€	€											Should be considered a development standard and removed from the use table.

- |   |   |                                      |               |  |                    |   |   |
|---|---|--------------------------------------|---------------|--|--------------------|---|---|
| <p>C Allowed with approval of a conditional use permit</p> <p>(A) Multiple uses within a single parcel or building are permitted in TOD districts.</p> <p>(B) Uses permitted in sections §152.606 – §152.610 are limited for size or intensity as follows:</p> <p>(1) Restrictions per use:</p> <table border="0" style="width: 100%;"> <tr> <td style="width: 30%;">Service and retail</td> <td>50,000 sq. ft. max. gross floor area</td> </tr> <tr> <td>Institutional</td> <td>On-site parking may not exceed 50 surface lot spaces</td> </tr> <tr> <td><u>Residential</u></td> <td><u>Residential uses not permitted on the ground floor of buildings whose primary façade is along Bottineau Boulevard, Brooklyn Boulevard, West Broadway</u></td> </tr> </table> | Service and retail  | 50,000 sq. ft. max. gross floor area | Institutional | On-site parking may not exceed 50 surface lot spaces | <u>Residential</u> | <u>Residential uses not permitted on the ground floor of buildings whose primary façade is along Bottineau Boulevard, Brooklyn Boulevard, West Broadway</u> | <p>R Permitted with compliance to the conditions of subsection (B)(1) below</p> |
| Service and retail  | 50,000 sq. ft. max. gross floor area  |                                      |               |  |                    |   |   |
| Institutional   | On-site parking may not exceed 50 surface lot spaces  |                                      |               |  |                    |   |   |
| <u>Residential</u>  | <u>Residential uses not permitted on the ground floor of buildings whose primary façade is along Bottineau Boulevard, Brooklyn Boulevard, West Broadway</u> |                                      |               |  |                    |   |   |

**§152.604 BUILDING AND SITE STANDARDS.**

- (A) *Purpose.* This section regulates the development and modification of buildings and other elements of the built environment within the private lot, based on the following premises:
- (1) Building regulations should equitably balance the rights of the individual and the interests of the community as a whole.
  - (2) Building form individually and collectively defines and supports the public realm.
  - (3) Building placement should support walkability, safe streets, and safe public spaces, to create pedestrian-friendly neighborhoods.
- (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) Front setback requirements of Table 6 through Table 9, and Table 16 through Table 18 will be maintained as City easement for right of way maintenance.
- (D) Building width must meet the requirements of Table 6 through Table 9, and Table 16 through Table 18 measured at front setback. The maximum building width does not apply to buildings with a forecourt frontage type where the forecourt is wider than 40 feet.
- (E) In order to create activity levels that support and take advantage of existing and future transit proposed within the City, the density of dwelling units (DU) per acre must meet requirements of Table 6 through Table 9, and Table 16 through Table 18. These requirements apply to the residential component of any residential or mixed-use project proposed in the district.

Figure 1. Minimum Frontage Buildout Illustration



- (F) Building height is limited in above ground stories according to Table 6 through Table 9, and Table 16 through Table 18.
- (1) Stories are measured as follows:
    - (a) Stories are measured from finished floor to finished ceiling.
    - (b) Stories above the ground floor are limited to 14 feet in height.
    - (c) Ground floor height is subject to the following requirements:
      1. Ground floor height must be no less than 12 feet except in TOD-G low intensity.
      2. Ground floor height is limited to 20 feet, above which it counts as an additional story.
  - (2) Parking structure height is subject to the following requirements:
    - (a) Structure height may not exceed the finished ceiling height of the top floor of the tallest primary use building.
  - (3) Projections not used for human habitation are exempt from building height restrictions, including the following:
    - (a) Chimneys, spires, domes, elevator shaft and stair housings, antennae, vents, and flag poles.
- (G) For those TOD Districts that permit residential use, the ground floor of buildings along certain roads within those Districts may not be used for residential. Residential use standards for those applicable Districts are located in Table 6 through Table 9, and Table 16 through Table 18.
- ~~(G)~~(H) Facade types must be assigned along all streets according to the standards of Table 1 and the following requirements:
- (1) Buildings may include multiple facade types along their length, each type no less than 30 feet in width.
  - (2) Functioning building entries must be provided along street frontages as follows:
    - (a) The primary building entry must be located along a street frontage.
    - (b) One functional entry must be provided for every 80 feet of facade, leading to habitable space.
      1. Where a building fronts onto two or more streets, a side street facade under 50 feet in length is exempt from the entry requirement.
  - (3) Loading docks and service areas are restricted according to the parking and storage setbacks of Table 6 through Table 9 and Table 16 through Table 18.
  - (4) Encroachments into the front street and side street setbacks are permitted as follows:

## §152.605 DEVELOPMENT STANDARDS

- (A) *Parking*. Off-street parking must be set back from frontages according to Table 6 through Table 9 and Table 16 through Table 18, except where parking is located underground.
- (1) *Location*. Required vehicular parking may be fulfilled in the following locations:
- (a) Parking spaces provided on-site, or between multiple connected sites with a recorded shared use parking agreement.
  - (b) Parking spaces provided along a parking lane on-street corresponding to the site frontages.
- (2) *Access*. Parking access must meet the following requirements:
- (a) Driveways are limited to 20 feet in width.
  - (b) Access to off-street surface and structured parking facilities, including driveways accessing internal structured parking within a development, shall be designed in accordance with the following:
    1. Sites with alley access must use the alley for ingress and egress.
    2. Access shall be located at the side or to the rear of a structure.
    3. Access shall be from the secondary frontage when available.
    4. No access shall be allowed from street frontages located across from single-family residential zoning districts. If all frontages are located across from single-family residential districts, the **Planning Director** will determine how access can be achieved with minimal intrusion into a single-family neighborhood.
  - ~~(b) Sites with alley access must use the alley for ingress and egress.~~
  - (c) Pedestrian access to off-street parking must be provided from frontages with walkways a minimum of six feet in width.
- (3) *Screening*. Parking areas must be screened from public streets, sidewalks and paths by a masonry wall or evergreen hedge. The height of the screen must be a minimum of 36 inches and a maximum of 48 inches in height.
- (4) *Structured parking*. The ground floor of any parking structure abutting a public street must have habitable space for a depth of 30 feet facing the street. METRO parking structures may be eligible for a waiver from this requirement if a façade that limits vehicle visibility is provided.
- (a) Upper floors must be designed and detailed in a manner consistent with adjacent buildings.
  - (b) Entrances must minimize conflict with pedestrian movement.
- (5) Required parking. Parking minimums and maximums do not apply to TOD zones.
- (B) Bicycle Parking. Bicycle parking shall be provided for all uses within all TOD Districts. The following bicycle facilities shall be required:
- (1) Each land use shall provide the number of bicycle parking spaces required by Table 2. A minimum of two short-term bicycle parking spaces and one long-term parking space shall be provided for new non-residential development. When the bicycle parking required for a nonresidential use is based on square footage, at least twenty-five (25) percent of the bicycle parking spaces shall be provided in long-term parking facilities and at least (fifty) 50 percent shall be provided in short-term bicycle parking facilities .
- When part or all bicycle parking spaces required for non-residential land use is based on the number of employees, that portion shall be provided in long-term bicycle parking facilities.

**Table 2. Bicycle Parking Requirements**

<u>PRINCIPAL USE</u>	<u># OF BICYCLE SPACES REQUIRED</u>
<u>Shopping</u>	<u>1 space per 5,000 sq. ft.</u>
<u>Dining</u>	<u>1 space per 4,000 sq. ft.</u>
<u>Services</u>	<u>1 space per 5,000 sq. ft.</u>
<u>Employment</u>	<u>1 space per 5,000 sq. ft.</u>
<u>Residential</u>	<u>1 space per 4 dwelling units</u>
<u>Institution</u>	<u>1 space per 5,000 sq. ft.</u>
<u>Lodging</u>	<u>1 space per 10 guest rooms</u>
<u>Recreation/Events</u>	<u>1 space per 5,000 sq. ft.</u>

(2) For changes in use or tenant, bicycle parking will be analyzed.

(3) Types of bicycle parking. There are two types of bicycle parking.

(a) Short-term bicycle parking. Short term bicycle parking is typically in the form of bicycle racks. Bicycle racks must meet the following criteria:

1. Supports the bicycle upright by its frame in two places;
2. Prevents the wheel of the bicycle from tipping over;
3. Enables the bicycle frame and at least one wheel to be secured to the rack with a U-lock;
4. Rack is constructed of materials that resist cutting by manual tools such as bolt cutters, hand saws, abrasive cutting cables, and pipe cutters;
5. Rack is securely anchored to the ground.

(b) Long-term bicycle parking. Long-term bicycle parking protects the entire bicycle and its components from theft, vandalism, and inclement weather. Long-term bicycle parking is required when at least 50 bicycle spaces are required on a site. Long-term bicycle parking may include:

- a. Bicycle lockers. A bicycle locker is a fully enclosed space for one bicycle, accessible only to the owner of the bicycle. A bicycle locker must be equipped with an internally mounted key-actuated or electronic locking mechanism, and not lockable with a user-provided lock. Groups of internal-lock bicycle lockers may share a common electronic access mechanism provided that each locker is accessible only to its assigned user. Bicycle lockers shall be constructed of molded plastic/fiberglass, solid metal or perforated metal. Lockers shall be screened per the requirements of § 152.275.
- b. Restricted-access bicycle enclosure. A restricted-access bicycle enclosure is a covered or indoor locked area containing within it one (1) bicycle rack space for each bicycle to be accommodated and accessible only to the owners of the bicycles parked within it.

(4) Layout and design

(a) General guidelines

## 5.4C - SUPPORTING DOCUMENTS

1. All spaces provided shall be on a hard and stable surface.
2. All bicycle parking facilities shall be securely anchored to the surface so they cannot be easily removed and shall be of sufficient strength to resist vandalism and theft.
3. All bicycle parking facilities within vehicle parking areas shall be separated by a curb or other physical barrier to protect bicycles from damage by automobiles and other moving vehicles.
4. Short-term bicycle facilities shall meet all of the following requirements:
  - a. The facilities shall be installed in a clear space at least two (2) feet in width by six (6) feet in length to allow sufficient space between parked bicycles.
  - b. When multiple short-term bicycle parking facilities are installed together in sequence, they shall be installed at least three feet apart and located in a configuration that provides space for parked bicycles to be aligned parallel to each other.

### (5) Location

- (a) Short-term bicycle parking facilities shall be located in a convenient, highly visible, and well-lit area within fifty (50) feet of a building entrance and within view of pedestrian traffic.
- (b) Long-term bicycle parking facilities for tenant and occupant use shall be conveniently accessible by pedestrians from the street, and at least as close as the closest non-accessible automobile parking.

~~(B)~~(C) *Streetscape Improvements.* The provisions of this section apply to all streetscape improvements in TOD-C, TOD-T, and TOD-E.

- (1) Streetscape improvements including sidewalks, boulevards, furniture zones, lights and trees must meet the requirements of Table 3.
- (2) Improvements must transition to existing conditions at adjacent properties to preserve pedestrian access and safety.

~~(E)~~(F) *Landscaping Requirements.* All open areas of any site, except for that portion used for parking, driveways, and storage, must be landscaped and incorporated in a landscape plan, per the following requirements:

- (1) The required landscaped area must be planted with trees, ground cover, low shrubs or flowering plants.

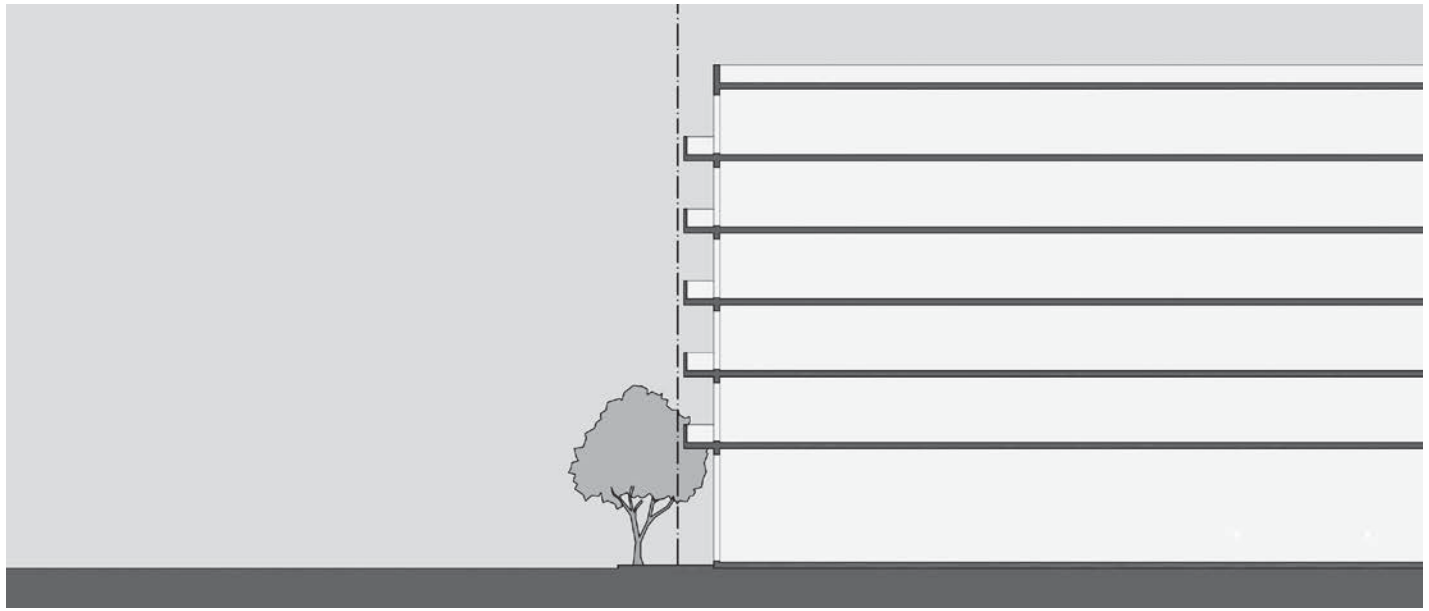
(G) *Crosswalk and Interior Connections.*

- (1) Crosswalks at private street intersections or within parking lots shall be distinguished from driving surfaces to enhance pedestrian safety by using either different pavement materials, pavement color, or pavement textures in conjunction with signage.
- (2) Internal sidewalk connections are required between buildings and from buildings to all onsite facilities (parking areas, bicycle facilities, plazas and open space, etc.).
- (3) External sidewalk connections are required to provide direct connections from all buildings on-site to the existing and/or required sidewalk system and to abutting multi-use trails, parks, and greenways.
- (4) The on-site pedestrian circulation system shall be well-lit to ensure safe use of the system at night. All lighting shall be shielded with full cut-off or semi cut-off fixtures.

~~(F)~~(H) *Signs.* Signs in TOD-G Medium and High Intensity must comply with the following:

- (1) *Type.*
  - (a) An establishment may erect wall signs or projecting signs, or a combination thereof as regulated by subsections (2) and (3).
  - (b) Roof signs are prohibited.
  - (c) Freestanding or pylon signs, permanent or temporary, are prohibited, except for joint or shared parking uses and public transit message center signs and monument signs. Monument signs may not exceed five feet in height.
  - (d) Mural scenes or designs painted directly on an exterior building wall that are intended as decorative or ornamental features are permitted with the prior approval of the City Manager. Murals that include text, numbers, trademarks, logos or other forms of business advertisement are considered painted wall signs and must comply with the regulations of this code. Murals that are not painted wall signs are not regulated by subsections (2) and (3).
  - (e) Sandwich board signs, one per business establishment, are permitted provided that they are located on the sidewalk in front of the business establishment and do not block pedestrian use of the sidewalk. Each side of the sandwich board sign must not exceed nine square feet. Sandwich board signs are not regulated by subsections (2) and (3).
- (2) *Number.* An establishment may erect any number of wall signs provided that the total area does not exceed the total permitted area established in (3).
- (3) *Size and materials.*
  - (a) The maximum total area of all wall signs must not exceed three square feet per one lineal foot of business establishment frontage. Window signs are not included in the above calculation and may not exceed one-third of the glazed area of the window. Signs may be illuminated. Signs must be placed on the building so as not to obscure architectural features and detail.
  - (b) The maximum area of any individual wall sign must not exceed two square feet per one lineal foot of business establishment frontage. The maximum area of any projecting sign must not exceed six square feet.

**Table 6. TOD-C Building and Site Standards, continued**



**BUILDING HEIGHT**

6 stories max.	Parking structure height	1 story less than building
----------------	--------------------------	----------------------------

Building height of 8 stories is available with a Conditional Use Permit upon initiation of construction of the METRO station. Building height may not exceed one story more than an adjacent single-family district within 50 ft. of residential parcels.

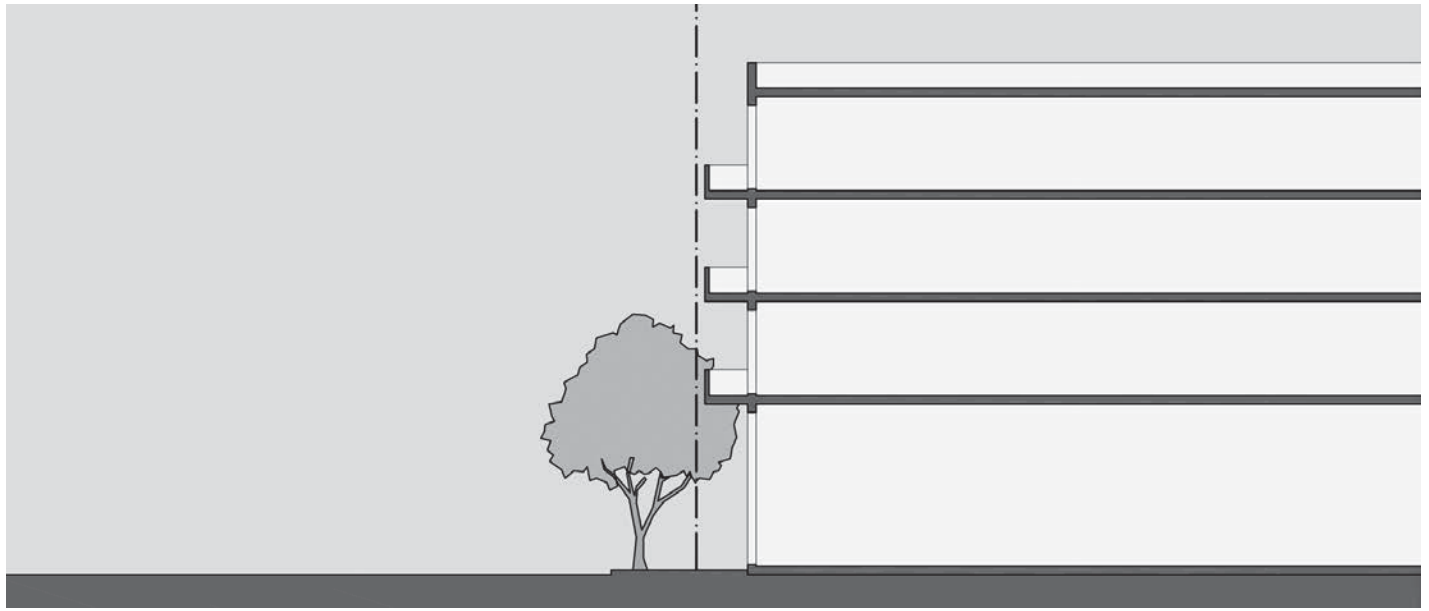
**USES**

RESIDENTIAL		COMMERCIAL	
R	Multiple dwelling	P	Retail and service
P	Care facility, convalescent home	P	Office
		P	Medical and dental clinics
INSTITUTIONAL		P	Veterinary and animal services
NP	Religious assembly	P	Child and adult day care
NP	Schools	P	Restaurants and brewpubs, theatres and entertainment
OTHER		C	Parking as a principle use
P	Wireless communication facilities as accessory uses located on a building	NP	Gasoline sales
		NP	Drive-through facilities
		NP	Self-storage facilities, sexually-oriented businesses, impound lots, vehicle sales

**DWELLING UNIT DENSITY**

Minimum	60 dwelling units per acre
Maximum	80+ dwelling units per acre

**Table 7. TOD-C.T Building and Site Standards, continued**



**BUILDING HEIGHT**

4 stories max.	Parking structure height	1 story less than building
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Building height of 6 stories is available with a Conditional Use Permit upon initiation of construction of a METRO station. Building height must match height of adjacent single-family within 50 ft. of residential parcels.

**USES**

RESIDENTIAL		COMMERCIAL	
R	Townhouse	R	Retail and service
R	Multiple dwelling	P	Restaurants and brewpubs
P	Care facility, convalescent home	P	Office
		P	Lodging
		P	Medical clinic
NP	Religious assembly	P	Child care
NP	Schools	P	Adult day care
R	Libraries	P	Parking
R	Museums	C	Gasoline sales
		C	Breweries and micro-distilleries
C	Wireless communication facilities	C	Taprooms and cocktail rooms
P	Drive throughs as an accessory use	NP	Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

**DWELLING UNIT DENSITY**

Minimum	40 dwelling units per acre
Maximum	60 dwelling units per acre

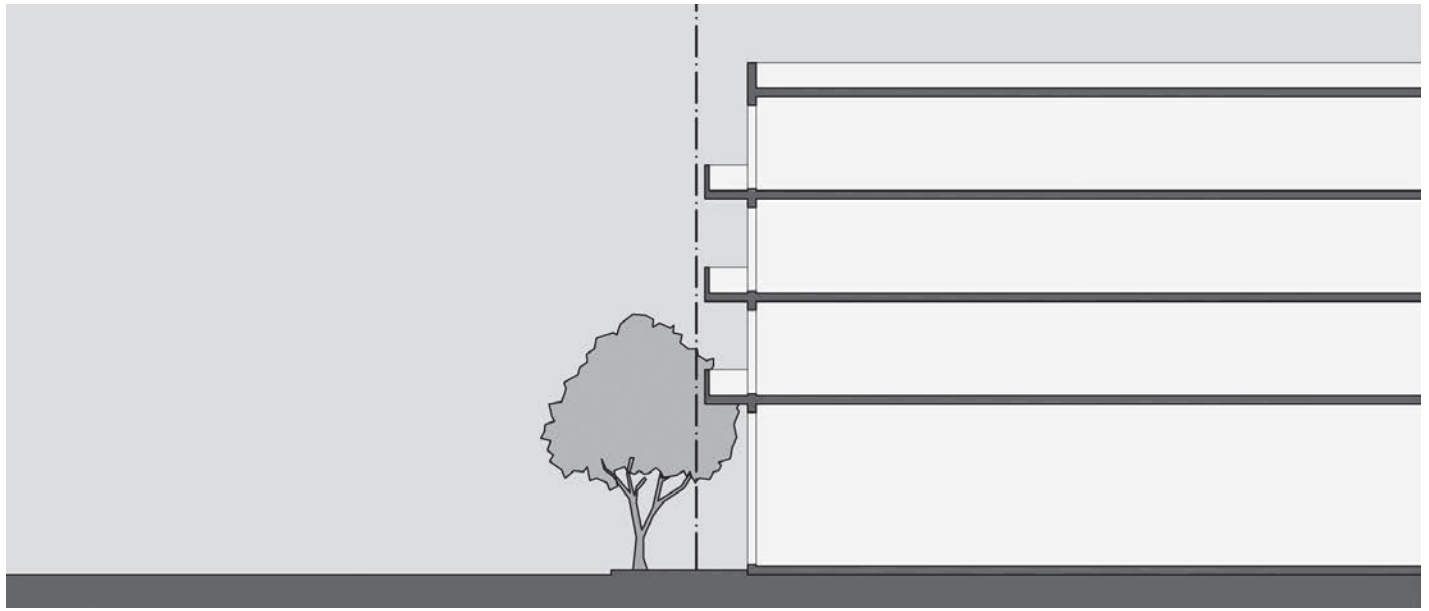
**§152.610 “TOD-G” TRANSIT-ORIENTED GREENFIELD DISTRICT – HIGH, MEDIUM, AND LOW INTENSITIES AND GREENFIELD NEIGHBORHOOD STRUCTURE AND PUBLIC REALM STANDARDS**

- (A) *Purpose and Applicability.* The structure of the TOD-G district provides the City and future development groups with the regulations and guidelines needed to develop a comprehensive, resilient and pedestrian-oriented TOD. The subdivision regulations in subsection (D) provide the following:
  - (1) A network of connected streets and blocks that reflect an approved station area plan.
  - (2) General block sizes and configurations that support zoning and land use goals.
  - (3) Maximum block perimeters that foster attractive, safe and walkable environments, while enhancing circulation through the site.
  - (4) Guidance on meeting regional stormwater requirements as detailed in the Brooklyn Park Subarea Stormwater Master Plan.
- (B) *Regulating Plan.* The TOD-G district is implemented through a regulating plan, approved with the rezoning to TOD-G, which includes a combination of at least two of the three intensities described below and regulated by Table 10 and §152.601. TOD-G areas must be divided into neighborhoods by the introduction of a primary thoroughfare network, and then into blocks by the completion of the streets and open spaces. As the area is subdivided to generate blocks, parcels and individual building sites, the regulating plan assigns intensities that may be refined with approval by the City Manager according to §152.021. Regulating plans, consisting of one or more maps, must show the following:
  - (1) District boundaries
  - (2) Existing infrastructure including streets, parks and open space
  - (3) Thoroughfare network according to subsection (D) with thoroughfare assignments according to Table 12 or Table 13.
  - (4) Civic area according to Table 10, with types and boundaries according to Table 14.
- (C) *Intensities.* At least two of the three intensities described below must be used in the TOD-G district and must achieve a minimum density of 20 dwelling units (DU) per acre. TOD-G intensities are comprised of:
  - (1) Low intensity: Consists of medium density residential areas, with a mix of uses, home occupations, and accessory buildings. It contains a wide range of building types — houses, courtyard housing, townhouses, duplexes, triplexes, small apartment buildings, and neighborhood commercial uses. This area must be more than 1,500 feet from a high frequency transit service station.
  - (2) Medium intensity: Consists of a mix of uses but is primarily medium to high density residential and neighborhood commercial uses.
  - (3) High intensity: Consists of high density mixed-use buildings that accommodate retail, offices, institutions, and multi-family housing.

**Table 9-Table 10. Regulating Plan Requirements**

AREA IN ACRES	CIVIC SPACE PERCENT OF AREA	DENSITY	INTENSITY % OF AREA		
			LOW	MEDIUM	HIGH
40 min.	5 – 10%	<u>20 - 80+ DU/acre</u>	20% max.	50 – 70%	10 – 30%

**Table 16. TOD-G Medium Intensity Building and Site Standards, continued**



**BUILDING HEIGHT**

4 stories max.	Parking structure height	1 story less than building
Building height of 6 stories is available with a Conditional Use Permit upon initiation of construction of the Oak Grove METRO station. Building height must match height of adjacent single-family within 50 ft. of residential parcels.		

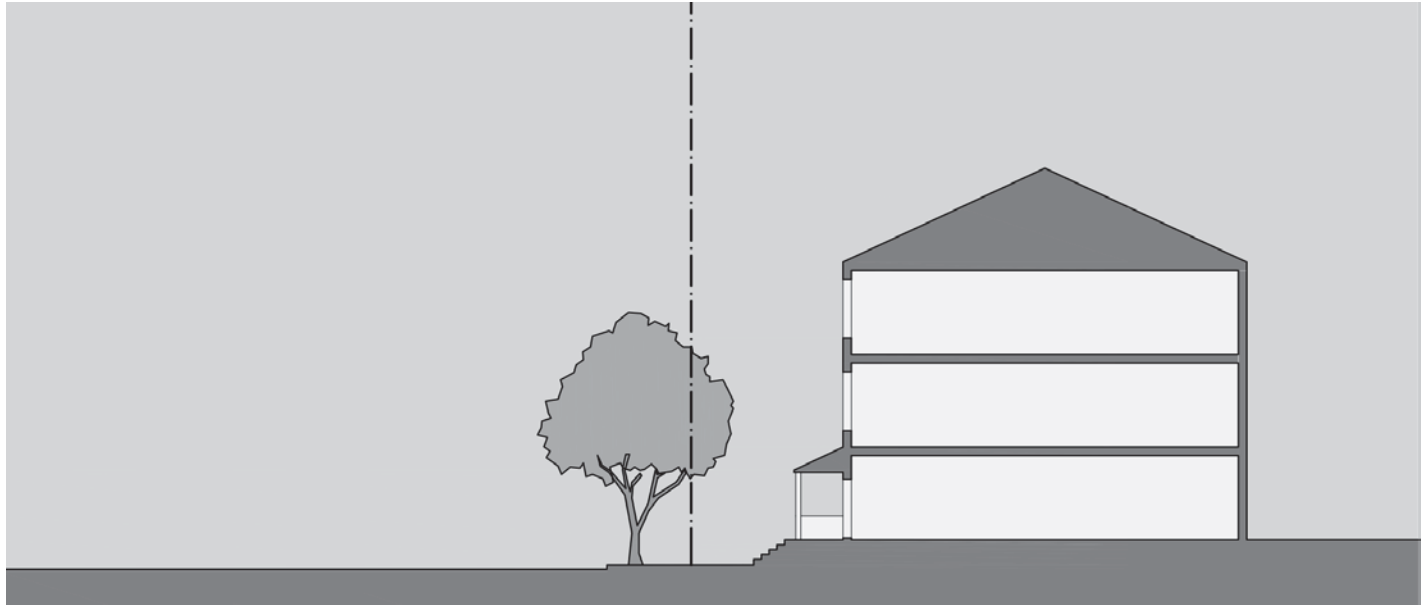
**USES**

RESIDENTIAL		COMMERCIAL	
R	Townhouse	R	Retail and service
R	Multiple dwelling	P	Restaurants and brewpubs
P	Care facility, convalescent home	P	Office
		P	Lodging, not to exceed 50 rooms
		P	Medical clinic
NP	Religious assembly	P	Child care
NP	Schools	P	Adult day care
R	Libraries	C	Taprooms and cocktail rooms
R	Museums	C	Breweries and micro-distilleries
		NP	Parking as primary use
C	Wireless communication facilities	NP	Gasoline sales
		NP	Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

**DWELLING UNIT DENSITY**

Minimum	20 dwelling units per acre
Maximum	80+ dwelling units per acre

Table 17. TOD-G Low Intensity Building and Site Standards, continued



**BUILDING HEIGHT**

3 stories or 40 feet max.

**USES**

<b>RESIDENTIAL</b>		<b>COMMERCIAL</b>	
R	Single-family, two-family	R	Retail and service
R	Townhouse	P	Restaurants, not to exceed 40 seats
R	Multiple dwelling	P	Brewpubs, not to exceed 40 seats
P	Care facility, convalescent home	P	Office, not to exceed 5,000 sq. ft.
		P	Lodging, not to exceed 12 rooms
		P	Child care
<b>INSTITUTIONAL</b>		C	Medical clinic, not to exceed 5,000 sq. ft.
NP	Religious assembly	C	Adult day care
NP	Schools	NP	Parking as primary use
R	Libraries	NP	Gasoline sales
R	Museums	NP	Breweries and micro-distilleries
<b>OTHER</b>		NP	Taprooms and cocktail rooms
C	Wireless communication facilities	NP	Self-storage facilities, adult entertainment and retail, impound lots, vehicle sales

**DWELLING UNIT DENSITY**

Minimum	20 dwelling units per acre
Maximum	40 dwelling units per acre



## Memorandum

To: Brooklyn Park Planning Commission Members  
 CC: Cindy Sherman, Planning Director

From: Erin Perdu, AICP Planning Consultant  
 Molly Just, AICP, Planning Consultant

Date: 10/20/2020

Re: Zoning Update  
 WSB Project No. 015207

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### From Last Work Session (Attachment A)

1. Equity in Zoning - Storage Requirements. Draft language is provided.
2. Use Table – Draft language is provided which includes the edits suggested at the September work session. Note that there are a few terms that require some additional definitions; these will be included in the Reorganization/UDC work described below.
3. TOD Districts – Draft language is provided which includes revisions to ground-floor residential uses as discussed in September. Note that we are also checking on the bicycle parking requirements against recently approved developments to make sure that the standards are consistent with those recent approvals.

### Unified Development Code (Attachment B)

**Purpose.** We recommend consolidating the City regulations governing land use and development into a Unified Development Code (UDC). The UDC is the official body of rules and regulations to guide land use and development. It is a document in which traditional zoning and subdivisions regulations are combined with other desired city regulations such as signage and subdivisions. It serves as a local policy instrument in implementing the City's land use plans and goals.

**Reorganization principles.** The new code will advance the goals established by the community in Brooklyn Park 2025 and more broadly in the 2040 Comprehensive Plan. The City has a bold vision that necessitates revisions to its regulatory tools to enable and promote build out of the City according to this vision. The current code is too conventional, restrictive, and complex to successfully partner with residents, businesses, and the development community to realize this vision.

Overview of Brooklyn Park UDC

<p><b>Article 1. General Provisions</b>                  Purpose. To provide an overview of the purpose and authority of the UDC                  Overview of Changes  <ul style="list-style-type: none"> <li>• Move definitions to the end, new Article 6 Definitions</li> <li>• Administration and Procedures and nonconformities move to new Article 5 Administration and Procedures</li> </ul> </p>	<p><b>Article 4. Development Standards</b>                  Purpose. To establish standards for development of land and how it should relate to the public realm and surrounding private property. Ex. Parking, building form, design, screening, landscaping, lighting.                  Overview of Changes  <ul style="list-style-type: none"> <li>• Standards will be found in one section of the code instead of multiple sections (Secs 152.200 and 152.300)</li> <li>• Fences 152.292 – review “approved materials”</li> </ul>                 Considerations:  <ul style="list-style-type: none"> <li>• Should sections currently outside of Chapter 152 be incorporated here. Ex. Signs, stormwater management, and plat design</li> <li>• Signs and Temporary Signs. Review for compliance with case law.</li> </ul> </p>
<p><b>Article 2. Zoning Districts</b>                  Purpose. To state the purpose of and differentiate each district.                  Overview of Changes  <ul style="list-style-type: none"> <li>• Information will be streamlined and consolidated in an intuitive manner.</li> </ul> </p>	<p><b>Article 5. Administration and Procedures</b>                  Purpose                  Overview of Changes  <ul style="list-style-type: none"> <li>• Addition of a summary table for applicable procedures (ex. CUP, PUD, Site Plan)</li> <li>• Addition of a summary of who does what in the approval processes</li> <li>• Moved from Sec. 152.030 (Administration, Procedures) to stand-alone chapter to increase usability.</li> </ul> </p>
<p><b>Article 3. Permitted Uses &amp; Use Standards</b>                  Purpose. In table form, state what is allowed how and where                  Overview of Changes  <ul style="list-style-type: none"> <li>• Addition of a use table.</li> <li>• Much focus will be given to establishing use standards to enable more uses to be allowed by-right, without a CUP or RZ.</li> <li>• Outdoor Sales/Display (152.0362) revisit for convenience stores and gas stations</li> <li>• Accessory Dwelling Units (ADU) – allow and regulate.</li> </ul> </p>	<p><b>Article 6. Definitions</b>                  Purpose – define and empower all relevant and governing terms in the UDC, in <b>one</b> place                  Overview of Changes  <ul style="list-style-type: none"> <li>• Eliminate duplicates and dated terms and add missing terms</li> </ul> </p>

Next Steps

Pending your input on the reorganization and UDC principals, we will prepare the first set of amendments for your consideration at the next work session in November.

**ATTACHMENT A**

**SECTION 152.243 ADDITIONAL REGULATIONS FOR PERMITTED USES**

(C) Detached single-family dwellings. All new detached single-family dwelling must comply with the following conditions:

(1) ~~All dwellings built after July 31, 1982, including manufactured or mobile housing, must include a basement as defined in Sec. 152.008.~~ The lowest floor elevation of any residential basement may not be lower than the regulatory flood protection elevation.





	RES						BUS-IND						PUB	CON	TOD						NWMUD	Standards	
	R-1	R-2	R-3	R-4	R-5	R-6	B-1	B-2	B-3	B-4	BP	I			C	CT	E	ET	GHI	GMD			GLI
Body Art							NP	P	P	NP	NP	NP											M.S. Chapter 146B and Chapter 123 of this code
Funeral home and mortuaries							P	P	P	NP	P	NP											
Funeral home							P	P	P	NP	NP	NP											
Crematories/Crematoriums							P	NP	NP	NP	NP	NP											
Currency exchange and pawnshop							P																§ 152.344
Heavy equipment, machinery and farm vehicle sales, contractors yards, bulk firewood sales, and gravel and rock sales							NP	NP	NP	NP	NP	P											
<b>Automobile, Parking, Transportation</b>																							
Auto oriented repair services							NP	NP	C	C	C	C											
Carwash							NP	NP	P	P	P	P											
Gasoline sales							NP	C	C	C	C	C					C	C	C				
Fuel stations							NP	C	C	C	C	C											
Drive-through facility															C								
Parking as a principal use															C								
Parking															C								
Indoor sales of automobiles, trucks and recreational vehicles and the like							NP	NP	NP	C	C	C					P	C	C	P			§ 152.344
Showrooms and sales of automobiles, trucks and recreational vehicles and equipment and the like							NP	NP	NP	C	NP	NP											§ 152.344
Wholesale, broker and auction dealer of automobiles, trucks and recreational vehicles and the like							P	P	P	P	P	P											§ 152.343
Automobile rental containing more than six cars on site							NP	C	C	C	NP	NP											
Automobile rental containing more than six cars on site							NP	C	C	C	NP	NP											
Bus or truck storage or service shops, including fuel stations							NP	NP	NP	NP	NP	C											
Fabrication or assembly of heavy equipment or vehicles							NP	NP	NP	NP	NP	C											
Truck or motor freight terminal							NP	NP	NP	NP	NP	C											
Vehicle impound yard							NP	NP	NP	NP	NP	C											
<b>LIMITED PRODUCTION, PROCESSING, STORAGE</b>																							
Self-service storage facility							NP	NP	C	C	NP	C			NP	NP	NP	NP	NP	NP	NP		
Warehousing							NP	NP	NP	NP	P	P											
Distribution center							NP	NP	NP	NP	P	P											
Distribution as a primary use																	NP	NP					
Distribution or products produced on site																	P	P					
Soil processing and mining	C	NP		NP	NP	NP	NP	NP	NP	NP	NP	C											
Concrete or asphalt mixing plants, concrete block fabrication, or builders' or contractors' yards, brick yards, and accessory sale of dirt, sand, gravel, rock, concrete blocks, bricks, etc.; stone, marble or granite grinding and cutting							NP	NP	NP	NP	NP	C											
Stone, marble or granite grinding and cutting							NP	NP	NP	NP	NP	C											
Manufacturing, assembly, processing, fabricating, brewing, distilling, and accessory sale of the product produced on site, except those uses further restricted in this ordinance							NP	NP	NP	NP	P	P					P	P					
Manufacturing, assembly, processing, fabricating, brewing, distilling and accessory sale of the product produced on site																	P	P					
<b>Agricultural uses</b>																							
Farming and cultivation of agricultural products	P	P		P	P	P								P									
Seasonal (temporary) greenhouse and garden center	C	NP		NP	NP	NP																	§ 152.362(D)
Domesticated and farm animals	P	NP		NP	NP	NP																	
Open space area connected with residential, institutional, or business development														P									
Nature study area and arboretum														P									
Multiple principal structures on a single lot							C	C	C	C	C	C											

## 5.4C - SUPPORTING DOCUMENTS

- C Allowed with approval of a conditional use permit      R Permitted with compliance to the conditions of subsection (B)(1) below
- (A) Multiple uses within a single parcel or building are permitted in TOD districts.
- (B) Uses permitted in sections §152.606 – §152.610 are limited for size or intensity as follows:
- (1) Restrictions per use:
- |                    |   |
|--------------------|---|
| Service and retail | 50,000 sq. ft. max. gross floor area  |
| Institutional      | On-site parking may not exceed 50 surface lot spaces  |
| <u>Residential</u> | <u>Residential uses <del>not</del> are permitted on the ground floor of buildings whose primary façade is along Bottineau Boulevard, Brooklyn Boulevard, West Broadway provided that access directly onto the street is provided. Amenities and community spaces are encouraged to be located on the first floor along with residential uses.</u> |

### §152.604 BUILDING AND SITE STANDARDS.

- (A) *Purpose.* This section regulates the development and modification of buildings and other elements of the built environment within the private lot, based on the following premises:
- (1) Building regulations should equitably balance the rights of the individual and the interests of the community as a whole.
- (2) Building form individually and collectively defines and supports the public realm.
- (3) Building placement should support walkability, safe streets, and safe public spaces, to create pedestrian-friendly neighborhoods.
- (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) Front setback requirements of Table 6 through Table 9, and Table 16 through Table 18 will be maintained as City easement for right of way maintenance.
- (D) Building width must meet the requirements of Table 6 through Table 9, and Table 16 through Table 18 measured at front setback. The maximum building width does not apply to buildings with a forecourt frontage type where the forecourt is wider than 40 feet.
- (E) In order to create activity levels that support and take advantage of existing and future transit proposed within the City, the density of dwelling units (DU) per acre must meet requirements of Table 6 through Table 9, and Table 16 through Table 18. These requirements apply to the residential component of any residential or mixed-use project proposed in the district.

# Work Plan

## Proposed Unified Development Code Structure

<b>Article 1. General Provisions</b>	
<b>Article 2. Zoning Districts</b>	
<b>Article 3. Permitted Uses</b> A. Permitted Use Table B. Use Specific/ Performance Standards	
<b>Article 4. Development Standards</b> A. Dimensional Standards B. Building Form Standards C. Connectivity and Circulation D. Parking and Loading E. Landscaping F. Screening and Fences G. Signs* H. Stormwater Management* I. Sustainability Standards J. Design Standards K. Exterior Lighting L. Housing and Property Maintenance Code* M. Plat Design* N. Maintenance and Operating Standards	<b>Article 5. Administration and Procedures</b> A. Summary Table (new feature) B. Reviewers and Decision-Makers (new feature) C. Review and Approval Procedures a. Comprehensive Plan adoption or amendment b. UDC Text or zoning map amendment c. Subdivision plat approval or amendment* d. Vacation of Street* e. Variance (sign, lot, structure) f. Conditional use g. Interim use h. Temporary use i. Site plan j. Administrative Review k. Zoning permit l. Building permit* m. Certificate of occupancy* n. Accessory home share permit (Airbnb) D. Nonconformities E. Enforcement and Penalties
	<b>Article 6. Definitions</b> A. Rules of Constructions B. Definitions
	<b>Appendix: Zoning Map</b>

**Memorandum**

To: Brooklyn Park Planning Commission Members  
CC: Cindy Sherman, Planning Director

From: Erin Perdu, AICP Planning Consultant  
Molly Just, AICP, Planning Consultant

Date: 11/5/2020

Re: Zoning Update  
WSB Project No. 015207

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The purpose of this meeting is to review the business and industrial uses that are shifting from being permitted by Conditional Use Permit (CUP) to being permitted by-right. We will identify the need for use standards, discuss whether any existing standards are sufficient for the use in a by-right setting, and identify definitions needed to administer the use. Following the meeting, WSB will make the changes to reflect the discussion.

Agenda

7:00 – 7:10 Welcome and presentation of approach to get to a March public hearing

7:10 – 8:30 CUP uses shifting to permitted by-right

- Evaluate adequacy of existing use standards
- Identify needed use standards
- Evaluate adequacy of existing definitions
- Identify needed definitions

8:30 – 9:00 Summarize progress and discuss next steps

5.4C - SUPPORTING DOCUMENTS

## Excerpt from Use Table - Business and Industrial Uses

**Bold = additions**

~~Strikethrough = removals or consolidations~~

Pink fill = consider adding uses in this district

Blue = moved or consolidated

P = Permitted C = Conditional Blank = Not Permitted

**Bold Red** = Condition to Permitted

	BUS-IND					
	B-1	B-2	B-3	B-4	BP	I
<b>COMMERCIAL</b>						
<b>Lodging</b>						
Hotel or motel	NP	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	NP
<del>Bed and breakfast establishments</del>						
<del>Lodging</del>						
Hotel or motel, not to exceed 50 rooms						
<del>Lodging, not to exceed 50 rooms</del>						
Hotel or motel, not to exceed 12 rooms						
<del>Lodging, not to exceed 12 rooms</del>						
<b>Indoor Entertainment, Recreation, Food, and Beverage</b>						
Restaurant, Class I	NP	P	P	P	P	P
Restaurant, Class II	NP	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Restaurant, brewpub</b>	NP	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
<b>Restaurant, brewpub, brewery with taproom, micro-distillery with cocktail room</b>						
Brewery with taproom and micro-distillery with cocktail room						
Taproom and cocktail room						
Brewery and micro-distillery						
Restaurant, not to exceed 40 seats						
Brewpub, not to exceed 40 seats						
Theater, excluding drive-ins	NP	<b>P</b>	<b>P</b>	<b>P</b>	NP	NP
Commercial recreational facility (Privately owned)						
Commercial indoor recreational facility under 2,450 square feet	NP	P	P	P	P	P
Commercial indoor recreational facility over 2,450 square feet	NP	C	C	C	C	C
Entertainment						
Sexually oriented business	NP	NP	P	NP	NP	NP
<b>Service or Workplace</b>						
Office	P	P	P	P	P	P
Office, not to exceed 5,000 sq. ft.						
<del>Office, bank or clinic</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>
Office related to leasing, renting and maintenance of multiple family dwellings and townhouses						
Bank	P	P	P	P	P	P
All structures for retail or service businesses with 25,000 square feet or less, excluding those mentioned elsewhere in this section	NP	P	P	P	C	C
All structures for retail or service businesses with between 25,000 and 50,000 square feet, excluding those mentioned elsewhere in this section	NP	<b>P</b>	P	P	NP	NP
All structures for retail or service businesses with 50,000 square feet or more, excluding those mentioned elsewhere in this section	NP	<b>P</b>	<b>P</b>	<b>P</b>	NP	NP
Retail and service						
Transient sales	NP	NP	C	NP	NP	NP
Transient produce sales, only in the Old Town Hall Square at Zane Avenue North and Brooklyn Boulevard						
Veterinary clinic	P	P	P	P	P	P
Animal services	<b>NP</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>

## 5.4C - SUPPORTING DOCUMENTS

**Bold = additions**

~~Strikethrough = removals or consolidations~~

Pink fill = consider adding uses in this district

Blue = moved or consolidated

P = Permitted C = Conditional Blank = Not Permitted

**Bold Red** = Condition to Permitted

	BUS-IND					
	B-1	B-2	B-3	B-4	BP	I
<del>Veterinary and animal services</del>						
<del>Commercial Kennel</del>	<del>NP</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>
Body Art	NP	P	P	NP	NP	NP
Funeral home <b>and mortuaries</b>	P	P	P	NP	<b>P</b>	NP
<del>Funeral home</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>NP</del>	<del>NP</del>	<del>NP</del>
Crematories/Crematoriums	P	NP	NP	NP	NP	NP
Currency exchange and pawnshop	P					
Heavy equipment, machinery and farm vehicle sales, contractors yards, bulk firewood sales, and gravel and rock sales	NP	NP	NP	NP	NP	P
<b>Automobile, Parking, Transportation</b>						
Auto oriented repair services	NP	NP	C	C	C	C
Carwash	NP	NP	<b>P</b>	<b>P</b>	<b>P</b>	<b>P</b>
Gasoline sales	NP	C	C	C	C	C
<del>Fuel stations</del>	<del>NP</del>	<del>€</del>	<del>€</del>	<del>€</del>	<del>€</del>	<del>€</del>
Drive-through facility						
<del>Parking as a principal use</del>						
Parking						
Indoor sales of automobiles, trucks and recreational vehicles and the like	NP	NP	NP	C	C	C
Showrooms and sales of automobiles, trucks and recreational vehicles and equipment and the like	NP	NP	NP	C	NP	NP
Wholesale, broker and auction dealer of automobiles, trucks and recreational vehicles and the like	P	P	P	P	P	P
Automobile rental containing more than six cars on site	NP	<b>C</b>	<b>C</b>	<b>C</b>	NP	NP
<del>Automobile rental containing more than six cars on site</del>	<del>NP</del>	<del>€</del>	<del>€</del>	<del>€</del>	<del>NP</del>	<del>NP</del>
Bus or truck storage or service shops, including fuel stations	NP	NP	NP	NP	NP	C
Fabrication or assembly of heavy equipment or vehicles	NP	NP	NP	NP	NP	C
Truck or motor freight terminal	NP	NP	NP	NP	NP	C
Vehicle impound yard	NP	NP	NP	NP	NP	C



City of Brooklyn Park  
City Hall  
5200 85th Ave. N.  
Brooklyn Park, MN 55443  
763-424-8000  
[www.brooklynpark.org](http://www.brooklynpark.org)

**MEMORANDUM**

**Date:** November 4, 2021  
**To:** Planning Commission Members  
**From:** Paul Mogush, Planning Director  
**Subject:** November 10 Work Session – Item 2A

**Performance Standards for new Permitted or Accessory Uses**

At the November 10 work session, we will be joined by Brandy Howe and Kim Lindquist of WSB, the consulting firm that has been working on updating the Zoning Code to make it consistent with the 2040 Comprehensive Plan. Brandy and Kim will talk through proposed performance standards as outlined in the attached memo.

**Attachment**

WSB Memo

**Memorandum**

To: Brooklyn Park Planning Commission Members  
CC: Paul Mogush, Planning Director

From: Brandy Howe, AICP Planning Consultant  
Kim Lindquist, AICP, Planning Consultant

Date: 11/10/2021

Re: Zoning Update  
Performance Standards for new Permitted or Accessory Uses  
WSB Project No. 015207

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Background

As some Commissioners may be aware, the City of Brooklyn Park contracted with WSB in mid-2020 to update the City zoning ordinance to implement the adopted Comprehensive Plan. Several tasks had been completed; however, the project was put on hold in November 2020 partially due to staff turnover at WSB, but also because COVID-19 reduced public engagement opportunities.

Many items identified in the work program have been completed such as assessing the ordinance for areas of divergence with the Comprehensive Plan, modifying the TOD ordinance, revising, and consolidating uses in both the residential and commercial districts, and provision of an analysis of compliance with State and Federal regulations. One of the sub-areas left to be completed was evaluating whether certain conditional uses in the businesses and industrial districts could be shifted to permitted. The shift reduces administrative burden on staff and allows developers and property owners to quickly implement projects for uses that are generally supported.

Shifting Conditional Uses to Permitted Uses

Based on direction from City Council, staff and WSB were directed to consider whether some business uses could be shifted from conditional to permitted by right uses. The intent was to become more business-friendly by eliminating the conditional use permitting process while creating performance standards for some uses where appropriate. The Planning Commission reviewed the land use table and made the following recommendations for uses that could be permitted by right, potentially with performance standards.

- Principal – now permitted:
  - Hotel or Motel
  - Restaurant, Class II
  - Restaurant, Brewpub
  - Theater, excluding drive-ins
  - Retail or service businesses with 25,000 sq feet or less
  - Retail or service businesses over 50,000 sq feet
  - Funeral home and mortuaries,
  - Car wash
- Accessory – now permitted:
  - Crematories/crematoriums when accessory to a funeral home, mortuary, or veterinary clinic subject to the state license and regulation process

## 5.4C - SUPPORTING DOCUMENTS

- Car wash (automatic) when accessory to fuel station
- Accessory - New
  - Outdoor Seating
- Temporary Uses (New category)
  - Christmas tree sales
  - Fireworks sales
  - Garden centers
  - Storage of winter equipment (New)

Draft performance standards have been created (see attached) based on common areas of concern: parking, circulation, noise, lighting, overall impact on neighborhood, and consistency with City development goals. A first draft was supplied to city staff and revised to eliminate duplication of performance standards in other sections of the code of ordinances. Ultimately, the new standards focus on issues not addressed by the current ordinance or provide cross-references to state or local regulations.

Finally, in working through this process, staff determined that vehicular stacking for car washes could be addressed with a simple amendment to Section 152.145, the same standards for other drive-through businesses. This amendment is included at the end of the attachment.

### Questions and Considerations

The goal of the meeting tonight is to reintroduce the zoning ordinance update work, focusing on the suggested performance standards for new permitted and accessory uses.

### Attachment:

- Draft Performance Standards

## **Principal Uses (Formerly Conditional – Now Permitted)**

### **Hotel or Motel**

1. A lodging license pursuant to Chapter 117, shall be provided.
2. At least two amenities, such as pool, restaurant, lounge, fitness center, office center, or similar ancillary use, shall be provided in conjunction with the hotel or motel.

### **Funeral home and mortuary**

1. Loading and unloading areas used by ambulances, hearses or other such service vehicles shall be screened from public off-site views.
2. If a crematorium is included as part of a funeral home, no more than 33% of the floor area of a funeral home may be devoted to the crematory, including area for the cremator, cremation observation, crematory access and maintenance areas, and any additional areas used primarily for services related to cremation.
3. An employee residence is permitted.

### **Car wash (principal use)**

All car washes shall comply with the following supplemental regulations, which shall be in addition to all other regulations of this Zoning Code. In the event there is a conflict between these supplemental regulations and other portions of this Zoning Code, the regulations in this section shall govern.

1. All car wash operations shall be staffed during operating hours.
2. All car wash bays shall have a separate entrance and exit.
3. If within 200 feet of a residential district or use, the car wash bays shall be closed when in operation.

## **Accessory Uses (Formerly Conditional – Now Permitted)**

### **Cocktail room**

1. Cocktail rooms shall be clearly incidental and subordinate to the primary operation of the associated distillery as a production or manufacturing facility. The primary focus of the cocktail room shall be the marketing and sale of the beverage produced or manufactured by the distillery.

### **Crematories/Crematoriums when accessory to a funeral home, mortuary, or veterinary clinic**

1. Licensure by the Minnesota Commissioner of Health shall be required and compliance with M.S. § 149A.95.
2. Crematoriums shall not be located within 500 feet of any residential district.
3. Crematoriums shall not be used for the disposal of any waste materials.
4. Crematoriums shall not emit any visible air emissions nor generate odors.

## **Accessory Uses (NEW)**

### **Outdoor Seating**

1. Outdoor seating is permitted if depicted on an approved site plan. The following additional standards relate to outdoor seating areas:
  - a. Service and consumption of alcohol on outdoor patios and decks in conjunction with an intoxicating liquor "on-sale" license or a 3.2 percent malt liquor license may be permitted under the following conditions:
    - i. The patio or deck area must be contiguous to the licensed premises and shall be enclosed with a fence that meets standards set forth in this code that does not allow entrance from outside the fenced area onto the patio or deck area.
    - ii. Receptacles for rubbish, garbage, etc., must be provided and adequately screened.
    - iii. Lighting must be sufficient to promote public safety, directed downward, and compatible with the surrounding area.
    - iv. Smoking may be allowed on the patio or deck area, provided it is in compliance with the Minnesota "Freedom to Breathe Act of 2007."
    - v. The patio or deck area shall be controlled and monitored continuously during the hours of operation and unruly patrons shall be removed immediately.
    - vi. Patrons shall not leave the premises with a drink nor can drinks be taken onto a public sidewalk.
    - vii. The outdoor patio or deck area must be included in the required liquor liability insurance for the premises.
2. Outdoor entertainment and the use of sound-amplifying equipment shall be subject to the following regulations.
  - a. The volume of sound shall not violate 152.570 of this ordinance.
  - b. The sound amplifying equipment shall not be used between the hours of ten p.m. and eight a.m.

## **ACCESSORY SEASONAL USES (NEW)**

### **Christmas Trees**

1. All temporary buildings or trailers associated with the sales lot, as well as all tree-related debris and materials are permitted between November 15 and January 15.
2. The sales area shall be separated from vehicular uses by the placement of a fence or barrier to prevent pedestrian and vehicular conflicts.
3. Must be on a paved surface that does not interfere with the principal use's minimum parking needs, traffic flow, and emergency access.

### **Garden Center**

1. Garden center sales shall only be permitted between April 1 and June 30.

2. The sales area shall be separated from vehicular uses by the placement of a fence or barrier to prevent pedestrian and vehicular conflicts.
3. Must be on a paved surface that does not interfere with the principal use's minimum parking needs, traffic flow, and emergency access.

#### **Exterior Firework Sales**

1. An annual retail fireworks permit shall be required per Section 93.25.
2. Fireworks sales shall only be permitted between June 15 and July 5.
3. The sales area shall be separated from vehicular uses by the placement of a fence or barrier to prevent pedestrian and vehicular conflicts.
4. Must be on a paved surface that does not interfere with the principal use's minimum parking needs, traffic flow, and emergency access.
5. No fireworks shall be sold or dispensed from a motor vehicle or towed vehicle.
6. Outdoor sales lot for consumer fireworks sales shall meet the specialized requirements laid out in Minnesota statute, section 624.20, and all other applicable ordinances or statutes.

#### **REVISIONS TO CHAPTER 152.145**

##### § 152.145 OFF-STREET PARKING AREA DESIGN REQUIREMENTS.

(H) Stacking. All drive-throughs, including service windows and car washes must contain room for a minimum stacking of six cars from the serving window and stacking must not extend into drive aisles.

## Matt Hayes-Regan

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**From:** Matt Hayes-Regan  
**Sent:** Thursday, February 29, 2024 10:28 AM  
**To:** RICHARD HARTFIEL  
**Cc:** Planning  
**Subject:** RE: Question.

Hi Richard,

Thank you for your e-mail. In reviewing the calendar, I can confirm that the public hearing for the updates to the Land Use Code is Wednesday, March 13 at 7:00 pm. The public hearing will be held at the Planning Commission Regular Meeting (held the second Wednesday of the month) here at City Hall in council chambers.

Please let us know if you have any other questions or need additional information.

Thank you,

**Matt Hayes-Regan** (*he/him/his*)  
Planning Program Assistant  
763-493-8056



5200 85th Avenue N, Brooklyn Park, MN 55443

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**From:** RICHARD HARTFIEL <dchartfiel@msn.com>  
**Sent:** Thursday, February 29, 2024 10:14 AM  
**To:** Planning <planning@brooklynpark.org>  
**Subject:** Question.

Is the Public hearing for March on Tuesday the 13<sup>th</sup> or Wednesday the 14<sup>th</sup> .  
The days & dates don't line up  
Thank You

## Matt Hayes-Regan

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**From:** Matt Hayes-Regan  
**Sent:** Thursday, February 29, 2024 8:57 AM  
**To:** Rich Xiong  
**Cc:** Planning  
**Subject:** RE: Land Use and Zoning Changes

Hi Rich,

Thanks for your e-mail. That's a good question. Each public hearing will consider different sections of the Land Use Code. A breakdown of the Land Use Sections that we anticipate using the Planning Commission Regular Meetings for include:

- **March 13 Regular Planning Commission Meeting**

Chapter 150 Signs  
 Chapter 151 Subdivisions  
 Chapter 153 Stormwater  
 Chapter 152, Article 1 Administration  
 Chapter 152, Article 2 Zoning Districts

- **April 10 Regular Planning Commission Meeting**

Chapter 152, Article 3 Standards, Section 1 Land Use Performance Standards

- **May 8 Regular Planning Commission Meeting**

Chapter 152, Article 3 Standards, Section 2 Development Standards

The agendas for each of the Regular Meetings will be posted on the City's website by the end of business on the Friday prior to a given meeting. You will be able to review the agendas via the link below.

[Planning Commission Agendas and Minutes](#)

Know we are available if you have any questions or comments about the updates to the Land Use Code.

**Matt Hayes-Regan** (*he/him/his*)

Planning Program Assistant  
 763-493-8056



5200 85th Avenue N, Brooklyn Park, MN 55443

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**From:** Rich Xiong <rxiong12@yahoo.com>  
**Sent:** Thursday, February 29, 2024 12:36 AM

To: Planning <planning@brooklynpark.org>  
Subject: Fw: Land Use and Zoning Changes

Will each public hearing be identical?

Rich

----- Forwarded Message -----

From: City of Brooklyn Park <[brooklynpark@public.govdelivery.com](mailto:brooklynpark@public.govdelivery.com)>  
To: "[rxiong12@yahoo.com](mailto:rxiong12@yahoo.com)" <[rxiong12@yahoo.com](mailto:rxiong12@yahoo.com)>  
Sent: Wednesday, February 28, 2024 at 09:46:08 AM CST  
Subject: Land Use and Zoning Changes



# Land Use and Zoning Changes



## Learn about how Brooklyn Park is updating its land use plan

Brooklyn Park is evolving rapidly, experiencing substantial growth and development since our last major zoning update in 2000. To better align with our evolving vision and community goals, the City is making changes to our zoning regulations and land use policies.

Your feedback is invaluable to us as we navigate these changes:

1. **Learn more** on our [website](#) and submit comments and suggestions online
2. **Attend the Public Hearing:** Join us at the Brooklyn Park Planning Commission Public Hearing to voice your opinions in person.

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## Public Hearing Dates

- **Wednesday, March 13, 7:00 PM**
- **Wednesday, April 10, 7:00 PM**
- **Wednesday, May 8, 7:00 PM**

## Location

- **City Hall, 5200 85th Avenue**

At the public hearing, you'll have the opportunity to engage directly with City staff and Planning Commission members who are leading the initial phase of this process.

In the coming months, City Council members will deliberate on the proposed changes and vote to approve a final set of land use and zoning rules for Brooklyn Park. Your input at this critical juncture will help shape the future of our city for generations to come.

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## Questions?

Planning Team  
[planning@brooklynpark.org](mailto:planning@brooklynpark.org)  
763-493-8057

If you need this information in another language or format or disability accommodations, email [access@brooklynpark.org](mailto:access@brooklynpark.org) or call 763-424-8000.

Si usted necesita esta información en español: 763-424-8000

Yog xav tau kev pab, thov hu rau 763-424-8000 lawv mam li nrhiav ib tus neeg txhais lus rau koj



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5.4E - PROPOSED SUMMARY ORDINANCE

The City Council has determined that pursuant to its City Charter, Ordinance #2024-\_\_\_\_\_ should be published in summary form.

SUMMARY OF ORDINANCE #2024-\_\_\_\_\_

ORDINANCE AMENDING CHAPTER 152 OF THE BROOKLYN PARK CITY CODE  
PERTAINING TO \_\_\_\_\_

Ordinance #2024-\_\_\_\_\_, amends Chapter 152, Pertaining  
\_\_\_\_\_.

**Changes to §152**

[Placeholder]

This summary of Ordinance #2024-\_\_\_\_\_ has been approved by the City Council on June \_\_\_\_, 2024 and the City Council has determined that the title and text of the summary clearly informs the public of the intent and effect of the ordinance. A printed copy of the full text of the ordinance is available for public inspection in the office of the City Clerk.

ATTEST:

\_\_\_\_\_  
HOLLIES WINSTON, MAYOR

\_\_\_\_\_  
DEVIN MONTERO, CITY CLERK

Approved as to Form by City Attorney  
Passed on First Reading: \_\_\_\_\_  
Passed on Second Reading: \_\_\_\_\_  
Summary Published in Official Newspaper: \_\_\_\_\_