

ORDINANCE NO. 2024 - 28

AN ORDINANCE TO CREATE A UNIFIED ZONING CHAPTER THEREBY AMENDING CHAPTERS 1, 2, 6, 8, 9, 10, 11, 12, 14, 15, 16, 17, 19, 21, 22, AND APPENDIX A OF THE CITY CODE.

The City Council for the City of Bloomington, Minnesota, ordains:

Section 1. That Chapter 1 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 1: INTERPRETATION AND ENFORCEMENT OF THE CITY CODE

ARTICLE II: CIVIL HEARING PROCESS

§ 1.11 CITY CODE PROVISIONS THAT ARE ADMINISTRATIVE OFFENSES.

- (37) Chapter 18, Trees;
- (38) [~~Chapter 19, Article I, General Provisions~~]Reserved;
- (39) [~~Chapter 19, Article II, Administration and Procedure~~]Reserved;
- (40) [~~Chapter 19, Article III, Zoning District Map, Zoning Districts and District Uses~~]Reserved;
- (41) [~~Chapter 19, Article IIIA, Additional Zoning Districts~~]Reserved;
- (42) [~~Chapter 19, Article IV, District Regulations~~]Reserved;
- (43) [~~Chapter 19, Article V, Performance Standards~~]Reserved;
- (44) [~~Chapter 19, Article VI, Billboards~~]Reserved;
- (45) [~~Chapter 19, Article VII~~]Reserved;
- (46) [~~Chapter 19, Article VIII, Anti-Blight Regulations~~]Reserved;
- (47) [~~Chapter 19, Article IX, Shore Area Regulations~~]Reserved;
- (48) Reserved;

Section 2. That Chapter 2 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 2: ADMINISTRATION

ARTICLE V: CITY BOARDS AND COMMISSIONS

DIVISION G: PLANNING COMMISSION

§ 2.85.04 RESERVED~~ZONING VARIANCES.~~

~~(a) *Purpose.* Zoning variances provide a means to approve deviation from zoning requirements where practical difficulties exist because of conditions or circumstances unique to an individual property. The purpose of this section is to establish the procedures for requesting and the requirements for issuing a zoning variance.~~

~~(b) *Authority.* The Planning Commission shall serve as the board of appeals and adjustments pursuant to the provisions of Minnesota Statutes, §§ 462.354, subd. 2; 462.357, subd. 6; and 462.359, subd. 4, as they may be amended from time to time.~~

~~(c) *Where required.* Prior to any City approval of an application that does not meet the standards of Chapters 19 or 21 of the city code, the Planning Commission, or the City Council in the case of an appeal, must approve a zoning variance unless the city code provides an alternative means of deviation.~~

~~(d) *Initiation.* A variance application must be initiated by the owner of land upon which a variance is proposed. If originally denied, a variance application for the same item may not be resubmitted until one (1) year after the original denial.~~

~~(e) *Review, approval, and appeal of Planning Commission decision.* Zoning variances must be acted upon by the Planning Commission. If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the variance application is automatically sent to the City Council for final action. The Planning Commission must hold a public hearing. The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeal request with supporting materials within three business days of the Planning Commission decision. The appellant will be given the opportunity to present their case in front of the City Council. If the variance application is related to an associated rezoning, Comprehensive Plan amendment, or other application that requires City Council action, the City Council must act on the variance application. When the City Council must act on a variance application, the Planning Commission must make a recommendation.~~

~~(f) *Conditions of approval.* The entity empowered to take action on a given variance application may impose conditions in the granting of a variance. A condition must be related to and must bear a rough proportionality to the impact created by the variance.~~

~~(g) *Findings.*~~

~~(1) Zoning variances may only be approved when:~~

~~(A) The variance is in harmony with the general purposes and intent of the ordinance;~~

~~(B) The variance is consistent with the Comprehensive Plan;~~

~~(C) The applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute practical difficulties;~~

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

~~(E) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and~~

~~(F) The variance if granted will not alter the essential character of the locality.~~

~~(h) If one or more required findings for the approval of variance applications under subsection (g) is for any reason held invalid, such invalidation shall cause § 2.85.04(g) as a whole to be invalid until amended. The Planning Commission and City Council declare that, if one or more variance criteria are found to be invalid, it would have adopted the standard or requirement from which a variance was sought without causing variances to become easier to obtain.~~

~~(i) *Recording.* A certified copy of the resolution approving a zoning variance must be recorded with the county.~~

~~(j) *Expiration.* See § 19.23.01 of the city code.~~

~~(k) *Use variance prohibited.* No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.~~

~~(l) *Content.* Zoning variance applications must include the following information, unless exempted by the Planning Manager:~~

~~(1) An application form and the signed consent of the property owner(s) or authorized representative.~~

~~(2) The required application fee as set forth in City Code Appendix A.~~

~~(3) Written documentation that includes:~~

~~(A) A complete project description;~~

~~(B) Specific provisions of the Zoning Code involved and the variance request details; and~~

~~(C) Why and how the request meets each of the variance findings in subsection (g) above.~~

~~(4) Scaled floor plan, site plan, and building elevations (where applicable).~~

~~(5) Certified survey showing the existing conditions on the property (if setback related).~~

~~(m) *Notice.* In addition to the notice requirements set forward in city code § 21.502.01, if the application pertains to a variance within the Floodplain District, notice shall also be given to the Minnesota Department of Natural Resources at least ten days prior to the date of the hearing.]~~

§ 2.85.05 INTERPRETATION OF ZONING, PLATTING, PLANS, AND SUBDIVISION PROVISIONS.

(a) *Purpose.* To provide a process through which applicants may appeal staff interpretation of provisions in Chapters 9, [49,] 21 and 22 of the city code.

(b) *Initiation.* An interpretation appeal may be initiated by any party that disagrees with staff interpretation of provisions in Chapters 9, [49,] 21 and 22 of the city code.

Section 3. That Chapter 6 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 6: FIRE PREVENTION AND PROTECTION

ARTICLE I: FIRE CODE

§ 6.04 DWELLINGS; OPEN FLAME AND FUEL STORAGE; SMOKE DETECTORS.

(a) *Open flame prohibited.* In any multiple-family residence that includes three or more dwelling units where dwelling units are configured vertically above and below other dwelling units as defined in § ~~[19.03]21.601~~~~[of this city code]~~, no person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, or on any ground floor patio within 15 feet of the structure.

- (1) *Exception.* Propane grills are allowed on balconies and ground floor patios of townhouses constructed of two or more attached units in which each unit extends from the foundation to the roof and having open space on at least two sides of each unit as defined in the Minnesota State Residential Code.

(b) *Fuel storage prohibited.* In any two-family dwelling, townhouse or multiple-family dwelling as defined in § ~~[19.03]21.601~~~~[of this city code]~~, no person shall store or use any fuel, barbecue, torch or other similar heating or lighting chemical or device.

Section 4. That Chapter 8 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 8: TRAFFIC, VEHICLES AND PARKING

ARTICLE III: VEHICLE REGULATIONS

**DIVISION A: STORAGE OF ABANDONED, JUNK, AND INOPERABLE VEHICLES
AS PUBLIC NUISANCES**

§ 8.16 OPEN STORAGE OF ABANDONED, JUNK AND INOPERABLE VEHICLES PROHIBITED.

No person may store, leave or permit the storing or leaving of any abandoned, junk or inoperable vehicle upon any real property, including private property, within the city, unless the vehicle is completely enclosed in a building or unless the vehicle is stored on private property in connection with a duly licensed business or commercial enterprise operated and conducted pursuant to state law and Chapter ~~[s 19 and]~~ 21 of this city code and where the storing of abandoned, junk or inoperable vehicles is an essential portion of that lawful business or commercial enterprise.

Section 5. That Chapter 9 of the City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

CHAPTER 9: HOUSING OPPORTUNITY AND PRESERVATION

ARTICLE I: GENERAL PROVISIONS

§ 9.04 DEFINITIONS.

AFFORDABLE HOUSING DEVELOPER. A developer of housing whose portfolio serves households at or below 60% of AMI.

AFFORDABLE HOUSING PLAN. The plan submitted by a developer as part of a final site and building plan or final development plan approval pursuant to this chapter and Chapter[s 19 and] 21.

AFFORDABLE HOUSING TRUST FUND. A trust fund established by the City Council for the purpose of collecting and disbursing funds for affordable housing programs in accordance with the requirements set forth in Article VIII.

Section 6. That Chapter 10 of the City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

CHAPTER 10: ENVIRONMENTAL CONTROL

ARTICLE III: ODOR

§ 10.23 DEFINITIONS.

The words and terms of this Article III shall have the meaning of the words and terms described and defined in § 14.444 and § [~~19.03~~]21.601[~~of this code~~] unless the context clearly indicates otherwise.

ARTICLE VI: WEEDS AND BRUSH

§ 10.38 NUISANCE.

(b) Weeds and grass. All weeds or growing grass upon any lot, parcel of land or adjacent right-of-way area in the city to a height greater than eight inches, or which

have gone or are about to go to seed, are hereby declared to be a nuisance and a detriment to the good order of the city with the following exceptions:

- (5) Lakescaping areas as defined in § ~~[19.03]~~21.601; and

ARTICLE IX: FIREWOOD

§ 10.57 FIREWOOD STORAGE.

Except as provided below in subsection (6) below, all firewood located upon a residential property must be stored for use at that property and not for resale as follows.

- (1) The firewood shall be stored in neat, secure stacks.
- (2) The height of a woodpile over three feet shall be no more than twice its width, but in no event shall the height exceed six feet.
- (3) No firewood shall be stored within ten feet of any side or rear property line; except that if the wood is stored in an accessory building, the accessory building shall meet all zoning setback requirements.
- (4) No firewood shall be stored in the front yard as defined in § ~~[19.03]~~21.601~~[-of the city code].~~

Section 7. That Chapter 11 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 11: WATER, WASTEWATER, SOLID WASTE AND REFUSE UTILITY SERVICES

ARTICLE VI: FEES AND RATES FOR UTILITY SERVICES

§ 11.65 WASTEWATER SERVICE.

- (e) Sewer availability charge.

(3) The charge for each building or structure shall be equal to the number of units of sewage volume it will discharge, multiplied by the current year SAC rate mandated by the Metropolitan Council Environmental Services. The number of SAC units shall be determined as follows:

(D) Multiple-family public housing units and multiple-family housing units (as defined in § ~~[19.03]~~21.601~~[of this code]~~) subsidized under any federal program for low and moderate income housing shall be counted as 75% of the unit equivalent for that type of housing.

Section 8. That Chapter 12 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 12: PUBLIC PEACE AND SAFETY

ARTICLE I: GENERAL PROVISIONS

§ 12.01.01 DEFINITIONS.

NUISANCE SERVICE CALL. Public officer response to a verified incident of any activity, conduct or condition occurring on private property that is likely to unreasonably interfere with the quiet enjoyment of neighboring properties or the safety, health, morals, welfare, comfort or repose of the residents therein or misuse city resources, including without limitation:

(9) Prostitution in violation of state law or acts relating to prostitution, or the conduct of unlicensed escort services, sexually oriented business or massage or massage services, in violation of state law or Chapters 14 and ~~[19-]~~ 21 of this city code;

ARTICLE II: NUISANCE CONDUCT AND CONDITIONS

DIVISION A: PUBLIC NUISANCE PROPERTY CONDITIONS

§ 12.03 PROPERTY CONDITIONS CONSTITUTING A PUBLIC NUISANCE OR PUBLIC HEALTH NUISANCE.

(36) Abandoned or unlawful signs, as defined in § 21.304.07[-]; and

(37) Any vibration discernible (beyond property line) to the human sense of feeling for three minutes or more duration in any one hour and any vibration producing an acceleration of more than 0.1 g or resulting in any combination of amplitudes and frequencies beyond the “safe” range of Table 7, United States Bureau of Mines Bulletin No. 442, *Seismic Effects of Quarry Blasting*, on any structure.

DIVISION O: SMOKING PROHIBITED

§ 12.81 PROHIBITIONS.

(a) The prohibitions of this section do not apply to:

(5) Smoking shelters. Smoking shelters must comply with the performance standards for accessory buildings set forth in § 21.301.19[-of the city code]; provided that the maximum size of smoking shelters shall be 200 square feet and smoking shelters may be located in side yards.

Smoking shelters must be detached from principal buildings, be located more than 25 feet from entrances, exits, open windows and ventilation intakes of public places and places of work and be no more than 50% enclosed at any time. The percentage of enclosure is calculated based on the elevation area below the roof of all elevations. For calculation purposes, screens are not considered to be enclosures but louvers, windows and other solid materials qualify as enclosures. Consumption and service of food and alcoholic and nonalcoholic beverages is prohibited in smoking shelters. A proprietor may apply for a variance to the 25-foot distance requirement or maximum size requirement for smoking shelters in accordance with § 21.501.10[~~2.85.04 of the city code~~].

ARTICLE IV: ANIMAL CODE

DIVISION D: CHICKENS, FARM POULTRY, FARM ANIMALS, AND BEES

§ 12.115 CHICKENS.

(i) *Shelter and enclosure requirements.* Chickens shall be properly protected from the weather and predators in a shelter or coop, and have access to the outdoors in an enclosure or fenced area. The shelter and/or enclosure shall meet all of the following requirements:

- (1) Applicable building and zoning requirements of Chapter 15~~[,-19]~~ and 21;

§ 12.116 FARM POULTRY AND FARM ANIMALS.

(i) *Shelter and enclosure requirements for farm poultry.* Farm poultry shall be properly protected from the weather and predators in a shelter or coop, and have access to the outdoors in an enclosure or fenced area. The shelter and/or enclosure shall meet all of the following requirements:

- (1) Applicable building and zoning requirements of Chapters 15~~[,-19]~~ and 21;

DIVISION E: WILD ANIMALS

§ 12.121 EXCEPTIONS; PERMITS AND LICENSES.

(d) *Wildlife rehabilitators.* Persons keeping wild animals as part of a bona fide institutional program to return such animals to the wild are exempt from the requirements of this section, provided the location of the premises complies with all zoning requirements of Chapter~~[-19 or]~~ 21 of this code.

DIVISION F: INSPECTION AND ENFORCEMENT OF THE ANIMAL CODE

§ 12.129 VARIANCES TO THE ANIMAL CODE.

All zoning variances, including but not limited to, setback requirements, screening and fencing, shall proceed according to the variance procedures set out in Chapter~~[s-19 and]~~ 21 of this city code. The city shall not consider variances or exceptions to the Animal Code requirements including, but not limited to, number of animals allowed at one residence, shelter or enclosure, sterilization, breeding prohibition and slaughter prohibition.

Section 9. That Chapter 14 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 14: LICENSES AND PERMITS

ARTICLE I: GENERAL PROVISIONS

§ 14.08 PERSONS AND LOCATIONS INELIGIBLE FOR LICENSE AND PERMIT.

(b) *Locations ineligible.* Unless a specific article or division of this chapter provides otherwise, no license or permit in this code shall be granted to the following locations.

(2) *Authorized use.* No license or permit shall be granted unless the use for which a license or permit is being sought is authorized pursuant to Chapter ~~[19 or]~~ 21 of the city code.

ARTICLE II: PUBLIC ENTERTAINMENT LICENSES AND REGULATIONS

DIVISION E: PUBLIC ASSEMBLIES

§ 14.64.01 EXEMPTIONS FROM PERMIT FEE AND APPLICATION.

(d) Responsibilities of exempt event sponsors. Those persons exempt from a permit fee and application in subsection (b) above are nonetheless subject to all applicable state laws and city code provisions, including without limitation regulations relating to: parks, open space and recreational areas (§§ 5.20 through 5.22.01); noise (§§ 10.29 through 10.32); sound trucks (§§ 10.33 through 10.36); trespass (§§ 12.07 through 12.12); public nuisance (§§ 12.02 through 12.06); juvenile curfew (§§ 12.27 through 12.33); vandalism (§ 12.34); transient merchant (§§ 14.180 through 14.192); tents (§ 21.301.21~~[19.63.06]~~); and signs (Chapter 21, Article III, Division D, the sign code~~[§ 19.406]~~) and may be required to pay the cost of any law enforcement services over and above the level of city services available with regular on-duty staffing that are directly

attributable to their event. The city's cost of repair, clean-up or replacement of city property, public grounds or facilities damaged as a direct result of the event shall also be recoverable from the exempt event sponsor, as well as any city liability to third parties resulting from the exempt person's event.

§ 14.66 PERMIT RESTRICTIONS AND PERMIT REVOCATION.

(b) Application of other laws. In addition to the provisions of this Division E, parades , races , public assemblies and private special events shall be subject to all other applicable state laws and city code provisions, including without limitation regulations relating to: parks, open space and recreational areas (§§ 5.20 through 5.22.01); noise (§§ 10.29 through 10.32); sound trucks (§§ 10.33 through 10.36); trespass (§§ 12.07 through 12.12); public nuisance (§§ 12.02 through 12.06); juvenile curfew (§§ 12.27 through 12.33); vandalism (§ 12.34); transient merchant (§§ 14.180 through 14.192); tents (§ 21.301.21[~~19.63.06~~]); and signs (Chapter 21, Article III, Division D, the sign code [~~§ 19.106~~]).

ARTICLE III: ANIMAL LICENSES

DIVISION B: COMMERCIAL ANIMAL ESTABLISHMENTS

§ 14.98 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

(b) *Locations ineligible.* The following locations shall be ineligible for a license under this Division B.

(2) *Improper zoning.* No license shall be granted if the property is not properly zoned under Chapter [~~19-0r~~]21 of this code.

ARTICLE IV: BUSINESS LICENSES AND REGULATIONS

DIVISION B: COURTESY BENCHES AND NEWSPAPER RACKS

§ 14.150 LICENSE APPLICATION.

(e) Evidence of the consent of the adjoining property owners or lessors within 100 feet of the proposed location of the courtesy bench if any of the adjoining property within 100 feet of the bench is zoned residential under Chapter [19-~~or~~]21 of this code including but not limited to R-1A, R-1, R-4, RS-1, RM-12, RM-24 and RM-50. This subsection (e) has no applicability to newspaper rack placement;

§ 14.152 LICENSE APPLICATION VERIFICATION AND CONSIDERATION.

(a) *Application.* An application for a license pursuant to this Division B shall be submitted to the issuing authority , which shall verify the information on the application form. The issuing authority shall then route the application to the City Traffic Engineer for review and approval. The City Traffic Engineer must approve of each proposed newspaper rack or courtesy bench based upon and consistent with the regulations set forth in this Division B, the Zoning Code, Chapter [19-~~or~~]21, Chapter 17 of this city code and applicable county and state laws or regulations relating to the use of the public streets and rights-of-way before the issuing authority shall grant the license in accordance with this Division B. The issuing authority shall either grant or deny the application in accordance with §§ 14.04 through 14.13 of this chapter of city code.

DIVISION C: CURRENCY EXCHANGE BUSINESSES

§ 14.163 STANDARDS FOR WITHHOLDING LOCAL CONCURRENCE OF A STATE CURRENCY EXCHANGE LICENSE.

(e) *Improper zoning.* Local concurrence may be withheld if the place of business to be operated under the license is located in a zoning use district in Chapter [19-~~or~~]21 of this code in which a currency exchange business is a prohibited use. Local concurrence may also be withheld if a conditional use permit is required and not obtained pursuant to Chapter [19-~~or~~]21 of this code.

DIVISION D: ESCORT SERVICES AND ESCORTS

§ 14.174 LOCATIONS INELIGIBLE FOR LICENSE.

(a) *Improper zoning.* No escort service shall be licensed if such enterprise is located on property in any residential zoning district of the city as indicated in Chapter [19-~~07~~]21 of this code.

DIVISION I: LAUNDROMATS

§ 14.244 LOCATIONS INELIGIBLE FOR LICENSE.

(b) *Improper zoning.* No license shall be granted if the property is not properly zoned for self-service laundries, launderettes and laundromats under Chapter [19-~~07~~]21 of this code unless the business is a legal nonconforming use.

DIVISION K: MASSAGE

§ 14.268 LOCATIONS INELIGIBLE FOR THERAPEUTIC MASSAGE ENTERPRISE LICENSE.

(b) *Improper zoning.* No therapeutic massage enterprise shall be licensed if the location of such enterprise is not in conformance with Chapter [19-~~07~~] 21 of this code unless such enterprise is a legal, nonconforming use.

DIVISION L: MEDICAL MARIJUANA DISTRIBUTION FACILITIES

§ 14.284 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

(d) *Locations ineligible.* The following locations shall be ineligible for a license under this Division L:

(2) *Improper zoning.* No license shall be granted if the property is not properly zoned for medical marijuana distribution facilities under Chapter [19-~~07~~]21 of this code.

DIVISION M: PAWNBROKERS

§ 14.295 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

(d) *Locations ineligible.* The following locations shall be ineligible for a license under this Division M.

(2) *Improper zoning.* No license shall be granted if the property is not properly zoned for pawnshops under Chapter [19 or]21 of this code, unless the business is a legal, nonconforming use.

DIVISION O: SEASONAL SALES/CHRISTMAS TREE SALES

§ 14.318 LICENSE FEES.

For each seasonal sale for which a license is applied, the license fee shall be as set forth in City Code Appendix A. For Christmas tree sales, the fee as set forth in City Code Appendix A of this code shall be paid unless the applicant has previously secured a conditional use permit and has paid the requisite fee required therefor by Chapter [19 or]21 of this code.

§ 14.319 LICENSE APPLICATION EXECUTION AND VERIFICATION.

(a) *Christmas tree sales.* The application for a license for the business of selling Christmas trees at retail shall be made to the City Fire Marshal on forms provided by the city. The City Fire Marshal shall inspect the premises and approve the location, and issue any orders to achieve compliance with state and local laws. Notwithstanding any provision of Chapter [19 or]21 of this code to the contrary, the Building and Inspection Division Manager is authorized to grant a conditional use permit without notice and without any action of the Planning Commission or the City Council for the business of selling Christmas trees at retail. However, such conditional use permit shall be granted only in areas zoned industrial or commercial, or upon property owned by a religious, charitable or nonprofit corporation or a political subdivision. No such conditional use permit shall be granted until the City Fire Marshal has approved the location of the Christmas tree sale.

DIVISION Q: SEXUALLY-ORIENTED BUSINESSES

§ 14.333 FINDINGS OF THE CITY COUNCIL.

(e) A licensing and regulatory scheme as prescribed herein can facilitate the enforcement of the city's "anti-blight" regulations in Chapter [19-~~or~~]21 of this code and can aid in monitoring sexually-oriented businesses for adverse secondary effects on the community.

§ 14.342 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

The issuing authority shall issue a license under this Division Q to an applicant unless one or more of the following conditions exist:

(6) The sexually-oriented business does not meet all of the zoning requirements prescribed in Chapter [19-~~or~~]21 of this code;

§ 14.343 LICENSE RESTRICTIONS.

(g) *Adult car wash requirements.* Sexually-oriented businesses that are adult car washes shall meet the requirements of this Division Q and the zoning requirements of Chapter [19-~~or~~]21 of this code; and shall not allow employees, agents, independent contractors or persons to violate § 12.20 [~~of this code~~].

§ 14.348 RENEWAL APPLICATION.

(b) *Verification, investigation and consideration of renewal application.* Within 20 calendar days of receipt by the issuing authority of a fully completed renewal application, the issuing authority shall verify any and all of the information requested of the applicant in the renewal application, including the ordering of criminal background checks, and shall conduct any necessary investigation to assure compliance with this Division Q. No later than ten calendar days after the completion of the renewal

application verification and investigation by the issuing authority , as prescribed herein, the issuing authority shall issue a renewal license unless one or more of the following conditions exist:

(5) The sexually-oriented business does not meet the zoning requirements prescribed in Chapter [~~19 or~~]21 of this code;

DIVISION T: BODY ART ESTABLISHMENTS

§ 14.384 LOCATIONS INELIGIBLE FOR A LICENSE.

(b) *Improper zoning.* No license shall be granted if the property is not properly zoned for body art establishments under Chapter[~~s 19 and~~]21 of this code unless the business is a legal, nonconforming use.

DIVISION X: PRECIOUS METAL DEALERS

§ 14.442.11 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE OR REGISTRATION.

(d) *Locations ineligible.* The following locations shall be ineligible for a license or registration under this Division X.

(2) *Improper zoning.* No license or registration shall be granted if the property is not properly zoned for precious metal dealers under Chapter [~~19 or~~]21 of this code, unless the business is a legal, nonconforming use.

DIVISION Y: SALE OF PERMITTED CONSUMER FIREWORKS

§ 14.442.27 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE.

(b) *Locations ineligible.* The following locations shall be ineligible for a license under this Division Y.

(2) *Improper zoning.* No license shall be granted if the property is not properly zoned for the activity being licensed under Chapter [19-~~or~~]21 of this code, unless the business is a legal, nonconforming use.

DIVISION Z: SECONDHAND GOODS DEALERS

§ 14.442.40 PERSONS AND LOCATIONS INELIGIBLE FOR A LICENSE OR REGISTRATION.

(d) *Locations ineligible.* The following locations shall be ineligible for a license or registration under this Division Z.

(2) *Improper zoning.* No license or registration shall be granted if the property is not properly zoned for this retail business under Chapter [19-~~or~~]21 of this code, unless the business is a legal, nonconforming use.

ARTICLE VI: TIME-OF-SALE HOUSING EVALUATIONS AND MANUFACTURED HOME PARK REGULATIONS

DIVISION E: MANUFACTURED HOME PARKS, RECREATIONAL CAMPING AREAS AND YOUTH CAMPS

§ 14.543 LICENSE AND PLAN REVIEW.

(e) *Locations ineligible.* Unless a specific article or division of this chapter provides otherwise, no license or permit in this code shall be granted to the following locations.

(2) *Improper zoning.* No license shall be granted if the property is not properly zoned for the licensed activity under Chapter[s-19 and]21 of this city code unless the business is a legal, nonconforming use.

§ 14.545 STANDARDS FOR HEALTH, SAFETY AND NUISANCE PREVENTION.

(c) *Manufactured home and recreational vehicle spacing.*

(1) *Placement of structures.*

(B) No manufactured home unit, attachment or other structure may be parked or situated on any city, state or county right-of-way, easement or within the external setbacks for the property as set forth in the Chapter~~[s 19-07]~~ 21 of this city code without the explicit written approval of the controlling unit of government.

ARTICLE VIII: RENTAL HOUSING CODE

DIVISION B: RENTAL HOUSING LICENSING

§ 14.570 APPLICABILITY AND EXCEPTIONS.

(b) The provisions of this Article VIII do not apply to:

(5) Lodging establishments such as hotels, motels, kindergarten through grade 12 student dormitories, and bed and breakfasts licensed under § 14.446~~[of this code]~~. This exemption also applies to hotel manager dwelling units defined in § ~~[19-03]~~21.601;

DIVISION C: REGULATIONS

§ 14.580 ADDITIONAL REGULATIONS FOR HEALTH, SAFETY AND MAINTENANCE.

(f) *Garbage and recycling.*

(1) Every multiple-family dwelling and group housing, except those with curbside collection services as required in subsection (f)(2) below, must have and maintain in

sanitary condition adequate facilities to accommodate the garbage and recycling needs of the dwelling units. Such facilities must consist of containers with tight covers for storage; and the owner of such multiple dwellings is responsible for providing collection service for both garbage and recycled materials in compliance with Chapter 10 of this code. Further, the garbage and recycling facilities must be in compliance with Chapter ~~[19 and]~~21 of this code.

(r) *Zoning*. The city will use the zoning requirements set forth in Chapter~~[s 19 and]~~ 21 of this code.

ARTICLE IX: FARMERS MARKETS

§ 14.605 EXEMPTIONS.

(b) Responsibilities of exempt farmers market sponsors. Those persons exempt from a permit fee and application in subsection (a) above are nonetheless subject to all applicable state laws and city code provisions, including without limitation regulations relating to: parks, open space and recreational areas (§§ 5.20 through 5.22.01); noise (§§ 10.29 through 10.32); sound trucks (§§ 10.33 through 10.36); trespass (§§ 12.07 through 12.12); public nuisance (§§ 12.02 through 12.06); juvenile curfew (§§ 12.27 through 12.33); vandalism (§ 12.34); transient merchant (§§ 14.180 through 14.192); tents (§ 21.301.21~~[19.63.06]~~); and signs (Chapter 21, Article III, Division D, the sign code~~[§ 19.106]~~) and may be required to pay the cost of any law enforcement services over and above the level of city services available with regular on-duty staffing that are directly attributable to their farmers market. The city's cost of repair, clean-up or replacement of city property, public grounds or facilities damaged as a direct result of the farmers market shall also be recoverable from the exempt farmers market sponsor, as well as any city liability to third parties resulting from the exempt person's farmers market.

§ 14.607 REQUIREMENTS FOR ALL FARMERS MARKETS.

(a) *Location*. Farmers markets are subject to the following location requirements:

(1) *Zoning districts*. Farmers markets are permitted uses in multiple zoning districts as stated in Chapter ~~[19 and]~~21 of the city code.

(f) Tents and canopies. Permits are required for tents subject to requirements stated in § 21.301.21~~[19.63.06 of this code]~~.

(h) *Signs*. Signs for the farmers market are subject to requirements stated in Chapter ~~[19 Article X]~~21, Article III, Division D of this code.

ARTICLE X: ARTS AND CRAFTS FESTIVAL

§ 14.706 REQUIREMENTS FOR ARTS AND CRAFT FESTIVAL.

(a) *Location*. Arts and craft festivals are subject to the following location requirements:

(1) *Zoning districts*. Arts and craft festivals are permitted uses in multiple zoning districts as stated in Chapter ~~[19 and]~~21 of the city code.

(e) Tents and canopies. Permits are required for tents subject to requirements stated in § 21.301.21~~[19.63.06 of this code]~~.

(g) *Signs*. Signs for the arts and crafts festival are subject to requirements stated in Chapter ~~[19 Article X]~~21, Article III, Division D of this code.

Section 10. That Chapter 15 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 15: BUILDINGS AND STRUCTURES

ARTICLE I: BUILDING CODE

§ 15.14 CONSTRUCTION AND MAINTENANCE OF ANTENNAS AND SUPPORTING TOWERS.

(d) Construction requirements. All antennas and towers erected, constructed or located within the city, and all wiring therefor, shall comply with the following requirements:

(8) Antennas and towers shall not be erected on protected residential property as defined in § ~~[49.03]~~21.601 ~~[of this code]~~ in violation of the following restrictions.

(9) All towers erected within the city must conform to the applicable performance standards in § 21.302.37~~[49.63.05 of this code]~~.

(f) *Lights and other attachments.* No antenna or tower on protected residential property as defined in § ~~[49.03]~~21.601 ~~[of this code]~~ shall have affixed or attached to it in any way except during time of repair or installation any lights, reflectors, flashers or other illuminating device, except as required by the Federal Aviation Agency or the Federal Communications Commission, nor shall any tower have constructed thereon, or attached thereto, in any way, any platform, catwalk, crow's nest or like structure, except during periods of construction or repair.

(g) Number of towers and antennas. Only one tower shall exist at any one time on any one parcel of protected residential property as defined in § ~~[49.03]~~21.601~~[of this code]~~.

ARTICLE IX: LICENSES AND PERMITS

DIVISION B: LICENSES AND PERMITS; GENERAL

§ 15.202 TEMPORARY STOCKPILES.

(b) *Where allowed.*

(3) *Shore Area Zones.*

(A) All stockpiles projects are prohibited in the Shore Area Zones, as defined in Table 1, § 21.303.01(c)~~[49.87.03 of the city code]~~, without a shore area permit issued by the city and/or City Council action.

Section 11. That Chapter 16 of the City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

CHAPTER 16: STORM WATER MANAGEMENT, STORM UTILITY, AND WETLANDS

ARTICLE II: STORM WATER MANAGEMENT

§ 16.08 EROSION AND SEDIMENT CONTROL.

(c) *Erosion control on steep slopes.* To protect areas with steep slopes from erosion caused by surface runoff due to development, all new development must comply with the requirements of § 21.303.04[~~19.57.04~~].

Section 12. That Chapter 17 of the City Code is hereby amended by deleting those words within brackets and [~~stricken through~~] and adding those words that are underlined, to read as follows:

CHAPTER 17: STREETS AND RIGHTS-OF-WAY

ARTICLE IV: RIGHT-OF-WAY MANAGEMENT AND LOCATING OF UNDERGROUND FACILITIES

§ 17.70 STANDARDS FOR CONSTRUCTION OR INSTALLATION.

(d) *Standards for wireless telecommunication facilities.*

(1) *Purpose.* The city desires high quality wireless communication services to accommodate the needs of residents and businesses. At the same time, the city strives to minimize the negative impacts that wireless telecommunication facilities can have on aesthetics and public safety. Due to the many services that must be delivered within its limited area, the city also strives to avoid unnecessary encumbrances within the public right-of-way. The city allows and regulates wireless telecommunication facilities outside of the public right-of-way through performance standards and height limits. The purpose of this section is to regulate wireless telecommunication facilities within the public right-of-way in a manner that balances desire for service with aesthetic, public safety and right-of-way flexibility concerns.

Public rights-of-way are appropriate locations for wireless telecommunication facilities that present minimal impacts (i.e., small pole attachments that do not require new poles, do not require pole extensions, and do not have associated ground mounted equipment). Wireless telecommunication facilities that require greater heights than can be afforded by existing poles in the public right-of-way and that require ground mounted equipment are more appropriately sited outside the public right-of-way in accordance with adopted performance standards (§ 21.302.37~~[19.63.05 of this code]~~). However, the city recognizes that as wireless technology advances, some residential areas of the city may be hard to serve with wireless technology due to the lack of siting alternatives in the immediate vicinity. In such areas, where no alternative non-right-of-way locations are available, wireless telecommunication facilities that require pole extensions and ground equipment will be allowed in the public right-of-way subject to the requirements of this section which are meant to protect the public health, safety and welfare.

(2) *Wireless telecommunication facilities as pole attachments.* Wireless telecommunication facilities that meet the definition of a small wireless facility and comply with the following requirements may be attached to existing wireless support structures within the right-of-way after issuance of a pole attachment permit and execution of a small wireless facility agreement for co- locations on city-owned structures.

(F) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of § 21.302.37~~[19.63.05 of this code]~~.

(3) *Wireless telecommunication facilities as pole extensions or with ground mounted equipment.* Wireless telecommunication facilities that meet the definition of a small wireless facility and that either require increased wireless support structure height or have ground mounted equipment may be erected in the public right-of-way only when in compliance with the following provisions and after issuance of a pole attachment permit, excavation permit and execution of a small wireless facility agreement for co- locations on city-owned structures.

(G) The wireless telecommunication facility shall not interfere with public safety communications and shall meet the requirements of § 21.302.37~~[19.63.05 of this code]~~.

(I) Above grade ground mounted equipment associated with the wireless telecommunication facility shall meet the following performance standards:

(v) Ground mounted equipment located outside the planned widened public right-of-way shall conform with the requirements of § 21.302.37(j)~~[19.63.05(j)]~~ of this code]; and

(4) Wireless telecommunication facilities with new poles or new wireless support structures. Wireless telecommunication facilities with new poles or new wireless support structures may be erected in the public right-of-way only when they meet the definition of a small wireless facility and are in compliance with the following provisions and after issuance of a pole attachment permit and excavation permit.

(F) Interference. The new pole or other wireless support structure must not interfere with public safety communications and must meet the requirements of § 21.302.37~~[19.63.05]~~ of this code].

Section 13. That Chapter 19 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 19: [ZONING]RESERVED

[ARTICLE I: GENERAL PROVISIONS

DIVISION A: PURPOSE AND SHORT TITLE

§ 19.01 PURPOSE.

~~The provisions of Chapters 19 and 21 have been enacted in order to protect and promote the public health, safety and general welfare of the people of the city. Specifically, the provisions are designed to achieve amongst others the following objectives:~~

- ~~(1) Adequate light, air and safety from fire for occupants of structures;~~
- ~~(2) Conservation of the value of land and buildings;~~
- ~~(3) A balanced tax base as between residential, commercial and industrial uses;~~
- ~~(4) Avoidance of business failures through improper location;~~
- ~~(5) A minimum of congestion in the public streets;~~
- ~~(6) Compatibility between different land uses; and~~
- ~~(7) Reasonable standards to which structures and uses shall conform.]~~

§ 19.02 SHORT TITLE.

~~Chapters 19 may be referred to as the “zoning ordinance” or “Zoning Code” of the city.~~

~~§ 19.02.01 RELATIONSHIP BETWEEN CHAPTERS 19 AND 21.~~

~~The city is in the process of updating and reorganizing its zoning and land development standards. As reorganization occurs, standards will be shifted from Chapter 19 to Chapter 21. Until reorganization has concluded, both Chapters 19 and 21 will collectively serve as the zoning ordinance of the city. After reorganization has concluded, Chapter 21 will serve as the zoning ordinance of the city and Chapter 19 will be reserved. Any reference that collectively refers to Chapter 19 must be interpreted to also refer collectively to Chapter 21 and vice versa.~~

DIVISION B: DEFINITIONS

~~§ 19.03 DEFINITIONS.~~

~~The following words and terms when used in Chapters 19 and 21 shall have the following meanings unless the context clearly indicates otherwise.~~

~~**ACCESSIBILITY HOUSING.** Housing designed for occupancy by physically disabled or handicapped persons or physically disabled or handicapped families, in accordance with any of the following:~~

~~(A) Disabled by any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following bodily systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin and endocrine;~~

~~(B) Handicapped or disabled within the meaning of Title 12 U.S.C. § 1701q(d)(4) as one who has a physical impairment which:~~

~~(i) Is expected to be of long, continued, and indefinite duration;~~

~~(ii) Substantially impedes his or her ability to live independently; and~~

~~(iii) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.~~

~~(C) Disabled within the meaning of Title 42 U.S.C. § 423(d)(1)(A), which provides that a disabled person is one who has an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which can be expected to last for a continuous period of not less than 12 months.~~

~~**ACCESSORY BUILDING.** A subordinate building the use of which is incidental and customary to that of the principal building, and which may include, but is not limited to, detached garages, detached carports, storage buildings, gazebos, screen houses, playhouses, guard houses, dispatch houses, security houses, gate houses and similar structures.~~

~~**ACCESSORY DWELLING UNIT.** See **DWELLING, ACCESSORY.**~~

~~**ACCESSORY USE.** A subordinate use that is clearly and customarily incidental to the principal use of a building or premises; is operated for the benefit and convenience of the owner, customers, employees or visitors; that does not constitute more than 10% of the principal use floor area; that does not attract customers independently of the principal use; and that is located on the same lot as the principal building or use.~~

~~**ACRYLIC FINISH.** A texturable product with high yield acrylic solids and aggregate that provides a protective and decorative final top coat over portland cement plaster applied by spray or trowel.~~

~~**ACRYLIC LATEX PAINT.** A decorative product with low yield acrylic solids and no aggregate applied by spray, brush, or roller that results in minimal protective qualities.~~

~~**AGRICULTURE, INDOOR.** The growing of plants in a soil, nutrient, or water based solution, including hydroponics and accessory aquaculture, within an enclosed facility. This use type includes the incidental and accessory sale of goods produced on-site.~~

~~**AGRICULTURE, LIMITED.** Raising chickens, farm poultry or farm animals subject to the limits of city code Chapter 12, Article IV. **LIMITED AGRICULTURE** does not include more intensive agricultural activities such as commercial farming, feedlots, fur farms, slaughtering or manure storage. Growing and harvesting plants for food or enjoyment within individual or community gardens is considered to be customarily incidental to other land uses and is permitted in all zoning districts.~~

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

~~**APIARY.** The assembly of one or more colonies of bees at a single location.~~

~~**ARBOR.** An open shelter typically constructed of latticework or exposed boards and often meant to provide partial shade or support climbing plants.~~

~~**ARCADE.** A roofed passageway supported by columns and attached to a building. **ARCADES** are typically open on at least one side and intended to provide weather protection to pedestrians and ground level tenant space entrances.~~

~~**ARCHITECTURAL CONCRETE.** Any cast in place concrete or pre-cast concrete where the exposed exterior concrete surface has been shaped, ground, scored, split or otherwise altered to produce a specific aesthetic texture or shadow and in which any color is integral to the concrete.~~

~~**ARCHITECTURAL CONCRETE MASONRY UNITS.** A concrete masonry unit on which the face has been shaped, ground, glazed, scored, split or otherwise processed to produce a unit with specific aesthetic texture or shadow and, when used as an~~

external building surface in certain residential and all nonresidential zoning districts, all color is integral to the unit.

ARTIFICIAL ILLUMINATION. Any light which is produced by a mechanical means.

ARTISAN SHOP. A retail store selling art works and other handcrafted items where the facility includes an area, not to exceed 25% of the total shop floor area, for the crafting of the items being sold.

ARTS AND CRAFTS FESTIVAL. An association of two or more handcraft vendors who assemble at a defined location primarily for the purpose of selling directly to the consumer their arts or crafts.

AUAR or ALTERNATIVE URBAN AREAWIDE REVIEW. An alternative form of environmental review to determine impacts within a defined area as detailed in Minnesota Rules 4410.3610. The content and format of an AUAR is similar to that of an EAW, but provides for a level of analysis comparable to that of an EIS.

AUTO BODY SHOP. A shop that provides substantial motor vehicle body repair, painting or undercoating services, including collision repair services such as body part replacement, frame or fender straightening and repair.

AUTOMOTIVE SERVICE FACILITIES. Facilities which usually provide motor vehicle fuel and lubricants and/or which may provide tires, mufflers and other readily replaceable automotive parts. Repair services such as tune-ups and replacement of parts sold on premises are included, however, body work, painting, and machining of parts are not included.

AWNING. A roof-like cover, often of fabric, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door or the like.

BANK or FINANCIAL INSTITUTION. An establishment with the primary purpose of deposit banking, including, but not limited to, commercial banks, savings institutions and credit unions.

BASEMENT. The portion of the building between the floor and the ceiling, which is partly below and partly above grade (as defined in the Building Code, Chapter 15), but so located that the vertical distance from the grade to the floor below is less than vertical distance from grade to ceiling.

BED AND BREAKFAST. Lodging establishments providing furnished sleeping accommodations along with a morning meal of food and beverages to the public for periods of less than one week. Also see ***TRANSIENT LODGING FACILITY.***

BEEHIVE. A receptacle inhabited by a colony that is manufactured for the purpose of housing bees.

BEEKEEPER. A person who owns or has charge of one or more colonies of bees.

~~BEEKEEPING.~~ The occupation of owning and breeding bees for their honey or beeswax subject to the limits of City Code Chapter 12, Article IV.

~~BERM.~~ An earthen mound designed to provide visual interest, screen undesirable view and/or decrease noise.

~~BILLBOARD.~~ An outdoor, off-site advertising sign with a sign area greater than 150 square feet.

~~BOARDING HOUSE.~~ A dwelling unit where lodging with or without meals is provided for compensation and occupied by five or more adult individuals. (See **~~FAMILY.~~**)

~~BODY ART ESTABLISHMENT.~~ A place or premises, whether public or private, temporary or permanent in nature or location, where the practice of body art, whether or not for profit, is performed according to the provisions of § 14.376 of this code.

~~BREWERY, CRAFT/MICRO.~~ A facility that produces for sale, distribution, and consumption beer, ale, malt liquor, or other beverages made from malt by fermentation and containing not less than .5% alcohol by volume, and which possesses the appropriate federal, state, and municipal licenses and which produces not more than 3,500 barrels of malt liquor in a calendar year.

~~BREWERY, REGIONAL/NATIONAL.~~ A facility that produces for sale, distribution, and consumption beer, ale, malt liquor, or other beverages made from malt by fermentation and containing not less than .5% alcohol by volume, and which possesses the appropriate federal, state, and municipal licenses and which produces more than 3,500 barrels of malt liquor in a calendar year.

~~BREW PUB.~~ A brewer who conducts retail on-sale intoxicating liquor or 3.2% malt liquor transactions at a restaurant operated in the place where the brewer manufactures fewer than 3,500 barrels of malt liquor in a year, the entire production of which is solely for consumption on tap on the licensed premises or for off-sale from that licensed premises in 64-ounce containers commonly known as “growlers.”

~~BRICK.~~ A unit of building material that is made of clay or shale and subjected to heat treatment at elevated temperatures through a firing process. **~~BRICK~~** used as an exterior wall surface finish must meet all of the requirements for anchored veneer as proscribed by the Uniform Building Code, current edition.

~~BUILDING.~~ Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. **~~BUILDING~~** when used in this chapter includes “structure.”

~~BUILDING DIVISION DIRECTOR.~~ Includes the head of the Building Division and his or her duly authorized agents and representatives in the Building Division of the city.

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

~~**BUSINESS DEVELOPMENT.** A tract of land which is developed as a unit under single or unified ownership or control, which generally includes two or more principal buildings or uses but may consist of one building, and which contains a minimum of 5,000 square feet and has a combination of principal and supportive uses:~~

~~(A) Which contains a number of retail and service businesses serving the general public; and~~

~~(B) Which is open to occupancy by competitive uses.~~

~~**CALIPER.** The diameter of a tree measured six inches above the ground for trees four inches in diameter or less and measured 12 inches above the ground for trees greater than four inches in diameter.~~

~~**CANOPY.** A roof-like cover, often of fabric, plastic, metal or glass on a support, which provides shelter over a doorway. For purposes of §§ 19.63.06 and 21.502.01, the definition of **CANOPY** shall be an open tent, without sidewalls or drops on 75% or more of its perimeter.~~

~~**CAR CARE CENTER.** A grouping of automotive service-related uses which have a common architectural theme and shared access and circulation. The center shall consist of three or more of the following: gasoline sales, lubricant sales and installation, car wash, sale of auto parts, installation of parts sold on the premises, minor automotive services such as tune-ups and repair and auto body estimating and repair (including painting) provided there be no exterior storage of damaged or inoperable vehicles or parts, or vehicles in the process of repair or painting and there be no discernible odors at the property line. However, machining of parts is not included.~~

~~**CAR WASH.** An establishment primarily engaged in cleaning or detailing of motor vehicles, whether self-service, automatic or by hand.~~

~~**CARGO TRUCK.** A truck whose design characteristics include a storage area in the form of an open, walled, or fenced bed, or of an enclosed box-like storage compartment, designed for the carrying of equipment or materials. The term is intended to include vehicles commonly referred to as flatbed trucks, stake trucks, box trucks, and straight trucks, but is not intended to include pickup trucks or vans.~~

~~**CARPORT.** A permanent covered structure, open on at least two sides, that provides shelter for one or more motor vehicles, trailers, recreational vehicles, storage or other personal property. CARPORTS are considered to be garages for the purpose of zoning regulations except that they do not satisfy single family and two family home enclosed parking space requirements. Lightweight, temporary, impermanent structures covered with metal, fabric, canvas, fiberglass or plastic and with metal, wood or plastic frames and poles, not designed to withstand significant wind or snow load, sometimes without~~

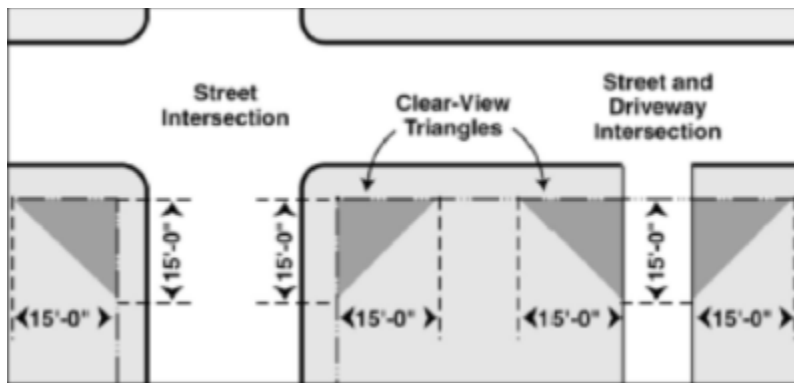
footing or other approved anchoring systems, are considered to be tents or canopies rather than **CARPORTS**.

CATERING BUSINESS, MAJOR. A business that prepares food and/or beverages to be delivered off site for consumption with no on site retail sales other than operation of an affiliated mobile food unit. Incidental delivery of prepared individual meals in conjunction with on site food service is not considered a catering function.

CATERING BUSINESS, MINOR. A business that prepares food and/or beverages to be delivered off site for consumption in a manner that is secondary to and directly related to a permitted principal use, that does not exceed 25% of the total floor area of the related principal use, and that has no on site retail sales other than operation of an affiliated mobile food unit.

CEMETERY. An area used for the burial or entombment of one or more deceased persons, including graveyards, mausoleums and columbaria.

CLEAR VIEW TRIANGLE AREA. The triangular area to provide an unobstructed clear view to a height greater than three feet above the level of the center of the adjacent intersection or driveway within the triangle of land formed on the corner of the lot by measuring a distance of 15 feet along each lot line from the street – property line intersection or lot line and driveway.



COATING. Sealing, painting or staining with any liquid or viscous material in any manner of application that includes, but is not limited to, brushing, spraying or trowling, but does not include a fired glaze on a clay product or concrete masonry unit.

COCKTAIL ROOM. An area for the on-sale consumption of distilled spirits on the premises of or adjacent to the distillery where distilled liquor is produced. A **COCKTAIL ROOM** may also include sale for off-premises consumption of distilled spirits produced at the distillery, subject to M.S. § 340A.22, subd. 4 or its successor.

COIN SALES. Sales of stamped metal issued by a governmental authority as money, whether or not currently serving as legal tender. Coins may have a numismatic value or intrinsic value greater than their denominational value and may be made of precious metals, gold, silver or platinum. **COIN SALES** is considered a retail sales use unless the

sales are taking place through the mail, telephone or similar method that does not involve over the counter sales, in which case it is considered an office use.

~~COLLEGE or UNIVERSITY.~~ A college, community college or other post-secondary educational facility primarily engaged in the education of students, which may include one or more of the following components: teaching and research facilities; educational classroom space; public assembly; child care facilities, student center; food service facilities; laundry services; library; administrative offices; and recreation facilities.

~~COLLEGE/UNIVERSITY COMPLEMENTARY MEDICAL OFFICE.~~ Complementary medical office uses, affiliated with a college or university and its teaching mission, that do not exceed 20% of the total floor area of the building in which they are located.

~~COLLEGE/UNIVERSITY COMPLEMENTARY RETAIL.~~ Complementary retail sales uses, affiliated with a college or university, that do not exceed 5% of the total floor area of the building in which they are located, or 5,000 square feet in floor area, whichever is less.

~~COLONY.~~ An aggregate of bees consisting principally of workers, but typically having one queen and at times drones, brood, combs, and honey.

~~COLUMBARIUM (PLURAL COLUMBARIA OR COLUMBARIUMS).~~ A place such as a vault for the respectful and usually public storage of cremated human remains within cinerary urns. **~~COLUMBARIA~~** are accessory to places of assembly for worship, cemeteries or mausoleums.

~~COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES.~~ Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

~~COMMUNITY EDUCATION OR ARTS CENTER.~~ An establishment operated by a non-profit organization or government agency primarily devoted to educational, recreational and cultural facilities, displays, meeting rooms, social service facilities and public health facilities, or any combination thereof.

~~COMMUNITY GARDEN.~~ A garden intended to be used and maintained by neighborhood residents for the purpose of growing produce, plants and flowers and for the general aesthetic benefit to a community.

~~COMPREHENSIVE PLAN.~~ The adopted citywide plan to guide development and infrastructure, set city policy and meet the requirements of the State Metropolitan Land Planning Act.

~~CONGREGATE LIVING FACILITY.~~ A type of housing in which occupants share a common dining room, recreational room, food service or other facilities, including but not limited to boarding houses, lodging houses, assisted living facilities, shelters and

convents. A **CONGREGATE LIVING FACILITY** does not include bed and breakfasts, resorts, vacation homes, crash pads, hostels, multiple family dwellings, temporary pandemic response housing or other uses separately defined.

CONSERVATORY. A green house or other glazed structure or building containing an array of native and/or exotic species of plants, flowers and vegetation.

CONVENIENCE FACILITY WITH FUEL SALES. An establishment where the principal uses are: a) the sale of automobile engine fuel including gasoline, hydrogen, propane, natural gas, biodiesel, ethanol, electric charging, or any other automobile engine fuel stored only in underground tanks directly to the public on the premises; and b) the sale of household and convenience items, food or other miscellaneous retail goods. Accessory uses may include but are not limited to a car wash, air dispensing, minor vehicle repair, and similar services.

CONVENTION CENTER. A structure used or intended to be used primarily for entertainment events, expositions, meetings, conferences, seminars, and other gatherings. Typical components include convention and exhibit halls. **CONVENTION CENTER** may include accessory uses, including but not limited to meeting rooms, auditoriums, cafeterias, dining rooms, recreational uses, and support services designed to accommodate planned entertainment events, expositions, meetings, conferences, and seminars.

COTTAGE FOOD OPERATION. An individual person who prepares, at the person's residence, non-potentially hazardous food subject to requirements in M.S. § 28A.152, as it may be amended from time to time.

CULTURAL CAMPUS. An interrelated collection of at least three of the following uses on one site that assist in cultural development with no one use occupying more than 50 percent of the floor area within the cultural campus use: community center, arts center, office, place of assembly, event center, indoor recreation and entertainment, university, makerspace, business incubator with shops and production space, restaurant, library, museum, and social service distribution facility. A cultural campus use may cross property lines and include multiple buildings provided the properties are contiguous.

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

CUSTOMARILY INCIDENTAL FEATURE. A subordinate feature that clearly and customarily accompanies the principal building and is located on the same lot as the principal building including, but not limited to accessory buildings, swimming pools, off-street parking, gardens, clothes lines, tree houses and similar features.

~~**DATA CENTER.** A building or portion thereof where digital information is processed, transferred or stored, occupying 10,000 square feet or more, where the space is primarily occupied by computers, servers, telecommunications, and related equipment, including supporting equipment.~~

~~**DAY CARE FACILITY.** A facility primarily engaged in the temporary care of children or adults, usually while their primary caregivers are at work, including but not limited to day care centers, preschools, early childhood learning centers and related uses.~~

~~**DEALER IN MOTOR VEHICLES.** Any person engaged in the business of buying, selling, wholesaling, leasing, brokering, auctioning or displaying motor vehicles, new or used, as a principal business or occupation, or as an adjunct to any other business, occupation, profession, enterprise or employment.~~

~~**DENSITY.** The number of dwelling units on a site divided by the gross site area, including, at the option of the landowner, land donated for public right-of-way purposes.~~

~~**DESIGNATED RESIDENTIAL PROPERTY.** Any property within the city that is:~~

- ~~(A) Used residentially or subdivided for residential use;~~
- ~~(B) Zoned residentially; and~~
- ~~(C) Guided residentially by the Comprehensive Plan.~~

~~**DEVELOPMENT REVIEW COMMITTEE.** Those persons designated by the City Manager whose work on a day-to-day basis involves processing or review of development projects.~~

~~**DISCOUNT STORES.** Retail stores selling goods and services across the counter under the concept of discounting, usually well-known brands of merchandise at substantial discounts from customary or list prices.~~

~~**DISPLAY BOX.** A shallow, framed box structure containing a glass or glazed windowpane that is built into or attached to a building wall and intended to be used for visual displays.~~

~~**DISTILLERY, MICRO.** A facility that produces ethyl alcohol, hydrated oxide or ethyl, spirits of wine, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use in total quantity not to exceed 40,000 gallons in a calendar year. A **DISTILLERY** may include a cocktail room.~~

~~**DISTRICT.** Includes both primary and secondary zoning districts.~~

~~**DISTRICT PLAN.** An adopted plan focused on one or more sites within an area that is intended to guide development, land use, transportation, preservation and other factors over a number of years or in several phases for a specific area or district.~~

~~**DORMITORY.** A building providing sleeping and residential quarters for individuals or groups associated with a college, university, institution, or boarding school.~~

~~**DRIVE THROUGH.** An accessory feature of a facility designed to enable the occupants of motor vehicles to make purchases or transact business from their vehicle, including the stacking spaces in which vehicles wait. Examples include, but are not limited to, restaurant drive throughs, bank drive throughs, pharmacy drive throughs, film drops and related facilities.~~

~~**DRIVE-IN RESTAURANT.** Any establishment where food, frozen dessert or beverage is sold to the consumer and where motor vehicle parking space is provided and where such food, frozen dessert or beverage is intended to be consumed in the motor vehicle parked upon the premises or anywhere on the premises outside of the building.~~

~~**DRIVEWAY.** A private drive to an off-street destination such as a garage or parking lot providing access for motor vehicles from a public way or driveway approach. A **DRIVEWAY** does not include off-drive parking or turnaround area.~~

~~**DRIVEWAY APPROACH.** An area between the curb or pavement edge of a public street and the private property line intended to provide access for vehicles from a roadway or a public street to a driveway on private property.~~

~~**DWELLING.** One or more rooms designed for residential use by a single family that contain cooking, living, sanitary and sleeping facilities and that are physically separated from any other dwelling units in the same structure. Types of **DWELLINGS** are as follows.~~

~~(A) **DWELLING, SINGLE-FAMILY.** A building designed or used for residential occupancy by one family with or without an approved accessory dwelling unit.~~

~~(B) **DWELLING, ACCESSORY.** A secondary dwelling unit, but not a manufactured home built on a permanent chassis, located on the same lot as a single family dwelling unit, either physically attached to, within, or detached from the single family dwelling unit. Accessory dwelling units must be developed in accordance with the standards set forth in § 21.302.03.~~

~~(C) **DWELLING, TWO-FAMILY.** A building designed or used for residential occupancy by two families in separate dwelling units fully separated by an unpierced wall extending from ground to roof for a minimum of 10 feet, or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both units, including both duplexes and double bungalows but not including accessory dwelling units.~~

~~(D) **DWELLING, MULTIPLE-FAMILY.** A building that includes three or more dwelling units where dwelling units are configured in part vertically above and below other dwelling units.~~

~~(E) **TOWNHOUSE/ROWHOUSE.** A building or group of buildings that include three or more dwelling units on a site where the dwelling units are configured in a side by side fashion and share at least one common wall but are not vertically stacked.~~

~~**DWELLING FOR WATCHMAN.** One or more rooms, designed, occupied or intended for occupancy by one or two employees as a separate living quarter, and is intended to be accessory to an approved primary use.~~

~~**DWELLING UNIT.** One or more rooms designed for residential use by a single family that contain cooking, living, sanitary and sleeping facilities and that are physically separated from any other dwelling units in the same structure.~~

~~**EAW or ENVIRONMENTAL ASSESSMENT WORKSHEET.** A brief document designed to assess the environmental effects and set out the basic facts necessary to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.~~

~~**EIS or ENVIRONMENTAL IMPACT STATEMENT.** A detailed written statement as required by M.S. § 116D.04, subd. 2a used to evaluate proposed projects which have the potential for significant environmental effects.~~

~~**ELECTRIC VEHICLE.** Any vehicle that operates either partially or exclusively on electrical energy from an off-board source that is stored on board.~~

~~**ELECTRIC VEHICLE CHARGER.** Battery charging equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.~~

~~**ELECTRIC VEHICLE CHARGER - PRIVATE USE.** An electric vehicle charger that is privately owned with restricted access to the public (single family homes, fleet parking, and assigned parking at multi-family residential buildings).~~

~~**ELECTRIC VEHICLE CHARGER - PUBLIC USE.** An electric vehicle charger that is publicly owned and publicly available or privately owned and available to visitors of the use.~~

~~**ELECTRIC VEHICLE CHARGING LEVEL.** The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged as follows:~~

~~(A) Level 1 is considered slow charging with 120v outlets.~~

~~(B) Level 2 is considered medium charging with 240v outlets, charging head and cord hard-wired to the circuit.~~

~~(C) Level 3 is considered fast or rapid charging. Voltage is greater than 240v outlets.~~

~~**ELECTRIC VEHICLE SUPPLY EQUIPMENT.** Any equipment or electric component used in charging electric vehicles at a specific location.~~

~~**ENTERTAINMENT AND RECREATION SPECIAL EVENTS.** Public or private events for promotional, charitable or entertainment purposes, including, but not limited to: circuses, fairs, rodeos, marathons, bike races and athletic events including those that~~

~~utilize public property, public streets or public right-of-way; performers, entertainers, religious workers and the like who perform shows or hold gatherings. Events may require use of an indoor or outdoor area such as an arena, amphitheater, convention center or recreation field and may include temporary structures such as tents, stages, fencing and signs.~~

~~**EQB or ENVIRONMENTAL QUALITY BOARD.** Formed by M.S. Chapter 116C, the Minnesota Environmental Quality Board (EQB), is composed of state agency leaders and citizens from around the state for the purpose of providing leadership and coordination on environmental issues. The EQB functions as the coordinating body for Minnesota's Environmental Review Program.~~

~~**EQUIVALENT.** For the purpose of § 19.63.08 of this code, an equivalent exterior wall finish material shall mean comparable to the listed materials in terms of strength, durability, quality of finish, structure integrity and safety, level of required maintenance and longevity.~~

~~**EXPANSION OF CONFORMING USES.** Includes:~~

~~(A) An increase in structure dimension(s), size, area, volume, height, width, number of units and/or the land area of use;~~

~~(B) Placement of a structure or part thereof where none existed before; or~~

~~(C) An increase in intensity of use as compared to the original nature, function or purpose of the conformity.~~

~~**EXTERIOR INSULATION FINISH SYSTEM (EIFS).** A nonbearing exterior wall cladding system which is applied to a solid substrate or framing and includes a fastening system, insulation board, base coat, nonmetallic reinforcing fabric and a finish coat. The fastening system may be an adhesive, a mechanical fastener or a combination thereof. The system may also include primers, sealers and accessories such as trim, corner beads, stops or metal lath.~~

~~**EXTERMINATING SHOP.** A retail enterprise primarily engaged in the disposal of unwanted pests such as mice, cockroaches and other insects from homes and other places of business for compensation. Such a business may include incidental storage and handling of toxic and noxious materials, but is not a warehouse enterprise.~~

~~**FAMILY.** One or more persons related by blood, marriage or adoption, including foster children and domestic partners and civil unions recognized under Minnesota law, or a group of not more than four persons (excluding personal care attendants, in accordance with Minnesota Rules Rule 9505.0335), occupying a dwelling unit. This definition of family includes a functional household as defined in § 14.568 of the city code, as well as those persons renting rooms. (See **BOARDING HOUSE**.)~~

~~**FAMILY DAY SHELTER, UNLICENSED.** A facility operated on property owned by a place of assembly for worship which provides temporary shelter for a family or families~~

who are being assisted in finding permanent housing and/or employment and is not licensed by a federal, state or local governmental entity.

~~FENCE.~~ An artificially constructed barrier enclosing, separating or screening areas of land, serving as a boundary, a means of protection, a buffer, a decorative element, a means of visually modifying the view, and/or for confinement. Except where otherwise required in this code, regulations governing the height, location and opacity of fences apply to walls used in lieu of a **~~FENCE~~** or in combination with a **~~FENCE~~**.

~~FINANCIAL INSTITUTIONS, LIMITED.~~ Accessory retail financial institutions not to exceed 10% of the total related non-retail financial institution office space within the structure and without drive-through facilities, exterior banking services (ATM), and not to exceed two teller stations.

~~FIREARM.~~ A device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion or force of combustion, as defined in M.S. § 609.666.

~~FIREARM MANUFACTURING, WAREHOUSING, OR DISTRIBUTION.~~ An establishment engaged in the manufacture, warehousing, or distribution of firearm(s) or ammunition with no on-site retail sales, display, lease, trade, or other transfer of firearm(s) or ammunition.

~~FIREARM OFFICE.~~ A temporary or permanent establishment facilitating the sale, lease, trade, or transfer of firearm(s) services with no on-site retail sales, display or inventory.

~~FIRING RANGE.~~ A specialized facility designed for firearm(s) shooting practice with no retail sales, display, lease, trade, service, or other transfer of firearm(s), ammunition, or firearm(s) accessories.

~~FIREARM SALES, INCIDENTAL.~~ A permanent establishment where the primary use is the retail sale of non-firearm items and where no more than 15 percent of the tenant's gross floor area is devoted to display and storage of firearm(s) and ammunition.

~~FIREARM SALES, PRIMARY.~~ A temporary or permanent establishment for the retail sale, lease, trade, service, or other transfer of firearm(s), ammunition, or firearm(s) accessories where more than 15 percent of the tenant's gross floor area is devoted to display and storage of firearm(s) and ammunition for permanent establishments or any floor area is devoted to display or storage of firearms for temporary establishments.

~~FISH HOUSE.~~ A detached, portable accessory building which is used for the purpose of shelter while fishing during the winter months, and which is not used or designed for use as an accessory building or storage shed.

~~FLOOR AREA.~~ The floor area of a building or buildings shall be the sum of the gross horizontal areas of the several floors of such building or buildings exclusive of cellars or basements, except as to single-family residences as provided in subsection(E) below of

this definition, measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings. In particular, **FLOOR AREA** shall include:

~~(A) Elevator shafts and stairwells at each floor;~~

~~(B) Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment, open or enclosed located on the roof, i.e., bulk heads, water tanks and cooling towers;~~

~~(C) Interior balconies and mezzanines;~~

~~(D) Forty percent of porch or breezeway when the porch or breezeway is completely enclosed; and~~

~~(E) For single family residences, the **FLOOR AREA** shall be the sum of the enclosed, finished horizontal areas which are at or above grade. In addition, the **FLOOR AREA** may include 50% of all other enclosed areas, including that portion of the building below grade, which are capable of being finished in accordance with the requirements of Chapter 15 of this code at the time of the issuance of the original building permit; however, garages, porches or breezeways may not be included in calculating required **FLOOR AREA**.~~

~~**FLOOR AREA RATIO.** The floor area of a building or buildings on a site, exclusive of parking structures, divided by the gross site area, including, at the option of the land owner, land donated for public right-of-way purposes.~~

~~**FOOD SERVICE, PRIVATE.** A facility not commonly used by the general public and accessory to office buildings, schools, manufacturing plants, charitable organizations and the like, containing a common dining area, equipment and supplies for the commercial preparation and serving of food.~~

~~**FOOT CANDLE.** The international unit of illumination produced on a surface.~~

~~**FUEL PUMP, PRIVATE.** A device used for the dispensing of fuel for motor vehicles that is not open to the public.~~

~~**FUNERAL HOMES, MORTUARIES AND CREMATORIES.** An establishment engaged in undertaking services such as preparing the human deceased for burial and arranging and managing funerals, including mortuaries and crematoria.~~

~~**GARAGE, PRIVATE.** A building or portion of a building used by the tenants of the building or buildings on the premises which is designed primarily for the storage of motor vehicles including, but not limited to, automobiles, trucks, motorcycles and mopeds and has a finished opening greater than 6 feet in width. A carport is considered to be a garage for the purpose of zoning regulations.~~

~~**GARAGE, WIDTH.** The linear width of the garage along the widest facade that includes garage doors measured from the outer edge of the garage wall to the outer edge of the opposite garage wall. For the purposes of determining driveway width in §~~

21.301.06 of this code, **~~GARAGE WIDTH~~** may not exceed the cumulative width of the garage doors on the measured facade plus ten feet.

~~GAZEBO~~. A detached accessory building which is used for the social or recreational shelter of persons and is not used as living quarters.

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

~~GLAZE~~.

a) A finish for clay products made by firing a coating compound that consists of clay, silica, barium carbonate, calcium carbonate and zinc, or from premixed ceramic frit which are blended in a flux to promote fusion and may include other ingredients for color and texture. The resulting finish may be matte or glossy, textured or smooth, clear or opaque, or colored and is an integral part of the clay unit.

b) A thermosetting glazing compound consisting basically of a silica and bonding resin slurry, to which other ingredients may be added for color, that is permanently molded to one or more faces of a concrete masonry unit on an individual unit basis by curing and heat treatment in a gas-fired tunnel kiln or comparable method to become an integral part of the unit.

~~GOVERNMENT FACILITIES, GENERAL~~. A building or site occupied by a public agency or agencies that provides non-residential services to the general public, with the exception of limited government facilities that are defined separately in the code.

~~GOVERNMENT FACILITIES, LIMITED~~. Government facilities that involve activities of an industrial nature including, but not limited to, warehousing, open storage, recycling and manufacturing.

~~GRAFFITI-RESISTANT COATING~~. May be either permanent or sacrificial and shall be restricted to a clear coating certified for that purpose which is resistant to weathering, is UV stable, does not change the appearance of the exterior wall finish material, shall have no effect on the substrate, caulking or sealant material, and has a performance guarantee.

~~GROCERY STORE~~. A retail establishment that offers for sale food products, beverages, household items and may include pharmacy, and prepared food items.

~~GROSS SITE AREA~~. The land area of a site, including land donated for public right-of-way purposes.

~~GROUP FAMILY DAY CARE~~. Care for no more than 14 children at any one time, in the residence of the caregiver. The total number of children includes all children of any caregiver when the children are present in the dwelling unit.

~~GROUP HOME~~. A residential treatment facility for six or fewer persons that is licensed by the state as residential facility or registered with the state as a housing with services

establishment and permitted as a single-family use pursuant to M.S. § 462.357, as it may be amended or recodified from time to time.

GROWING SEASON EXTENDER. Temporary devices such as hoop houses, cold frames, and the like, that are intended to extend a garden's growing season.

HEALTH CLUB. A facility, for profit or nonprofit, where members or nonmembers pay a fee to use equipment or space for the purpose of physical exercise, including, but not limited to, swimming, court games, martial arts, aerobics, jogging and muscular exercise programs which may or may not include accessory components such as therapeutic massage, tanning, saunas, whirlpools, locker rooms and related activities.

HELISTOP. An identifiable landing area for discharging and picking up passengers and goods by helicopter or similar vertical lift aircraft. A ***HELISTOP*** does not include refueling or servicing of aircraft, or permanent facilities such as terminals, hangars, warehousing or storage.

HOME BUSINESS. Any gainful occupation or profession compensated in monetary payment or in kind, conducted within a dwelling unit on the premises by an occupant of the dwelling unit as a use that is clearly incidental to the use of the primary dwelling unit for residential purposes.

HOSPITAL. An institution that offers health care services facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy. ***HOSPITALS*** may include offices for medical and dental personnel, central facilities such as pharmacies, medical laboratories and other related uses.

HOTEL AIRPORT PARKING. Parking accessory to a hotel for the use of hotel guests to park or store motor vehicles for up to seven days while out of town provided such parking is in addition to the parking spaces required by this code for the hotel and its accessory uses and provided the parking does not exceed one space per ten hotel rooms.

HOTEL MANAGER DWELLING UNIT. A room within a hotel designed for residential use by the manager of the same hotel that contains cooking, living, sanitary, and sleeping facilities.

HOTEL OR MOTEL. Any building or combination of buildings containing six or more rooms used for sleeping purposes by guests in which a person or persons pay for occupancy, possession or tenancy of the property and where the actual term of occupancy, possession or tenancy of the property pursuant to that lease, license or other agreement is less than 30 consecutive calendar days. A ***HOTEL OR MOTEL*** does not include bed and breakfasts, resorts, vacation homes, crash pads, hostels, congregate living facilities, multiple-family dwellings, shelters, temporary pandemic response housing or other uses separately defined.

~~HOUSEHOLD HAZARDOUS WASTE.~~ Waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under Minnesota Rules Chapter 7045, but does not include waste from commercial activities that is generated, stored or present in a household. **~~HOUSEHOLD HAZARDOUS WASTE MATERIALS~~** include, but are not limited to, caustics, flammables, oxidizers, poisons, irritants and corrosives.

~~ILLUMINANCE.~~ The amount of light energy reaching a given point on a defined surface. Common units of measurement for **~~ILLUMINANCE~~** are lux or foot candles.

~~ILLUMINATION.~~ A deliberate use of light to achieve a practical or aesthetic effect on a surface or object.

~~IMPERVIOUS SURFACE.~~ Any material which prevents absorption of storm water into the soil.

~~INITIAL LIGHT OUTPUT (OF A DISCHARGE LAMP).~~ The total luminous flux emitted by a lamp after 100 hours of operation.

~~INSTITUTIONAL USES.~~ Land uses that serve a community's social, educational, health, cultural and recreational needs. Uses include, but are not limited to schools, colleges, day care facilities, libraries, places of assembly, switching stations, funeral homes, nursing homes, monasteries, fire stations, assisted living facilities and community centers.

~~INSTRUCTIONAL CENTER.~~ An educational oriented establishment offering scheduled instruction or tutoring in academic, professional, technical, commercial or trade skills, including, but not limited to, business, real estate, building and construction, electronics, computer programming and technology, automotive and aircraft mechanics and technology, and similar types of instruction.

~~INTEGRAL COLOR.~~ Color that is intended to be of uniform composition throughout the entire depth of the material or is a fired glaze on a clay product or a cement masonry unit and is not a surface skin application of a liquid or viscous material coating.

~~INTEGRATED FUEL SALES AND CAR WASH.~~ Fuel sales (including the sale of gasoline, hydrogen, propane, natural gas, biodiesel, ethanol, electric charging, or any other automobile engine fuel) and/or car wash physically integrated with and fully within a structured parking facility.

~~INTEGRATED ROADSIDE DEVELOPMENT.~~ A planned development including at least two of the following primary uses: restaurant, motel and convenience facility with fuel sales, and located within a reasonable distance of a freeway.

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

~~ISSUING AUTHORITY.~~ The City Manager or designated representative.

~~**JUNK YARD.** An open area where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, parked, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles.~~

~~**LABORATORY, MEDICAL OR DENTAL.** An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient, on direction of a physician; or an establishment primarily engaged in making dentures, artificial teeth and orthodontic appliances to order for the dental profession.~~

~~**LAKESCAPING.** An unmowed strip of vegetation, emphasizing native wildflowers, grasses, sedges, shrubs and trees, extending inland from the shoreline of a pond, stream, wetland or lake for at least ten feet, maintained in a natural state for the purpose of minimizing shoreline erosion, improving water quality and promoting wildlife habitats.~~

~~**LANDSCAPE EDGING.** A material, typically set flush with the ground, used to differentiate a planting bed from turf or adjacent planting beds.~~

~~**LANDSCAPE PLAN.** An integrated set of documents that may consist of both drawn and written materials whose purpose is to identify, for a proposed development, the means of compliance with the landscaping, screening and site stabilization standards of the city code.~~

~~**LANDSCAPING.** Trees, lawns, plants and other natural and decorative site features including earth contouring, mounding and berms.~~

~~**LIBRARY.** A facility housing a collection of books, magazines or other material, that are generally loaned to the general public.~~

~~**LIMITED USE.** A subordinate use that does not constitute more than 25% of the total floor area in a building.~~

~~**LOADING SPACE.** A space accessible from a street, alley or way, in a building or in a lot, for the use of trucks while loading or unloading merchandise or materials.~~

~~**LONG GRASS.** Any grass that can reach a blade, stem or seed head height or length of at least one foot as part of its intended normal growth and use and is not developed, sold or intended to be used as a grain or as a manicured or semi-manicured lawn grass or ground cover that is normally intended to be maintained at a lower height by regular cutting.~~

~~**LOT.** A tract, plot or portion of a subdivision or other parcel of land intended as an individual unit for the purpose, either immediate or future, of transfer of ownership, or possession or for development.~~

~~**LOT AREA.** The area of a horizontal plane bounded by the front, side and rear lot lines measured within the lot boundaries.~~

~~**LOT CORNER.** A lot at the junction of and abutting on two or more intersecting streets, or at the point of deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.~~

~~**LOT DEPTH.** The mean horizontal distance between the front lot line and rear lot line of a lot measured within the lot boundaries.~~

~~**LOT INTERIOR.** A lot other than a corner lot.~~

~~**LOT LINE.** A property boundary line of any lot held in single or separate ownership, except that, where any portion of the lot extends into the abutting street or alley, the lot line shall be deemed to be the street or alley line.~~

~~**LOT LINE, FRONT.** That boundary of a lot which is along an existing or dedicated street. The owner of a corner lot may select either street lot line as the **FRONT LOT LINE**.~~

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

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

~~**LOT, PLATTED.** A parcel of land described in whole by a numbered lot and block of a plat, tract of a registered land survey (RLS) or lot of an Auditor's subdivision. The term **PLATTED LOT** does not include outlots of a plat or portions of a numbered lot and block of a plat, tract of an RLS or lot of an Auditor's subdivision. Examples of a **PLATTED LOT** are: Lot 1 Block 1 ABC Addition, Tract A RLS No. 123 and Lot 12, Auditor's Subdivision No. 456. Examples of parcels that are not considered **PLATTED LOTS** are: the north half of Lot 1 Block 1 ABC Addition, east quarter of Tract A, RLS No. 123 and south half of Lot 12, Auditor's Subdivision No. 456.~~

~~**LOT, THROUGH.** A lot, other than a corner lot, having frontage on two public streets or highways.~~

~~**LOT OR SITE WIDTH.** The distance between the side lot or site lines of a lot or site measured, unless otherwise specified, along the shortest straight line that both: a) touches the minimum required front setback line; and b) at no point is closer to the front line than the minimum required front setback line.~~

~~**LOW IMPACT, HIGH TECHNOLOGY MANUFACTURING.** An establishment engaged in the manufacture or assembly of high value added technology products in a manner that does not create negative impacts on surrounding uses due to odors, smoke, dust, noise, vibration or other factors. Examples of high technology manufacturing that may also be low impact include, but are not limited to, the manufacture or assembly of computer components and medical devices.~~

LUMINANCE. A measure of light intensity per unit of area in a given direction. A description of the amount of light that passes through or is emitted from a particular area. Common units of measurement for luminance is a nit (candela per square meter).

MACHINERY AND EQUIPMENT REPAIR, HEAVY. The repair, servicing, maintenance, and reconstruction of machinery and equipment typically utilized by manufacturing and industrial establishments including: tool repair services, machine shops, welding shops, and other repair services similar in nature to those above.

MACHINERY AND EQUIPMENT REPAIR, LIGHT. The repair, servicing, maintenance, and reconstruction of equipment and appliances typically utilized by individuals and small businesses and offices including: furniture and upholstery repair, home appliances, electronics, precision equipment, jewelry and watches, shoes and other leather goods, lawn and garden equipment, and other repair services that are similar in nature to those above.

MAJOR COMMERCIAL GOLF FACILITY. A combined indoor and outdoor recreational golf driving range, not adjacent to a golf course, which may include associated uses such as a restaurant with or without entertainment, arcade, meeting facilities and ancillary sales of goods and services.

MAKERSPACE. A facility where shared manufacturing tools, such as 3-D printers, laser cutters, and hand tools and machines are used for the invention, fabrication, and storage of physical products, not for mass production. May include membership fees and be used incidentally as an instructional center.

MANDATORY ENVIRONMENTAL REVIEW. A formal review and assessment of the potential environmental impacts of a development project that meets mandatory thresholds for review pursuant to M.S. Chapter 116D and Minnesota Administrative Rules, Chapter 4410, Environmental Review. Mandatory environmental reviews are subject to the requirements in Chapter 21, Article V, Division F: Environmental Review.

MANUFACTURED HOME. Synonymous with mobile home, a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. This term also includes any transportable structure which meets all the requirements of state and federal law and with respect to which the manufacturer has filed a certification with the state and has received the certification seal displayed on the structure. This may include transportable structures such as for an office or school space. It does not refer to recreational vehicles which are defined elsewhere in § 21.301.13 of this code.

MANUFACTURED HOME PARK. Any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for

compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

~~MANUFACTURING/INDUSTRIAL, GENERAL.~~ An establishment engaged in the manufacture of products or parts, predominately using previously prepared material, including processing, fabrication, assembly, treatments and packaging of such products, and the incidental storage, sales and distribution of such products.

~~MARINA.~~ A place located on or immediately adjacent to a body of water where boats and other watercraft are kept, moored or stored for a consideration, and may include facilities for servicing, repairing, renting or selling watercraft and watercraft equipment or accessories.

~~MEDICAL MARIJUANA.~~ Any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins and is delivered in the form of (1) liquid, but not limited to oil; (2) pill; (3) vaporized delivery method with use of liquid or oil, but which does not require the use of dried leaves or plant form that has been approved the Commissioner of the Minnesota Department of Health under M.S. § 152.25, as it may be amended from time to time.

~~MEDICAL MARIJUANA DISTRIBUTION FACILITY.~~ An establishment engaged in the sale of medical marijuana that is validly registered and approved by the State of Minnesota.

~~MENU BOARD.~~ A sign installed at drive through facilities listing the products available for purchase by customers.

~~METAL.~~ Any class of chemical elements, as gold, silver, copper, iron or aluminum, characterized by ductility, malleability, luster and conductivity of heat and electricity, or alloys of such elements, as brass or bronze.

~~MITIGATION.~~ Mitigation includes:

(a) ~~Avoiding impacts altogether by not undertaking a certain project or parts of a projects;~~

(b) ~~Minimizing impacts by limiting the degree of magnitude of a project;~~

(c) ~~Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;~~

(d) ~~Reducing or eliminating impacts over time by preservation and maintenance operations during the life of the project;~~

(e) ~~Compensating for impacts by replacing or providing substitute resources or environments; or~~

(f) ~~Reducing or avoiding impacts by implementation of pollution prevention measures.~~

~~**MIXED MUNICIPAL SOLID WASTE.** Garbage, refuse and other solid waste from residential, commercial, industrial and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials collected, processed and disposed of as separate waste streams.~~

~~**MIXED-USE CENTER.** A grouping of three or more different uses that have a commons as their central organizing feature and which may be developed in stages. The commons may be a combination of indoor and outdoor spaces on one or more levels which serve as a public access and plaza, restricted to pedestrian circulation, providing access to all uses in a mixed-use center.~~

~~**MOBILE FOOD UNIT.** A food establishment that is a vehicle mounted unit, either:~~

~~(1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one site with the approval of the health authority; or~~

~~(2) Operated in conjunction with a permanent food establishment licensed under city code § 14.446 at the site of the permanent food establishment by the same individual or company, and readily movable, without disassembly, for transport to another location.~~

~~**MOBILE HOMES.** See **MANUFACTURED HOME.**~~

~~**MOTOR VEHICLE.** A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and shall include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, wagons and snowmobiles.~~

~~**MOTOR VEHICLE PARKING LOT.** An approved off-street, ground level area, usually surfaced and improved, designed and intended for vehicular access to and from a parking area accessory and contiguous to adjacent uses, and for parking of motor vehicles limited to a maximum of 48 hours.~~

~~**MOTOR VEHICLE SALES.** Other than the occasional sale of motor vehicles by a private owner upon his or her own property in a residential district, **MOTOR VEHICLE SALES** consists of the buying, selling, leasing, wholesaling, brokering, auctioning or displaying any new, used, secondhand or junked motor vehicles, subject to the provisions of § 19.26(d)(1).~~

~~**MOTOR VEHICLE SALES, CLASS I.** The sale and service of new motor vehicles obtained directly from the manufacturer.~~

~~**MOTOR VEHICLE SALES, CLASS II.** The sale of used motor vehicles displayed on the premises, and taken in trade as part of the sale of a new or used motor vehicle or purchased or recovered from another dealer, leasing or rental business, or private~~

individual, and where the primary purpose of the business is the sale of such used motor vehicles.

~~**MOTOR VEHICLE SALES, CLASS III.** The sale of used motor vehicles which are stored and displayed on the premises of a business whose primary activity is other than the acquisition of such vehicles for sale, resale, rental or leasing and in a location on the property which does not occupy parking spaces otherwise required to meet the requirements of this code.~~

~~**MOTOR VEHICLE SALES, CLASS IV.** The sale, brokering, lease or rental of new or used motor vehicles where no such vehicles for sale, resale, rental or leasing are stored or displayed on the premises of the business. **CLASS IV MOTOR VEHICLE SALES** shall be considered permitted uses in all zoning districts where offices and office uses are permitted.~~

~~**MOTOR VEHICLE SALES, ENCLOSED.** The sale, brokering or lease of new or used motor vehicles where all vehicles for sale, resale or lease are stored and displayed entirely within a completely enclosed building on the premises of the business, including the storage and display of up to 30 motor vehicles within a parking structure and accessory to an enclosed motor vehicle sales facility. The use may also include minor vehicle repair in up to six service bays fully screened from view of any public street. All component uses require parking in accordance with § 21.301.06(d).~~

~~**MOTOR VEHICLE SALES, HIGH DENSITY.** The sale, brokering, or lease of new or used motor vehicles in a multi-level, fully enclosed structure(s) on a site with a floor area ratio of 0.6 or higher where vehicles for sale, resale, or lease are stored and displayed within a completely enclosed building on the premises of the business, except for up to 30 motor vehicles that may be stored or displayed outdoors. The use may also include minor vehicle repair limited to 25% of total floor area. No more than three overhead service doors may be visible from a public street, with no more than two overhead service doors within 50 feet of each other. All component uses require parking in accordance with § 21.301.06(d).~~

~~**MOVED.** The act of permanently establishing a structure upon a portion of land after removing same from another part of the same or a different lot, tract or parcel of land.~~

~~**MULCH.** A protective covering of materials placed around plants to control weeds and moderate evaporation of moisture or freezing. Examples of mulch include organic mulch such as wood chips, shredded hardwood and cocoa beans and inorganic mulch such as stones or rocks. Materials creating an impermeable cover shall not be considered **MULCH.**~~

~~**MUSEUM.** A museum or similar use which has as its primary purpose the collection, display or preservation of objects of community or cultural interest in one or more of the arts or sciences.~~

NATIVE PRAIRIE. An area of landscaping containing a diversity of native flora species in associations typical of presettlement ecosystems.

NIT. A unit brightness equal to one candle per square meter, measured perpendicular to the rays of the light source.

NURSING HOME/ADULT CARE HOME. A residential facility licensed by the State Department of Health (DOH) where individualized home care aide services or home management services are provided to residents either by the management or by providers under contract with the management; a facility for aged, chronically ill or incurable persons licensed by the State Department of Health providing nursing care and related medical services.

OFF-DRIVE PARKING AREA. An off-street area connected to a driveway intended for the parking of vehicles.

OFF-DRIVE TURNAROUND AREA (HAMMERHEAD). An off-street area connected to a driveway intended to allow vehicles to turn around on-site and exit on to roadways in a forward facing position.

OFFICE, GENERAL. An establishment providing executive, management, administrative or professional services, but not involving office/warehouse use, medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, government, design, engineering, accounting and similar office uses.

OFFICE, HIGH INTENSITY/CALL CENTERS AND TELEMARKETING. An office use with a high level of employment per square foot of floor area, characterized by eight or more employees per 1,000 square feet of gross floor area.

OFFICE, MEDICAL OR DENTAL. An establishment principally engaged in providing therapeutic, preventative, corrective, healing and health-building treatment services on an outpatient basis by physicians, dentists and other practitioners. Typical uses include medical, chiropractic and dental offices and clinics.

OUTLOT. A parcel of land described by reference to a lettered outlot of a plat, which is intended for open space, right-of-way, drainage, holding or other purpose, for which no private development is presently intended.

PAINTLESS DENT REPAIR/REMOVAL. A branch of auto body repair, dealing with the removal of minor pressure blemishes to metal, through a series of pushes to the backside of the damaged area, which may include the removal of interior panels to gain access to the damaged area, replacement of minor chrome molding or appliques, or paint application with use of a small brush or sponge tool.

PARCEL. A unit of land described by lot and block, by outlot designation, by tract designation in a registered land survey, or by other legal descriptions.

~~**PARKED VEHICLE.** Unattended vehicle stopped without its engine running not actively engaged in the receipt or discharge of passengers or goods.~~

~~**PARKING ISLAND.** Raised or depressed non-traffic areas in off-street parking lots, the placement of which is intended to improve safety and an orderly flow of traffic in the parking lot. **PARKING ISLANDS** in surface parking lots may often contain landscape plantings which also serve to visually break up large expanses of asphalt.~~

~~**PARKING OF VEHICLES OFF-STREET.** The temporary placement of motor vehicles for a period of less than 48 hours.~~

~~**PARKING REDUCTION FLEXIBILITY MEASURES.** Methods, agreements and strategies by which a property owner may achieve a reduction the required number of constructed parking spaces for off-street parking associated with a land use.~~

~~**PARKING STRUCTURES.** A structure or portion of a structure composed of one or more levels or floors used exclusively for the parking of vehicles and which may be totally below grade (as in an underground garage) or either partially or totally above grade with those levels being either open or enclosed. A **PARKING GARAGE STRUCTURE** is deemed an underground garage for the level(s) of parking which are fully below grade and are unexposed except for entrance and exit points.~~

~~**PARKS, PRIVATE OR COMMERCIAL.** An area with one or more elements of passive or active recreation such as sport courts and fields, indoor or outdoor golfing, children's play structures, walking or biking trails, natural features and the like, which are owned by or leased to private individuals or businesses, which are made available to groups beyond the private owners via rent or admission fees and which may be fee based. Privately owned property serving as public parkland via agreement does not qualify as a **PRIVATE OR COMMERCIAL PARK** when leased according to public park leasing policies.~~

~~**PARKS, PUBLIC.** An area with one or more elements of passive or active recreation such as court sports, children's play structures, walking or biking trails, natural features and the like which is open to the public.~~

~~**PAWN SHOP.** Any business establishment operated by a pawnbroker as defined in Chapter 14 of this code, in which pawn transactions take place.~~

~~**PET SERVICES FACILITY.** A business establishment that provides any of the following services or retail activity either individually or in combination, for pets and domestic animals as defined in § 12.91: animal sales, veterinary care, animal hospital, short-term daily care, training classes, boarding and grooming.~~

~~**PLACE OF ASSEMBLY.** A facility providing for the assembly of persons for interaction as a primary use, including community centers, and religious institutions, also referred to as **PLACE(S) OF ASSEMBLY FOR WORSHIP**. **PLACE(S) OF ASSEMBLY** do not include community education or art centers, schools, instructional centers, daycare facilities, family day shelters, conservatories, convention centers, libraries, museums,~~

residential dwellings, recreational and entertainment facilities, theaters or social service distribution facilities which fall under separate definitions in this code.

~~PLANNED DEVELOPMENT.~~ A development within the Planned Development Overlay Zoning District approved through the preliminary development plan and final development plan application processes.

~~PLANT NURSERIES AND GREENHOUSES.~~ A place where plants are propagated and grown to usable size. They include retail nurseries that sell to the general public, wholesale nurseries that sell only to businesses such as other nurseries and to commercial gardeners, and private nurseries that supply the needs of institutions or private estates where they are located.

~~PLANTING BED.~~ A designed area including, but not limited to, trees, shrubs, perennials and ground covers that is typically defined by landscape edging along turf boundaries and has a mulched surface.

~~PORTE COCHERE.~~ A roofed structure extending from the entrance of a building over an adjacent driveway and sheltering those getting in or out of vehicles.

~~PRECIOUS GEM SALES.~~ Sales of any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any other precious gems or stones, whether as a separate item or in combination as a piece of jewelry or other crafted item. **~~PRECIOUS GEM SALES~~** is considered a retail sales use unless the sales are taking place through the mail, telephone or similar method that does not involve over the counter sales, in which case it is considered an office use.

~~PRECIOUS METAL SALES.~~ Sales of silver, gold, platinum and sterling silver, whether as a separate item or in combination, as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than 1% of the item's total weight. **~~PRECIOUS METAL SALES~~** is considered a retail sales use unless the sales are taking place through the mail, telephone or similar method that does not involve over the counter sales, in which case it is considered an office use.

~~PRIMARY ZONING DISTRICT.~~ Established to protect the public health, safety and welfare by designating specific areas for uses of similar characteristics and requirements. In these districts, further regulations are established which are designed to protect the public well-being by regulating the location and extent of land utilization.

~~PRINCIPAL BUILDING.~~ A building, or combination of buildings, which contains the primary use of the site.

~~PRINTING and PUBLISHING.~~ Establishments engaged in printing by letterpress, lithography, gravure, screen, offset or electrostatic (xerographic) copying, and other establishments serving the printing trade including bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals, and include "quick printing" services or desktop publishing.

~~**PRODUCT DESIGN, DEVELOPMENT AND TESTING.** The indoor design, development and/or testing of products in an office and/or laboratory environment without manufacturing.~~

~~**PROPERTY OWNER.** The legal owner of the property as officially recorded by the county.~~

~~**PROTECTED RESIDENTIAL PROPERTY.** Any property within the city that is:~~

~~(A) Used or subdivided for single family, two family, townhome or rowhome residential uses;~~

~~(B) Zoned residentially; and~~

~~(C) Guided residentially by the Comprehensive Plan.~~

~~**PUBLIC ART.** Any visual work of art, accessible to public view, including, but not limited to, sculptures, statues, murals, monuments, frescoes, fountains, paintings, stained glass or ceramics, and which does not contain advertising.~~

~~**PUBLIC GOVERNMENT USE.** A use approved by a local government council or board, which was elected by the citizens in and of which had local taxing authority.~~

~~**PUBLIC RIGHT-OF-WAY.** The planned right-of-way for a public street in accordance with the most recently adopted Master Street Plan of the city.~~

~~**PUBLIC UTILITY.** Persons, corporations or governments supplying gas, electric, transportation, water, sewer or land line telephone service to the general public. For the purpose of this chapter, commercial wireless telecommunication service facilities shall not be considered public utility uses, and are defined separately.~~

~~**PUBLIC UTILITY FACILITY, GENERAL.** Facilities that support the provision of public utilities, including, but not limited to, water, sanitary sewer, storm sewer, telephone and electric facilities, with the exception of those utility facilities that are defined separately in this code.~~

~~**PUBLIC UTILITY FACILITY, LIMITED.** Electric generation plants, electric switching facilities and substations, electric transmission lines and above ground pipelines.~~

~~**RAILROAD LINE.** All railroad track, including, but not limited to, spur track, industrial track, team track, switching track and siding track.~~

~~**RAIN GARDENS.** Depressed areas in the landscape with perennial native plant materials designed to provide natural filtration of runoff.~~

~~**RECREATION AND ENTERTAINMENT, INDOOR.** An establishment that offers recreation and entertainment activities, for profit or nonprofit, to the general public within an enclosed building. Typical uses include theaters, movie theaters, bowling alleys, skating rinks, game arcades, dance studios and the like.~~

~~RECREATION AND ENTERTAINMENT, OUTDOOR.~~ An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open. Typical uses include archery range, golf driving ranges and miniature golf course and other types of recreation and entertainment not otherwise defined.

~~RECREATION FACILITY.~~ A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreation activities.

~~RECREATION FACILITY, COMMERCIAL.~~ A recreation facility operated as a business and open to the public for a fee.

~~RECREATIONAL COURT (SPORTS COURT).~~ Permanent or seasonal outdoor facility predominantly used for sports, including tennis and basketball courts.

~~RECYCLING COLLECTION FACILITY.~~ A use performed in a fully enclosed building where scrap or salvage materials are shredded, milled, crushed, ground, bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, bottles, plastics and aluminum cans. A **~~RECYCLING FACILITY~~** may not include automobile wrecking or dismantling.

~~REMOTE AIRPORT PARKING.~~ Off-site or remote parking and storage of motor vehicles for patrons of the Minneapolis/St. Paul International Airport, which may or may not include shuttles to relay passengers between the off-site parking and the airport terminals.

~~RESEARCH LABORATORY.~~ An establishment in which scientific research, investigation, testing or experimentation is conducted, but not including facilities for the manufacture of products except as incidental to the research purpose of the laboratory.

~~RESIDENTIAL CARE FACILITY.~~ A facility that provides custodial care to persons who, because of physical, mental, or emotional disorders, are not able to live independently.

~~RESTAURANT AND CLUB.~~ An establishment engaged in the preparation and on-site retail sale of readily consumable food and beverages, and characterized by sit down table, counter or drive-through service to customers. Establishments may include, but are not limited to, a coffee shop, cafeteria, fine dining, bar, fast food, take out, drive-in or sandwich stand serving food, licensed brewpub, and all other eating or drinking establishments.

~~REST HOME (NURSING HOME).~~ A private home for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or for the treatment of disease or injury nor does it include maternity care or care of mental illnesses. Its minimum accommodation is six persons.

~~**RETAIL, LARGE ITEM SALES.** Facilities where large items are displayed and sold for later delivery, with minimal incidental over-the-counter sales. Examples include facilities that sell furniture, carpet, mattresses, large appliances, cabinets and other large items that are determined by the issuing authority to create similar parking demands per square foot, but specifically exclude motor vehicle sales, pawnshops and facilities with more than incidental over-the-counter sales. While classified separately for parking purposes, **LARGE ITEM RETAIL SALES** facilities are considered retail uses for determining use status in each zoning district.~~

~~**RETAIL SALES AND SERVICES.** An establishment primarily engaged in the sale or rental of goods and the provision of services directly to the consumer, excluding those uses defined more specifically in this code.~~

~~**RETAINING WALL.** A wall or terraced combination of walls used to provide barrier or restrain lateral forces of soil or other material and not used to support, provide a foundation for, or provide a wall for a building or structure.~~

~~**RGU or RESPONSIBLE GOVERNMENT UNIT.** The governmental organization that must oversee the preparation and analysis of environmental review documents. The **RGU** can be any state agency or any local (county, city, township) or special purpose unit (watershed district, SWCD, etc.) of government in the state. The **RGU** is the governmental unit determined to have the greatest authority to approve or disapprove a project.~~

~~**SALE.** When applied to uses of land shall be construed to include all transfers of title or possession of personal property whether or not absolute title passes and shall include leases, rentals and loans.~~

~~**SCENIC EASEMENT.** Easements held by a governmental body in order to preserve the character of the existing landscape and topography.~~

~~**SCHOOL (K-12).** An establishment primarily engaged in providing instructional services to elementary students including associated early learning programs or secondary students with a curriculum that complies with state regulations.~~

~~**SCREENING.** A method of visually modifying the view of a structure, building, feature or use by methods such as fencing, walls, berms, densely planted vegetation or a combination of these methods.~~

~~**SEASONAL SALES, OUTDOOR.** Outdoor seasonal retail sales, where permitted, including, but not limited to, the seasonal sale of Christmas trees, plants, flowers, vegetables and related products available on a seasonal basis.~~

~~**SECONDARY ZONING DISTRICTS.** Established to additionally regulate uses and characteristics of uses permitted in primary zoning districts in order to protect the public health, safety and welfare from the improper use of land subject to flooding and other natural hazards or to provide for the most appropriate use of land by providing design~~

flexibility to allow for the preservation of natural features, the efficient provision of streets and utilities, and the sensitive blending of new development with existing uses.

~~SECONDHAND GOODS SALES.~~ Sales of any tangible personal property, previously owned, used, rented or leased by a person other than the dealer offering it for sale, including without limitation: electronic audio or video equipment; firearms; musical instruments; sports equipment; photographic equipment; outboard motors, inboard drives; nautical sonar or radar devices; electric, pneumatic or hydraulic powered construction or mechanical equipment or tools; computers or computer-related equipment; cellular telephones or other communication devices; jewelry; coins, precious metals; artist signed or artist attributed original works of art and other secondhand goods or merchandise. **~~SECONDHAND GOODS SALES~~** are considered a retail sales use.

~~SELF-BREWING FACILITY.~~ A facility that provides the ingredients and equipment for a customer to use to brew malt liquor or wine at the store.

~~SELF-STORAGE FACILITY.~~ A building or group of buildings of one or more levels with, usually, but not limited to, the following characteristics: controlled access and secured areas which contain varying sizes of individual compartmentalized and controlled access stalls or lockers for the dead storage of customer's goods or possessions.

~~SENIOR CITIZEN HOUSING.~~ Housing designed and intended to be occupied principally by elderly persons or elderly families in accordance with any of the following:

(A) Eligible by age to receive an old-age benefit under Title II of the Social Security Act; or

(B) Eligible by age to receive housing assistance under housing programs financed by the city, the State Housing Finance Agency and the federal government.

~~SETBACK.~~ The required minimum horizontal distance between a building or any other specified development feature and a street right-of-way line or any other lot line, disregarding encroachments permitted by § 19.08 of this chapter.

~~SHOPPING CENTER.~~ A planned business development that:

(A) Contains a number of retail business uses, including at least a grocery store, a drug store and specialty stores;

(B) Contains a number of services, such as a barber shop, beauty shop, laundry and dry cleaning depots;

(C) Serves the day-to-day needs of the immediate neighborhood;

(D) Serves the general public; and

(E) Is open to occupancy by competitive uses.

~~SHOWROOM.~~ The display only of merchandise and equipment samples where a sales agreement with a consumer is conducted and delivery of purchased merchandise is made from an off-site warehouse. Merchandise or equipment which is displayed is typically large bulky items and includes, but is not limited to, furniture, appliances, plumbing fixtures, lighting, and carpeting.

~~SHRUB.~~ A low, usually several stemmed, woody plant.

~~SIGN.~~ A display, illustration, structure, or device with a visual display designed to identify, announce, direct, or inform. The scope of the term “sign” does not depend on the content of the message, the ideas expressed, or the image being conveyed.

~~SIGNIFICANT NATURAL WOODED AREA.~~ A grouping or cluster of evergreen and/or deciduous trees with a contiguous crown cover, occupying 5,000 or more square feet that are comprised primarily of deciduous trees no less than four caliper inches in diameter or evergreen trees no less than six feet in height, which are not listed on the city’s list of prohibited plants.

~~SITE.~~ A lot, or group of adjacent lots intended, designated or approved to function as an integrated unit, that is proposed for development in accord with the provisions of this code and is in a single ownership or has multiple owners, all of whom execute a joint application for development.

~~SOCIAL SERVICE DISTRIBUTION FACILITY.~~ An establishment primarily engaged in the temporary storage and distribution of donated food products, clothing, furniture, books and the like.

~~SOLAR POWER PANEL.~~ A structure designed to collect solar energy. **~~SOLAR POWER PANELS~~** are subject to any code standards that apply uniformly to structures. **~~SOLAR POWER PANELS~~** are not subject to accessory building standards. When pole-mounted and over 15 feet in height, **~~SOLAR POWER PANELS~~** fall within the definition of a “tower” (except for small panels on public utility poles and for public utility purposes).

~~SPECIAL STUDIES IMPACT DETERMINATION.~~ The requirement for an applicant to pay additional costs to the city for review of a land use application where special studies are needed, i.e., traffic, environmental, utility and the like, would be determined by a special studies impact determination prepared by the city.

~~SPORTS TRAINING FACILITY.~~ A facility primarily designed to provide for sports training for athletes in a particular sport, including gymnasiums, multi-sports floors, training facilities, and flexible space for the purpose of sports practice and skills enhancement. With sufficient parking, **~~SPORTS TRAINING FACILITIES~~** may include accessory large group classes and competition as subordinate activities. A **~~SPORTS TRAINING FACILITY~~** is considered to be distinct from commercial recreational services catering to the general public such as health and fitness clubs, shooting ranges, archery

ranges, bowling alleys, arcades, driving ranges, miniature golf courses, skating rinks, racquet clubs, batting cages and the like.

~~STABLE, PRIVATE.~~ A stable is any building located on a lot on which a residence is located, designed, arranged, used or intended to be used for not more than four horses for the private use of the residence, but shall not exceed 600 square feet in area.

~~STABLE, PUBLIC.~~ A stable where horses are kept for remuneration, hire or sale.

~~STAND, ROADSIDE.~~ A structure for the display and sale of products with no space for customers within the structure itself.

~~STORAGE, EXTERIOR (INCIDENTAL).~~ The outdoor storage of items directly related to the primary use of a site.

~~STORAGE, OUTSIDE (EXTERIOR).~~ Exterior stockpiling or safekeeping of materials, machinery, equipment, tools, products, vehicles, shopping carts, snow and accessories. The parking of vehicles for a period of less than 48 consecutive hours does not constitute **~~OUTSIDE STORAGE.~~**

~~STORED VEHICLE.~~ A parked vehicle that has remained in place at the same location for 48 consecutive hours or more.

~~STREET LINE.~~ The dividing line between the lot and the street.

~~STRUCTURAL ALTERATIONS.~~ Any change, other than incidental repairs, in the supporting members of a building or structure such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or exterior walls.

~~STRUCTURE.~~ That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

~~STUDIO, AUDIO OR VIDEO.~~ Facilities with studios for the creation and production of audio or video programming or recordings.

~~TAKE-OUT RESTAURANT.~~ Any establishment which has as its principal business the preparation of food, frozen dessert or beverage for sale to be consumed away from the premises of the establishment. This does not apply to restaurants which occasionally sell such items for consumption away from the premises and does not apply to drugstores or grocery stores.

~~TAPROOM.~~ An area for the on-sale consumption of malt liquor produced for consumption on the brewery premises or adjacent property in common ownership of the brewer, which may include sales of malt liquor produced and packaged at the brewery for off-premises consumption as allowed by M.S. § 340A.285, or its successor.

~~TECHNOLOGY CAMPUS.~~ A facility or group of facilities dedicated to development, manufacturing, and/or distribution of high-tech products and where a substantial

proportion of the building floor area is dedicated to office uses as well as high-tech production and/or research and development.

~~**TEMPORARY PANDEMIC, EPIDEMIC, OR EMERGENCY SERVICE FACILITY.** A temporary facility that provides non-residential services in response to a pandemic, epidemic, or emergency.~~

~~**TEMPORARY RECYCLING EVENT.** An approved event on public or private property designed to collect recyclable materials for two days or less.~~

~~**TEMPORARY STORAGE UNIT OR CONTAINERS.** Transportable storage units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis. **TEMPORARY STORAGE UNITS OR CONTAINERS** do not include dumpsters for construction debris or refuse, or self-propelled motor vehicles, and may not be used for habitation for humans or animals.~~

~~**TENT.** Any structure, including portable or temporary structures, consisting of a composite frame of stakes, beams, ropes, or cables, that is covered or enclosed or readily covered or enclosed with canvas or similar pliable materials and supported in any manner except by air or by the contents it protects.~~

~~**THERAPEUTIC MASSAGE ENTERPRISE.** Any business establishment providing therapeutic massage services to the public as defined in Chapter 14 of this code.~~

~~**TINY HOUSE.** A structure under 1,040 square feet, on wheels or sited on the ground (no trailer), and designed and intended for temporary or permanent residential use by a single family (excluding manufactured homes and recreational vehicles).~~

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

~~**TOWER, MULTI-USER.** A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.~~

~~**TOWER, SINGLE-USER.** A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this code.~~

~~**TOWING SERVICE.** An establishment engaged in the towing or storage of damaged, inoperable or impounded vehicles. Such use shall not include the wrecking or dismantling of vehicles.~~

~~**TOWNHOUSE/ROWHOUSE.** A building or group of buildings that include three or more dwelling units on a site where the dwelling units are configured in a side by side fashion and share at least one common wall but are not vertically stacked.~~

~~**TRAILER BED.** That portion of a trailer that is designed to make contact with and bear the weight of the load to be carried.~~

~~**TRANSIENT LODGING FACILITY.** A dwelling of one or more units, or portion thereof, in which a person or persons pay rent for occupancy, possession or tenancy of the property and where the actual term of occupancy, possession or tenancy of the property pursuant to that lease, license or other agreement is less than 30 consecutive calendar days, including, but not limited to bed and breakfasts, resorts, vacation homes, crash pads, hostels and the like.~~

~~**TRANSIENT MERCHANT SALES.** Temporary sales of goods such as arts, crafts, cosmetics, personal apparel and household furnishings for not longer than three days in one week.~~

~~**TRANSITWAY.** High-demand travel corridors that offer improved transit service that includes bus rapid transit, light rail, or commuter rail.~~

~~**TREE.** A large woody perennial plant with normally one main trunk and many branches.~~

~~**TREE, DECIDUOUS.** A tree that loses its leaves in the winter.~~

~~**TREE, EVERGREEN.** A tree that retains its leaves in the winter. Generally, an evergreen tree's leaves are needles.~~

~~**TREE, ORNAMENTAL.** A deciduous tree that is anticipated to be 25 feet or less in height when mature.~~

~~**TREE, OVERSTORY.** A deciduous tree that is anticipated to be over 25 feet in height when mature.~~

~~**TRELLIS.** A frame of latticework used as a screen or as a support for climbing plants.~~

~~**TRUCK AND/OR TRAILER RENTAL.** A facility primarily engaged in the rental of commercial trucks and/or trailers that may include accessory rental of automobiles, with an automobile inventory no more than nine vehicles, consistent with any applicable performance standards.~~

~~**UNIFORMITY RATIO.** The point of greatest illumination divided by the point of least illumination.~~

~~**USABLE OPEN SPACE.** That part of a lot that is not covered by buildings, drives, and parking areas, is landscaped and developed for active or passive recreational and leisure use, is conveniently located and accessible to all the units and that is a minimum of fifteen feet in width and depth.~~

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

~~**USE, PRINCIPAL.** The main use of land, buildings or other structures as distinguished from a subordinate or accessory use.~~

~~**USED CAR LOT.** Any land used or occupied for the purpose of buying and selling secondhand passenger cars or trucks and the storing of same prior to sale.~~

~~**VARIANCE.** A situation in which practical difficulties or unnecessary hardships would result from the carrying out of the strict provisions of this chapter, and the waiver of such requirements would not unduly interfere with the general purpose and intent of this chapter and the granting of such waiver would not adversely affect the health, safety or general welfare of the residents of the city and would accomplish substantial justice.~~

~~**VEHICLE REBUILDING AND BODY WORK.** The rebuilding or reconditioning of motor vehicles; body, frame or fender straightening; painting; rust proofing; or other similar activity.~~

~~**VEHICLE RENTAL FACILITY.** A facility primarily engaged in the rental of automobiles or light trucks and vans that may include incidental parking and servicing.~~

~~**VEHICLE REPAIR, MAJOR.** An establishment engaged in performing major repairs and service to passenger automobiles, trucks, vans and motorcycles. **MAJOR REPAIR** may include all activities of repair or servicing allowed in a minor automobile repair establishment as well as major engine and transmission repair and replacement and paintless dent repair (pdr). The rebuilding or reconditioning of passenger automobiles, body, frame, painting, rust proofing or other similar activity is not considered **MAJOR VEHICLE REPAIR** and is defined separately.~~

~~**VEHICLE REPAIR, MINOR.** An establishment engaged in performing minor repairs and service to passenger automobiles, trucks, vans and motorcycles. **MINOR REPAIR** may include muffler replacement, oil and fluid changing and lubrication, tire repair and replacement except tire recapping, wheel alignment, brake repair, suspension repair, minor engine and transmission repair, flushing of radiators, servicing of air conditioners, any minor maintenance, repair or replacement of motor vehicle components such as audio system installation, window tinting, wheel rim upgrades, engine tune-ups, vehicle diagnostic analysis and other vehicle inspections, lubrications, remote car starts, engine or exhaust add-ons and other after market parts, and similar minor repairs and service.~~

~~**WAREHOUSING.** The indoor storage of materials, equipment or products. **WAREHOUSING** does not include self-storage facilities, which are defined separately.~~

~~**WAREHOUSING, LIMITED.** The indoor storage of materials, equipment or products including such customary and incidental activities as approved with the conditional use permit. **WAREHOUSING, LIMITED** has infrequent truck traffic, no open storage of materials and does not involve manufacturing. **WAREHOUSING, LIMITED** does not include self-storage facilities, which are defined separately.~~

~~**WHOLESALE.** An establishment primarily engaged in the sale of goods to retailers or other business users, or to other wholesalers and related subordinated services.~~

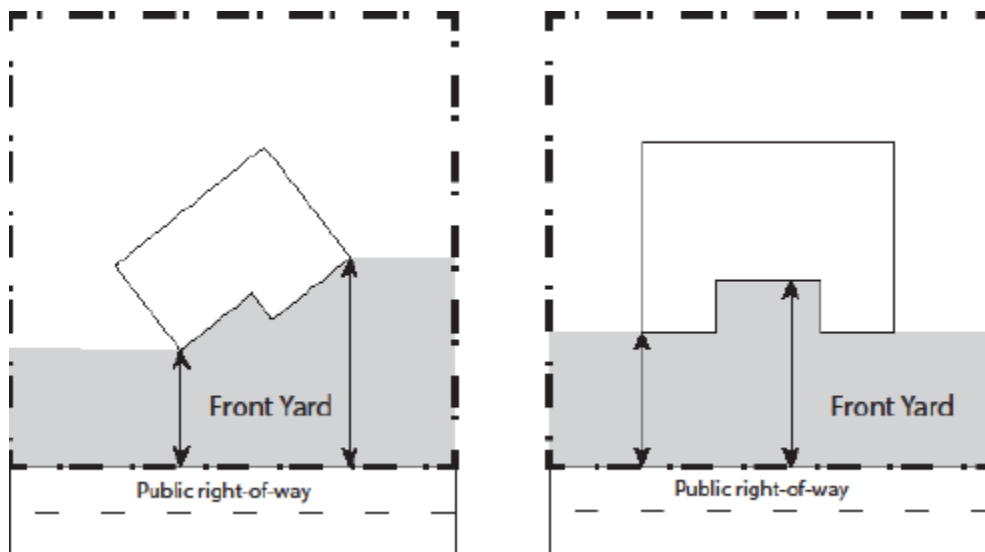
~~**WINERY, CRAFT.** A facility that manufactures wine, which includes vermouth, cider, sherry, and sake as defined by M.S. § 340A.301, with a capacity of 108,500 or fewer gallons a year.~~

~~**WORK/LIVE UNIT.** A built space used or designed to be used both as a workplace, where the primary work is performed on site, and as a residence by one family, and where the residential use is secondary to the primary use as a place of work.~~

~~**XERISCAPING.** Landscaping with slow-growing, drought tolerant vegetation or other decorative features for the purpose of conserving water and reducing yard waste.~~

~~**YARD.** An open unoccupied space other than a court, unobstructed from the ground to the sky, except where specifically provided by the Building Code, Chapter 15, on the lot on which a building is situated.~~

~~**YARD, FRONT.** The portion of the yard lying between a front lot line and the front line of the principal building, or if there is no principal building, the required front setback line across the full width of the lot between the side lot lines as represented below.~~



~~**YARD, REAR.** The portion of the yard lying between the rear lot line and the rear line of the principal building, or if there is no principal building, the required rear setback line across the full width of the lot between the side lot lines. In those locations where an alley is platted in the rear of the lots, one half of the width of the platted alley may be included as part of the rear yard area for required setback and encroachment purposes.~~

~~**YARD, SIDE.** The portion of the yard lying between a side lot line and the side line of the principal building, or if there is no principal building, the required side setback line between the front and rear yard.~~

~~DIVISION C: LOTS, BUILDING AND OBSTRUCTIONS~~

~~§ 19.04 BUILDINGS ON LOT.~~

~~—In a single-family residential district, every building hereafter erected or structurally altered shall be located on a lot. The words “principal building” shall be given their common, ordinary meaning; in case of doubt, or on any question of interpretation the decision of the issuing authority shall be final.~~

~~§ 19.04.01 ZONING LOTS.~~

~~For zoning purposes including, but not limited to, determining structure setbacks, accessory building limitations and impervious surface coverage, a “lot” may be composed of multiple adjacent properties under common ownership or control that are used together as one site. To qualify as a zoning lot, all properties therein must have one common tax or property identification number, see § 22.11.1.~~

~~§ 19.05 AGRICULTURAL STANDS.~~

~~Nothing in this chapter shall be deemed to prohibit the construction or maintenance of any stand or shelter for the sale of agricultural products produced on the premises; provided that if the structure is within ten feet of the front lot line, it shall be used only during the season when the products sold are in season and at all other times shall be removed from said location.~~

~~§ 19.06 PROPOSED BUILDINGS ON STREET SITES.~~

~~A building permit shall not be issued for any building in unplatted areas that would obstruct a future street planned by the city.~~

~~§ 19.07 BUILDINGS TO ABUT STREET.~~

~~No building permit shall be granted on any lot which does not abut upon a public street. This limitation shall not apply to planned developments approved by the City Council pursuant to the zoning ordinance.~~

~~§ 19.08 PERMITTED ENCROACHMENTS INTO REQUIRED YARDS AND SETBACK AREAS.~~

~~(a) *General.* Except where otherwise regulated by this code and as established below, all buildings, site features and equipment shall maintain the setback requirements established for the zoning district in which they are located.~~

~~(b) *Permitted encroachments; required setbacks.* Except as prohibited by Chapter 17, Article II, Division E of this code, the site features and equipment listed below shall be permitted to locate in yards and to encroach into required zoning district setbacks to the extent specified in this section, but in all cases shall maintain the minimum setback indicated.~~

~~(1) *Yards.* The established yards of the Zoning Code and any primary zoning district. For the purposes of this section, the terms “front yard,” “side yard” and “rear yard” shall have the same meanings as defined in § 19.03, except that any yard~~

adjacent to a public street shall in all cases be considered a “front” yard for setback purposes unless otherwise specified.

~~(2) *Setbacks from public streets.* All setbacks from public streets or proposed public streets shall be measured from the planned widened rights-of-way in accordance with the Master Street Plan of the city. References to a “front property line” is assumed to denote the planned widened rights-of-way in accordance with the Master Street Plan of the city.~~

~~(3) *Required setback.* Except where otherwise noted, references to “required setback” means the minimum setback required for the principal building in the applicable zoning district.~~

~~(c) *In all zoning districts.*~~

~~(1) Utility poles and wires, water, gas and other public utility appurtenances are permitted at any location in a front, side or rear yard with no minimum setback from any property line.~~

~~(2) Retaining walls up to four feet in height are permitted at any location in a front yard provided that a front setback of not less than ten feet shall be maintained and at any location in a side or rear yard with no minimum setback from any property line. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(3) Steps, stoops, egress windows and exterior landings are permitted in a front, side or rear yard providing that front, side and rear setbacks of not less than five feet shall be maintained. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(4) Private sidewalks are permitted in a front yard without a minimum front setback provided that a side setback of not less than five feet shall be maintained, and a side or rear yard providing that side or rear setbacks of not less than five feet shall be maintained. Private sidewalks shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(5) Overhanging eaves may encroach up to three feet into a required front, side or rear setback. Where a required setback to a property line is reduced to less than three feet by reason of a variance or other approval granted by the city, the allowed eave encroachment shall in no event cross the property line. An overhanging eave may encroach up to six feet into a required front or rear setback when placed over steps, stoops or an exterior landing providing that the encroachment shall not exceed eight feet in width along the wall plane. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(6) Underground garages, in accordance with § 21.301.06(h), may encroach into any required front, side or rear setback, provided that a front setback of not less than 15~~

~~feet and side and rear setbacks of not less than five feet shall be maintained. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(7) Antennas and supporting structures, including satellite receiving antennas greater than one meter in diameter in residential districts and greater than two meters in diameter in nonresidential districts, shall not be located within a front yard and shall be located only to the side or rear of the principal structure where side and rear setbacks of no less than ten feet shall be maintained. All antennas and supporting structures, including satellite receiving antennas, shall meet the applicable requirements of §§ 15.14, 19.63.05 and 21.301.10 of the city code. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(8) Ramps and other devices for access to buildings and sites by disabled persons in compliance with the American Disabilities Act may encroach into any required front, side or rear setback, provided that a front setback of not less than 20 feet and side and rear setbacks of not less than two feet shall be maintained. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(9) Fences are permitted to encroach into front, side and rear yard setbacks when specifically permitted by the city code.~~

~~(10) Open air dog runs may encroach into any required front, side or rear setback, provided that a front setback of not less than 15 feet and side and rear setbacks of not less than five feet shall be maintained. Structures as part of the dog run must meet the required setback. Fencing must comply with city code requirements. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(d) In residential zoning districts (R-1A, R-1, RS-1, R-4, RM-12, RM-24 and RM-50):~~

~~(1) Patios and terraces may encroach ten feet into a required front setback, five feet into a required side setback and 20 feet into a required rear setback, provided that a front setback of not less than 20 feet, a side setback of not less than five feet and a rear setback of not less than ten feet shall be maintained. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(2) Open decks and balconies not greater than five feet above grade at any point may encroach ten feet into a required front setback, five feet into a required side setback and 20 feet into a required rear setback, provided that a front setback of not less than 20 feet, a side setback of not less than five feet and a rear setback of not less than ten feet shall be maintained. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(3) Open decks and balconies greater than five feet in height above grade at any point may encroach five feet into a required front setback and ten feet into a required rear setback, provided that a front setback of not less than 25 feet, a rear setback of not less than 20 feet and a side setback of not less than ten feet shall be maintained. Such features are permitted in a side yard provided that a side setback of no less than ten feet shall be maintained. There shall be no encroachment into public easements of record without the written approval of the issuing authority.~~

~~(4) Chimneys may encroach three feet into a required front, side or rear setback, provided that front and rear setbacks of not less than 27 feet and a side setback of not less than seven feet shall be maintained. Chimneys shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(5) Awnings may encroach three feet into a required front, side or rear setback, provided that front and rear setbacks of not less than 27 feet and a side setback of not less than seven feet shall be maintained. An awning may encroach up to six feet into a required front or rear setback and up to five feet into a required side setback when placed over steps, stoops or an exterior landing, provided that the encroachment shall not exceed eight feet in width along the wall plane and that front and rear setbacks of not less than 24 feet and a side setback of not less than five feet shall be maintained. Awnings shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(6) Clothes lines and laundry drying equipment are not permitted within the front yard and shall be located only in side and rear yards where side and rear setbacks of not less than five feet shall be maintained. In instances where the side or rear yard abuts a public street, the required setback shall be no less than the required setback for a principal building in the zoning district. These features shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(7) Arbors and trellises may encroach ten feet into a required front setback, five feet into a required side setback and 20 feet into a required rear setback, provided that a front setback of not less than 20 feet, a side setback of not less than five feet and a rear setback of not less than ten feet shall be maintained. A setback of not less than 20 feet shall be maintained from any public street. These features shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(8) Permanently installed outdoor fireplaces and barbecues are not permitted within the front yard and shall be located only in side and rear yards. Such features shall not encroach into the required side setbacks and may encroach up to 15 feet into the required rear setback provided that a rear setback of not less than 15 feet shall be maintained. In instances where the side or rear yard abuts a public street, a setback of not less than the required front setback shall be maintained. Such features shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(9) Basketball backboards, rims and support structures may encroach 15 feet into required front and rear setbacks and five feet into a required side setback in the front yard, provided that front and rear setbacks of not less than 15 feet and a side setback in the front yard of not less than five feet shall be maintained. In side and rear yards, side setbacks of not less than 15 feet shall be maintained. Such features may encroach on public easements of record with the written approval of the issuing authority.~~

~~(10) Other recreational equipment, such as, but not limited to, play apparatus over four feet in height, ice rinks, skateboard ramps over two feet in height, trampolines, and children's swimming pools over two feet in height are not permitted within the front yard. Such features are permitted in side and rear yards provided that side and rear setbacks of not less than 15 feet shall be maintained, including those instances where the side or rear yard abuts a public street. Such features may encroach on public easements of record with the written approval of the issuing authority.~~

~~(11) Air conditioning equipment may encroach five feet into any required front, side and rear setback, provided that front and rear setbacks of not less than 25 feet and side setbacks of not less than five feet shall be maintained. Air conditioning equipment shall not encroach into public easements of record without written approval of the issuing authority.~~

~~(12) Bay and bow windows may encroach two feet into any required front, side and rear setback, provided that front and rear setbacks of not less than 28 feet and a side setback of not less than eight feet shall be maintained. Such features shall not encroach into public easements of record without written approval of the issuing authority.~~

~~(13) Entry vestibules ten feet or less in width may encroach six feet into any required front and rear setback, provided that front and rear setbacks of not less than 24 feet shall be maintained. The overhanging eaves of the entry vestibule may encroach up to an additional three feet into the required front, side or rear setback provided that the entry vestibule eaves do not exceed the prevailing dimension of overhanging eaves on the elevation of the house to which the entry vestibule is attached. No encroachment shall be allowed into a required side setback, except for an overhanging eave as described above. Such features shall not encroach into public easements of record.~~

~~(14) Covered but open porches without windows or screens may encroach eight feet into any required front setback and ten feet into any required rear setback, provided that a front setback of not less than 22 feet and a rear setback of 20 feet is maintained. No encroachment shall be allowed into a required side setback. Such features shall not encroach into public easements of record.~~

~~(e) *In nonresidential zoning districts.*~~

~~(1) Telephone booths are permitted in any front, side or rear yard, provided that a front setback of not less than 15 feet, a side setback of not less than five feet and a rear setback of not less than that required for the principal building in the zoning district shall~~

~~be maintained. Telephone booths shall not encroach into public easements of record without written approval of the issuing authority.~~

~~(2) Newspaper boxes are permitted in the front, side and rear yards when the property is occupied by a principal building, provided that a front setback of not less than 15 feet and side, and rear setbacks of not less than five feet shall be maintained. In instances where the side or rear yard abuts a public street, a setback of not less than the required front setback shall be maintained. Such features shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(3) Awnings and canopies may encroach six feet into required front and rear setbacks and four feet into required side setbacks provided that a front setback of not less than ten feet, and side and rear setbacks of not less than five feet shall be maintained. Such features shall not encroach into public easements of record without the written approval of the issuing authority.~~

~~(4) Underground storage tanks for any purpose (but not above-ground appurtenant equipment) are permitted in any front, side or rear yard, provided that front, side and rear setbacks of not less than ten feet shall be maintained. Such features shall not encroach into public easements of record.~~

~~(5) Above-ground equipment appurtenant to underground storage tanks (except fuel dispensing equipment and stations as per § 21.302.15 of this code) is not permitted within a front yard and must be located only in side and rear yards. The side setback for such equipment not over five feet in height above grade must be not less than ten feet and the equipment must be screened from public streets and adjacent properties in accordance with the requirements of § 21.302.15(d). The side setback for such equipment over five feet in height above grade must be not less than the required side setback of the principal building in the zoning district or ten feet, whichever is greater. The rear setback for all such equipment must be not less than ten feet. Such equipment must not encroach into public easements of record.~~

~~(6) Refuse and recyclable material storage rooms may encroach eight feet into a required side setback and 12 feet into a required rear setback, provided that a side setback of not less than five feet and a rear setback of not less than 15 feet shall be maintained. Such features are not permitted within the yard area between a building and the public right-of-way. Such features shall not encroach into public easements of record without written approval from the issuing authority.~~

DIVISION D: RESERVED

ARTICLE II: ADMINISTRATION AND PROCEDURE

§ 19.12 DEFINITION.

The following word, when used in this Article II, shall have the following meaning, unless the context clearly indicates otherwise:

~~REZONING.~~ Actual changes in zoning or zoning boundaries. The procedures for rezoning and conditional use permits shall in all cases be in accordance with the provisions of this Article II.

~~§ 19.13 INITIATING REZONING.~~

The Planning Commission or City Council may initiate a proposed rezoning. A property owner or representative of the property owner may request such rezoning if it applies to his or her property. In such case the property owner or his or her representative shall fill out a zoning application form, copies of which are available in the Department of Community Development. No application for a rezoning of a particular piece of property shall be accepted more than once in any 12-month period except as follows:

(1) Rezoning: applications which are withdrawn prior to action taken by the City Council.

~~§ 19.14 RESERVED.~~

~~§ 19.15 FILING PETITION.~~

(a) Rezoning: the petition shall be filed with the Department of Community Development and shall be referred to the Planning Commission for consideration.

~~§ 19.15.01 RESERVED.~~

~~§ 19.16 RESERVED.~~

~~§ 19.17 PLANNING COMMISSION CONSIDERATION.~~

The Planning Commission shall consider the petition at its next regular meeting, but not earlier than ten days after filing of the petition. This meeting shall serve as the hearing on the petition.

~~§ 19.18 REPORT TO CITY COUNCIL.~~

The Planning Commission shall make its report to the City Council as soon as practical. The Planning Commission report shall not be delayed at the request of either the petitioner or of persons objecting to the request of the petitioner. If the Planning Commission does not forward to the Council a formal decision or recommendation within 60 days after the hearing, the petitioner may appeal directly to the Council for a decision.

~~§ 19.19 CITY COUNCIL ACTION.~~

The Council must take action on the petition within 60 days after receiving the report of the Planning Commission or said petition shall fail, unless the Council shall extend such

~~time for good cause. A petition for a conditional use permit may be granted only by vote of a majority of all members of the Council.~~

~~§ 19.20 CERTIFICATES OF OCCUPANCY.~~

~~Certificates of occupancy and use shall be secured as required by the Building Code, Chapter 15, Article I; in the case of conditional use permits, such certificates shall not be issued until all conditions imposed by the City Council have been met unless otherwise specified by the City Council.~~

~~§ 19.21 ENFORCEMENT AND VIOLATIONS.~~

~~(a) *Administered and enforced.* The Zoning Code shall be administered and enforced by the issuing authority. The issuing authority may institute in the name of the city any appropriate actions or proceedings against a violator as provided by statute or this code. Each day that a violation is permitted to exist shall constitute a separate offense.~~

~~(b) *Conditions of approval.*~~

~~(1) Conditions of approval attached to any decision of the City Council concerning the use of land or buildings or the development or alteration of any site or building shall be binding on all owners, proprietors, tenants, occupants, inhabitants or residents, whether the original applicant or subsequent users of the property.~~

~~(2) The issuing authority may institute any appropriate action, including available civil legal remedies, to ensure compliance with the conditions of approval.~~

~~§ 19.22 PENALTY.~~

~~Violation of any provision of this chapter shall be a misdemeanor. Civil penalties may also be issued pursuant to § 12.15 of the City Charter and § 1.19 of this city code. However, nothing in this chapter shall be construed to limit the city's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.~~

~~§ 19.22.01 RESERVED.~~

~~§ 19.23 RESERVED.~~

~~§ 19.23.01 CANCELLATION OF VARIANCES.~~

~~(a) Unless otherwise specified by the City Council at the time it is authorized, a variance shall expire if the variance or conditional use permit is not utilized through obtaining a building permit or otherwise, one year from the date of its authorization.~~

~~(b) Reserved.~~

~~(c) In the event that building plans or site plans are required to be approved by the Planning Commission or City Council before a building permit can be issued, such approval will have the effect of extending the term of the variance for a period of one year beyond the date of approval of such building or site plans.~~

~~(d) Reserved.~~

~~(e) In the event that a change in use or a change in the application of the variance to the use or property occurs as a result of action by the occupant or owner or the application of the variance ceases for a continuous period of one year, the variance shall be considered as expired and any subsequent use of the premises shall be in conformance with the use regulations for the zoning district in which the property is located.~~

~~(f) A variance granted for a nonconformity expires when the nonconformity is discontinued as described in the definition in city code § 21.504(b).~~

~~ARTICLE III: ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES~~

~~§ 19.24 ZONING DISTRICTS AND ZONING DISTRICT ORDINANCES AND MAPS.~~

~~(a) *Zoning districts.* For the purpose of this code, the city is hereby organized into the following primary zoning districts:~~

~~(1) Single Family Residential Districts:~~

~~Single Family Residential R-1 District. All of the city except those parts described as lying within one of the following primary zoning districts established by this section~~

~~Single Family Residential R-1A District~~

~~Large Lot Single Family RS-1 District~~

~~(2) Multiple Family Residential Districts:~~

~~Townhouse Residential R-3 District~~

~~Multiple Family Residential R-4 District~~

~~Multiple Family Residential RM-12 District~~

~~Multiple Family Residential RM-24 District~~

~~Multiple Family Residential RM-50 District~~

~~Multiple Family Residential RM-100 District~~

~~(3) Neighborhood Commercial Districts:~~

~~Neighborhood Office B-1 District~~

~~General Commercial B-2 District~~

~~Neighborhood Commercial Center B-4 District~~

~~(4) Freeway Commercial Districts:~~

~~Freeway Office and Service C-1 District~~

~~Freeway Commercial C-2 District~~

~~Freeway Commercial Center C-3 District~~

~~Freeway Office C-4 District~~

~~Freeway Mixed Use C-5 District~~

~~Regional Commercial CR-1 District~~

~~(5) Industrial Districts:~~

~~Industrial Park I-1 District~~

~~Limited Industry I-2 District~~

~~General Industry I-3 District~~

~~Industrial Park IP District~~

~~Innovation and Technology IT District~~

~~Transitional Industrial TI District~~

~~(6) Mixed Use Districts:~~

~~Mixed Use CX-2 District~~

~~High Intensity Mixed Use With Residential HX-R District~~

~~Lindau Mixed Use LX District~~

~~(7) Reserved:~~

~~(8) Reserved:~~

~~(9) Commercial Service Districts:~~

~~Commercial Service CS-0.5 District~~

~~Commercial Service CS-1 District~~

~~(10) Commercial Office Districts:~~

~~Commercial Office CO-1 District~~

~~(11) Reserved.~~

~~(12) Residential Office District:~~

~~Residential Office RO-24 District~~

~~(13) Conservation SC District.~~

~~(14) Freeway Development District:~~

~~Freeway Development FD-2 District~~

~~(b) *Overlay districts.* For the purpose of this code, the city is hereby organized into the following overlay zoning districts:~~

~~(1) Planned Development PD Overlay District;~~

~~(2) Flood Hazard FH Overlay District;~~

~~(3) Bluff Protection BP Overlay District;~~

~~(4) Reserved;~~

~~(5) Airport Runway (AR-17) Overlay District; and~~

~~(6) Airport Runway (AR-22) Overlay District.~~

~~(c) *Zoning district map.* The location and boundaries of the primary and overlay zoning districts shall be legally described in ordinances adopted by the City Council. Such zoning district descriptions shall be reflected in an official zoning district map that is established and maintained as provided herein. In the event of a conflict between an ordinance adopting or amending a zoning district and the zoning district map, the ordinance shall control.~~

~~(d) *Zoning district map.* The location and boundaries of the primary and overlay zoning districts established by this chapter of the city code shall be set forth on the zoning district map of the city in accordance with the ordinances describing those districts, and the zoning district map shall be effective as of the date of adoption of these ordinances. The zoning district map and all notations, references and other information shown thereon are hereby made a part of this chapter by reference and shall have the same force and effect as if such map and all notations, references and other information shown thereon were fully set forth or described herein. The format of the zoning district map shall be determined by the Department of Community Development.~~

~~(e) *Location of zoning district map.* The zoning district map shall be kept permanently on file in the office of the Department of Community Development of the city and shall be available for inspection by the public during normal business hours.~~

~~(f) *Amendments to the zoning district map.* Amendments to the zoning districts in this code and zoning district boundaries as shown in the zoning district map shall be by ordinance adopted by the City Council in accordance with the procedures set forth in Article II, Chapter 19 of the city code.~~

~~(g) *Maintenance of zoning district map.* The Department of Community Development shall be responsible for maintaining and updating the zoning district map. Any amendments to the zoning district map shall be recorded on the appropriate map(s) within 30 days of adoption by the City Council.~~

~~§ 19.25 RULES IN ESTABLISHING ZONING DISTRICTS.~~

~~(a) The purpose of this section is to establish a framework and uniform rules for location and boundaries of zoning districts established by this chapter.~~

~~(b) Unless otherwise determined by the City Council the zoning district boundary lines shall be established as follows:~~

~~(1) Zoning districts abutting municipal boundaries shall utilize those boundaries;~~

~~(2) When an existing roadway, alley or railroad right of way or centerline is a zoning district boundary line and that right of way is vacated or legally discontinued, the zoning district boundary line shall remain in place;~~

~~(3) When a channel centerline of a river, stream or water course is a zoning district boundary line and there is a natural change in the location of the channel centerline, the zoning district boundary shall be considered to have moved with the channel centerline;~~

~~(4) District boundary lines for the Conservation SC, Flood Hazard FH Overlay, and Bluff Protection BP Overlay Districts may also be described as following a specific datum elevation contour above mean sea level between specified reference points. District boundary areas for the Bluff Protection BP Overlay District may also be described as steep slopes of 18% or greater over a horizontal distance of 25 feet or longer; and~~

~~(5) Where a dimensioned zoning district boundary line coincides approximately but not exactly with a lot line which did not exist on the effective date of incorporation of the zoning district boundary line into the zoning district map, the lot line shall be the zoning district boundary line at that location.~~

~~(6) Ponds, lakes and other submerged areas:~~

~~(A) When entirely within or enclosed by a primary zoning district, the pond, lake or submerged area shall have the same primary zoning unless otherwise described;~~

~~(B) When a pond, lake or other submerged area abuts two or more primary zoning districts and is not located entirely within one of them nor described in a separate district, the boundaries of each abutting primary zoning district shall be extended in a~~

~~straight line across the pond, lake or submerged area until intersection with another district boundary; and~~

~~(C) Primary zoning district boundaries shown as following the shorelines of any pond, lake, or submerged area shall be considered to follow the ordinary high water line and, in event of a natural change in the ordinary high water line, shall be considered to have moved with the ordinary high water line.~~

~~(c) Wherever a direction and distance is given as a zone boundary, it is intended and shall be construed to mean a line parallel to the physical feature such as street centerline or right-of-way line last described.~~

~~(d) Wherever a strip of land is referred to, it is intended and shall be construed to mean abutting upon the last described physical feature.~~

§ 19.26 USES.

~~(a) *Certificate of occupancy required.* Where required by the current State Building Code, no building or premises may hereafter be used or occupied and no change in the occupancy classification of a building, structure or portion of a building or structure may be made, unless a certificate of occupancy is issued by the issuing authority.~~

~~(b) *Use is not specifically listed.* When a use is not specifically listed in Chapter 19 or 21 as a permitted, accessory, provisional, interim, limited or conditional use in one of the zoning districts, it shall be assumed that such use is hereby expressly prohibited.~~

~~(c) *Permitted uses.* The following uses shall be construed to be permitted in all zoning districts within the city:~~

~~(1) Public streets and highways; and~~

~~(2) Underground public utilities.~~

~~(d) *Prohibited uses.* These following uses shall be construed to be prohibited in all zoning districts within the city.~~

~~(1) *Dealer in motor vehicles.* No building, structure, lot, yard, area or premises within the city shall be kept, used or maintained by a dealer in motor vehicles for the purpose of therein or thereon keeping, storing, handling, buying, selling, leasing, wholesaling, brokering, auctioning or displaying any new, used, secondhand or junked motor vehicle or motor vehicle accessories when of a temporary or transient nature. A dealer in motor vehicles shall only engage in such businesses at a permanent location and in accordance with permitted or conditional zoning district requirements. This provision shall not apply to the occasional sale of a motor vehicle by a private owner upon his or her own property in a residential zone.~~

~~(2) *Bungee jumping.*~~

~~A. *Purpose.* The City Council finds that the practice of bungee jumping, also known as bungee cord jumping and reverse bungee jumping, has resulted in personal injuries and deaths which are likely to continue to occur. The City Council notes that most bungee jumping operations are conducted in combination with the use of a crane which has not been designed or manufactured for those purposes. The City Council concludes that bungee jumping is an inherently dangerous and life-threatening practice, likely to cause great harm or death to the participants.~~

~~B. *Definition.* **BUNGEE JUMPING** means the sport, activity or practice of jumping, stepping out, dropping or otherwise being released into the air while attached or fastened to a cord made of rubber, latex or other elastic type material, whether natural or synthetic, whereby the cord stops the fall, lengthens and shortens, allows the person to bounce up and down and is intended to finally bring the person to a stop at a point above the surface.~~

~~C. *Prohibition.* The practice of bungee jumping in any form whatsoever, whether open to the general public or for demonstration, exhibition or other purposes, is hereby prohibited.~~

~~D. *Penalty.* It shall be a misdemeanor to violate any provision of this subsection (d)(2).~~

~~§ 19.27 RESERVED.~~

~~§ 19.27.01 RESERVED.~~

~~§ 19.28 RESERVED.~~

~~§ 19.28.01 RESERVED.~~

~~§ 19.28.02 RESERVED.~~

~~§ 19.28.03 RESERVED.~~

~~§ 19.29 HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.~~

~~(a) *Intent.* It is the purpose of this district to provide for high-intensity employment-oriented, tourist-oriented and residential uses in areas close to frequent transit service. The provisions of this district are intended to:~~

~~(1) Promote high-intensity development;~~

~~(2) Avoid under-utilization of the small supply of land in the city that lies within one-half mile of high frequency mass transit service;~~

~~(3) Require the creation of a significant high-density residential node to diversify housing options available in the city and create a live-work-recreation environment;~~

~~(4) Reduce vehicle trips and vehicle miles traveled relative to the same level of development in other areas by allowing residences in close proximity to employment and services, by allowing intense development in close proximity to high frequency transit service, and by encouraging multi-purpose trips, walking trips, carpool trips and transit trips;~~

~~(5) Reduce overall costs and impacts of parking by making shared parking feasible where peak parking demand times vary among uses;~~

~~(6) Maximize return on public utility and transportation infrastructure investments by requiring high intensity development;~~

~~(7) More efficiently use public and private infrastructure by taking advantage of peak demand time variations for infrastructure (roads, transit, sewer, water, electricity, phone) among land uses. By becoming a source of trip origins as well as trip destinations, roadway and transit systems can be used in a more efficient bi-directional manner;~~

~~(8) Ensure that residential development is compatible with the surrounding noise levels;~~

~~(9) Provide a pedestrian oriented environment; and~~

~~(10) Provide floor area ratio bonuses to encourage development characteristics that advance citywide and district specific objectives, including accessory and limited retail and service uses, below grade parking, parks or plazas, affordable housing, public art and sustainable design.~~

~~(b) Permitted principal uses:~~

~~(1) Offices;~~

~~(2) Hotels;~~

~~(3) Multiple-family dwellings;~~

~~(4) Transit stations;~~

~~(5) Public uses;~~

~~(6) Cinema and theaters;~~

~~(7) Medical offices and clinics;~~

~~(8) Conference, exposition and meeting facilities;~~

~~(9) Entertainment and recreation special events;~~

~~(10) Farmers market subject to standards set forth in Chapter 14, Article IX;~~

~~(11) Arts and crafts festival subject to standards set forth in Chapter 14, Article X; and~~

~~(12) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.~~

~~(c) Permitted limited and accessory uses.~~

~~(1) Limited uses. The following uses are permitted as limited uses:~~

~~(A) Retail uses for the sale of groceries, bakery goods, drugs, sundry items, gifts, books, recorded music, arts and crafts, plants and similar items;~~

~~(B) Personal and business service establishments including dry cleaners, exercise and health activities, beauty and barber shops, copying services, photo developing, picture framing, licensed therapeutic massage, travel agencies and similar establishments;~~

~~(C) Restaurants without drive-up facilities;~~

~~(D) Financial institutions without drive-up facilities;~~

~~(E) Day care facilities;~~

~~(F) Fuel sales physically integrated within a structured parking facility;~~

~~(G) Beekeeping;~~

~~—— (H) Brewpub;~~

~~—— (I) Taproom/cocktail room; and~~

~~—— (J) Craft and micro-brewery/distillery/winery.~~

~~(2) Accessory uses. The following uses are permitted as accessory uses:~~

~~(A) Type I home businesses pursuant to standards as set forth in § 21.302.13;~~

~~(B) Hotel manager dwelling unit;~~

~~(C) Transient merchant sales in hotel interiors only; and~~

~~(D) Other uses customarily incidental and clearly subordinate to a permitted principal or conditional use. Drive through uses are prohibited.~~

~~(d) Conditional uses.~~

~~(1) Expansion of electric substation or electric transmission line facilities in existence prior to January 1, 2005, subject to the provisions of subsection (p) below;~~

~~(2) Type II home businesses pursuant to standards as set forth in § 21.302.13;~~

~~(3) Expansion of hotel facilities in existence prior to January 1, 2005, subject to the provisions of subsection (p) below; and~~

~~(4) Manufactured home parks pursuant to standards as set forth in § 21.302.10.~~

~~(e) Interim uses.~~

~~(1) Remote airport parking, subject to the provisions of subsection (p) below; and~~

~~(2) Temporary Pandemic, Epidemic, or Emergency Service Facility.~~

~~(f) Residential uses required.~~

~~(1) Minimum density. Development within the HX-R Zoning District must include at least 30 residential dwelling units per acre of gross site area, with the following exceptions.~~

~~(A) Residential uses are prohibited in areas forecast to have average future aircraft noise levels at or above 70 dB DNL.~~

~~(B) For the purposes of calculating the required number of residential dwelling units for a site within the HX-R Zoning District, the land area, as calculated by city staff, of the site forecast to be exposed to average future aircraft noise levels at or above 70 dB DNL will be subtracted from the overall site area.~~

~~(C) On sites in which over two-thirds of the site area is forecast to be exposed to average future mitigated aircraft noise levels at or above 70 dB DNL, residential uses in the area with less than 70 dB DNL are allowed but not required.~~

~~(D) Forecast aircraft noise levels will be determined based on the highest noise level shown on either the most recent annual noise contour map published in the Minneapolis-St. Paul International Airport Annual Noise Contour report or the noise level forecast for the most distant year included in the most recent comprehensive plan or environmental documents adopted by the Minneapolis-St. Paul International Airport by the Metropolitan Airports Commission.~~

~~(2) Phased developments. When a mixed use development is constructed in phases, it is the intent of the HX-R Zoning District that the residential components of the development not be set aside until the final development phase(s). Therefore, when residential uses are required on a site, final development plans may not be approved for a structure or structures that would increase the total nonresidential floor area on the site to over 50% of the total nonresidential floor area on the site approved in the preliminary development plan unless:~~

~~(A) Construction has commenced on at least 50% of the total number of residential dwelling units on the site approved in the preliminary development plan;~~

~~— (B) The structure or structures include both nonresidential and residential uses and its construction would bring the number of residential dwelling units on the site to at least 50% of the total number of residential dwelling units on the site approved in the preliminary development plan; or~~

~~— (C) The City Council determines that the approval satisfies the intent of the HX-R Zoning District.~~

~~— (g) *Floor area ratio.*~~

~~— (1) The minimum floor area ratio required for development within the HX-R Zoning District is 1.5.~~

~~— (2) Floor area ratio calculations include all residential and nonresidential development on a site but exclude structured or underground parking.~~

~~— (3) In cases where development on a site occurs in phases, each individual development phase must comply with the floor area ratio requirements of this subsection (g) on its own or in conjunction with previous phases if previous phases exceeded floor area ratio requirements. The overall development must also comply with the floor area ratio requirements of this subsection (g).~~

~~— (4) The maximum floor area ratio for development within the HX-R Zoning District is 2.0, but may be increased through the following bonus provisions.~~

~~— (A) *Retail and service use bonus.* Developments including limited use retail and service uses are eligible for bonus floor area. Two square feet of additional floor area is allowed per square foot of limited use retail and service use floor area. In no case may the retail and service use floor area ratio bonus exceed 0.50.~~

~~— (B) *Below grade parking bonus.* Developments including below grade parking are eligible for bonus floor area. Two square feet of additional floor area is allowed per gross square foot of below grade parking floor area. To qualify for the bonus, parking must be fully below the finished final grade on all sides. In no case may the below grade parking floor area ratio bonus exceed 0.75.~~

~~— (C) *Plaza or park bonus.* Developments not subject to park donation requirements as specified in § 22.10 that include publicly accessible plaza or park areas are eligible for bonus floor area. One square foot of additional floor area is allowed per square foot of publicly accessible plaza or park area meeting the following requirements.~~

~~— (i) Land used to satisfy park dedication requirements is not eligible for park or plaza bonus floor area.~~

~~— (ii) The plaza or park must include at least 5,000 square feet of contiguous area.~~

~~—— (iii) To avoid long and narrow spaces, the length of the plaza or park must not exceed three times the width of the plaza or park.~~

~~—— (iv) At least 25% of the perimeter of the plaza or park must abut a public or private street.~~

~~—— (v) At least 30% of the plaza or park area must consist of landscaping or water features.~~

~~—— (vi) The plaza or park must be easily accessible via sidewalk.~~

~~—— (vii) The plaza or park must be designed to encourage public use through the provision of seating, tables, trash receptacles, water features and areas for public entertainment or public display of art or cultural exhibits. Seating must be provided at a rate of not less than one seat per 200 square feet of plaza or park area for the first 10,000 square feet.~~

~~—— (viii) The site development agreement must include provisions ensuring that the plaza or park is open to the public every day between 7:00 a.m. and 9:00 p.m. and maintained in good order.~~

~~—— (ix) In no case may the park or plaza floor area ratio bonus exceed 0.25.~~

~~—— (x) The site development agreement must include provisions ensuring the installation, preservation, maintenance and replacement, if necessary, of plaza or park features.~~

~~—— (xi) The plaza or park must include pedestrian lighting at an illumination level of at least 2.0 foot candles.~~

~~—— (D) *Affordable housing bonus.* Developments including affordable housing as defined by the Metropolitan Council are eligible for bonus floor area. Three square feet of additional floor area is allowed per square foot of affordable housing unit floor area subject to the following requirements.~~

~~—— (i) The site development agreement must include provisions ensuring that rental units receiving the bonus will continue to remain affordable for 30 years.~~

~~—— (ii) The site development agreement must include provisions ensuring that owned units receiving the bonus will initially be sold at an affordable level and that mechanisms are in place to ensure that the owned units receiving the bonus will continue to remain affordable when resold in the future.~~

~~—— (iii) In no case may the affordable housing floor area ratio bonus exceed 1.0.~~

~~—— (E) *Public art bonus.* Developments committing funds to on-site public art are eligible for bonus floor area. One square foot of additional floor area is allowed per \$50 committed to on-site public art, subject to the following requirements.~~

~~———— (i) In no case shall the public art floor area ratio bonus exceed one-half.~~

~~———— (ii) Developments requesting the public art bonus must submit a plan, to be approved by the City Council, documenting the type of public art to be commissioned, the budget, location, schedule and artist selection process. To qualify for the bonus, the City Council must approve the plan.~~

~~———— (iii) Works of art must be placed outside of a building at a location clearly visible and freely accessible to the public.~~

~~———— (iv) The site development agreement must include provisions ensuring the installation, preservation, maintenance and replacement, if necessary, of the public art.~~

~~———— (v) To ensure that public art is installed as proposed, a performance security in an amount equal to the bonus level approved must be submitted prior to issuance of building permits for a building on a site receiving a public art bonus. The security may consist of a bond, irrevocable letter of credit, cash deposit or other instrument that provides an equal performance guarantee to the city.~~

~~———— (F) *Sustainable design bonus.* Developments designed to minimize negative impacts on the environment as measured by the LEED (Leadership in Energy and Environmental Design) Green Building Rating System® are eligible for bonus floor area. The LEED Rating System® is a voluntary national standard administered by the United States Green Building Council. Bonuses are subject to the following provisions:~~

~~———— (i) One quarter square foot of additional floor area is allowed per square foot of floor area within a building that receives LEED certification at the certified or silver award level. One half square foot of additional floor area is allowed per square foot of floor area within a building that receives LEED certification at the gold or platinum award level.~~

~~———— (ii) In no case may the sustainable design floor area ratio bonus exceed 1.0. The sustainable design floor area ratio bonus applies only to the phase of development that includes a building receiving LEED certification and cannot be carried forward to future project phases.~~

~~———— (iii) Applications for development wishing to use the sustainable design bonus must include a report from a LEED certified architect or engineer that includes a statement of the anticipated LEED certification level, a copy of the most recent version LEED scorecard and a summary of how and/or why each LEED credit can or cannot be achieved.~~

~~———— (iv) A building permit for a building using the sustainable design bonus will not be issued until an independent, LEED certified inspector, architect or engineer under the supervision of the city and paid for by the applicant verifies that the construction plans include the elements necessary to receive LEED certification at the level for which the bonus was granted. In the event that the LEED certification level for which the bonus~~

~~was granted cannot be verified during the building permit plan review process, the applicant must either modify the construction plans to achieve the verification or forfeit the bonus by amending the final development plans to remove the bonus floor area.~~

~~—— (v) A final certificate of occupancy for a building using the sustainable design bonus will not be issued until the city receives verification from the United States Green Building Council that the building has been granted LEED certification at the award level for which the bonus was granted.~~

~~—— (vi) The site development agreement must acknowledge that building permits and final certificates of occupancy will not be issued unless LEED certification at the level for which the bonus was granted can be verified.~~

~~—— (h) *Dimensional requirements.*~~

~~—— (1) *Building placement.* HX-R Zoning District building placement requirements are intended to promote intensity, to maximize design flexibility, to facilitate pedestrian movement and to create an active pedestrian environment.~~

~~—— (A) There is no minimum building setback required from property lines fronting public streets.~~

~~—— (B) The minimum building setback along a lot line not adjacent to a public street is ten feet, unless the lot line separates two portions of the same site, in which case no minimum building setback from the internal lot line is required.~~

~~—— (C) Buildings must not encroach into public easements.~~

~~—— (D) To create an active pedestrian level environment, at least one public entrance to buildings with ground level retail and service uses must be located within 20 feet of a public street, internal private street or major pedestrian way. The City Council may approve an alternative location for buildings with ground level retail and service uses provided the alternative location better serves the goal of creating an active pedestrian level environment.~~

~~—— (E) Skyways, tunnels and similar pedestrian connection structures have no setback requirements from property lines for a width of 120 feet.~~

~~—— (2) *Minimum site area.* The minimum site area within the HX-R Zoning District is 120,000 square feet. Parcels with areas below 120,000 square feet may be created as part of a planned development, provided the area of the overall planned development is at least 120,000 square feet.~~

~~—— (3) *Maximum structure height.* Maximum structure height is set forth in § 21.301.10 of this code.~~

~~—— (i) *Parking.*~~

~~—(1) *Number of parking spaces.* The number of motor vehicle parking spaces provided within a development must not exceed 130% of the citywide requirements set forth in § 21.301.06 of this code, unless the City Council determines that additional motor vehicle parking levels are warranted based on the results of a motor vehicle parking study, prepared by an independent traffic engineering professional under the supervision of the city and paid for by the applicant.~~

~~—(2) *Location of motor vehicle parking.* In order to more efficiently use available land, improve aesthetics and create a pedestrian-oriented environment that promotes walking, biking and transit use, the location of motor vehicle parking is restricted within the HX-R Zoning District.~~

~~—(A) Motor vehicle parking must be located below grade, within structured ramps, or in individual on-street spaces parallel with and adjacent to low volume streets. At-grade motor vehicle parking areas are prohibited with the exception of small, short term visitor parking areas near structures. At-grade visitor parking areas, if provided, may include no more than one motor vehicle parking space per 20,000 square feet of floor area in the associated building.~~

~~—(B) For phased developments where at-grade motor vehicle parking already exists, the overall number of at-grade motor vehicle parking spaces on-site must be proportionally reduced with each phase of development so that compliance with limitations on at-grade parking is achieved prior to or in conjunction with the final phase of construction.~~

~~—(3) *Bicycle parking.* Bicycle parking facilities commensurate with anticipated demand must be provided near building entrances.~~

~~—(j) *Building design.*~~

~~—(1) *Entrances.* Buildings adjacent to and within 100 feet of public streets must include at least one public entrance clearly visible and directly accessible from an adjacent public street. The public entrance may include security controls.~~

~~—(2) *Windows.* First floor building facades facing and within 100 feet of public or private streets or major pedestrian corridors must meet the following window standards on those facades in order to promote a pedestrian-oriented environment and add visual interest.~~

~~—(A) For residential uses, a minimum of 25% of the area of the first floor building facade must be composed of windows or entrances.~~

~~—(B) For nonresidential uses, a minimum of 50% of the area of the first floor building facade must be composed of windows or entrances. No more than 25% of the total window area and eye level window area may be obscured by signs, film coverings, product displays or similar covering. Blinds, curtains and similar temporary coverings for privacy or sunlight control are permitted.~~

~~—— (C) To count toward window area requirements, windows must be transparent.~~

~~—— (3) *Blank facades.* Blank building facades or walls must not exceed 20 feet in length. A building facade or wall is considered to be blank if it is uninterrupted by windows, doors, ornamentation, decoration, articulation or other architectural detailing.~~

~~—— (4) *Exterior materials.* The exterior materials and finish of all buildings and structures erected within the HX-R Zoning District must conform with the applicable requirements of § 19.63.08 of this code.~~

~~—— (5) *Canopies and awnings.* First floor canopies and awnings are encouraged on buildings in order to promote a pedestrian-oriented environment and add visual interest. Canopies and awnings must not extend above the first floor of a building or more than 15 feet above the finished grade.~~

~~—— (6) *Parking structures.* Given the anticipated intensity of development within the HX-R Zoning District, above grade parking structures are likely to be common features within the district. The following standards are intended to ensure that parking structures complement the visual character, pedestrian orientation and overall attractiveness of the area:~~

~~—— (A) *Placement.*~~

~~—— (i) Above grade parking structures must not front on either American Boulevard or 34th Avenue within 200 feet of the point at which the applicable site's property lines that front on both streets would intersect if extended.~~

~~—— (ii) To the extent feasible, parking structures should be placed in locations where their visibility from active areas is reduced.~~

~~—— (iii) Establishing retail and service uses on the ground floor of parking structures and partially wrapping the parking structure with active building space is encouraged.~~

~~—— (B) *Architecture and materials.* Parking structure facades visible from public streets, private streets or transit corridors must architecturally complement the building or buildings the parking structure serves through the use of exterior materials, architectural elements and color.~~

~~—— (i) Parking structure exterior materials must meet the requirements of § 19.63.08.~~

~~—— (ii) Parking structure exterior material color must complement the color of the building or buildings the parking structure serves.~~

~~—— (iii) Parking structures must include architectural elements that enhance the structure, break up its mass and complement the building or buildings the parking structure serves. Examples of specific architectural elements that may assist in meeting this requirement include decorative piers and pilasters, banding, reveals, architectural~~

~~accents, wall plane articulation, decorative artwork, ornamental grillwork, recessed window openings, facade treatment variations and locating tenant signs on the side of parking ramps.~~

~~—— (iv) Parking structure access points must be architecturally articulated to add visual interest.~~

~~—— (v) Parking structures must be designed to block the visibility of vehicle headlights from outside the parking structure.~~

~~— (k) *Pedestrians and bicycles.* Achieving the intent of the HX-R Zoning District will require high quality, linked sidewalks and bikeways.~~

~~—— (1) Development must provide sidewalks and bikeways that support movement throughout the Airport South District and are consistent with the Airport South sidewalk and bikeway plan.~~

~~—— (2) Site design for new development must promote pedestrian circulation and the principles of Crime Prevention Through Environmental Design (CPTED).~~

~~—— (3) Development must provide sidewalks and, where appropriate, bikeways along all public and private streets unless the City Council determines that an alternative sidewalk or bikeway location better serves the development and surrounding area.~~

~~—— (4) Development must provide sidewalks between building entrances and the streetside or areawide system.~~

~~—— (5) Development must provide for direct and continuous pedestrian and bicycle connections to adjacent sites, where links to existing, proposed or potential development are appropriate.~~

~~—— (6) Development sites that contain a transit station must provide direct and continuous sidewalk and bikeway connections between the transit station and buildings on-site as well as to adjacent sites, where links to existing, proposed or potential development are appropriate.~~

~~—— (7) To support street level retail uses, pedestrian movement between adjacent buildings and sites is encouraged to take place at grade rather than through skyways or tunnels. Grade separated pedestrian crossings over arterial and collector streets are encouraged.~~

~~—— (8) Sidewalk width requirements.~~

~~—— (A) Sidewalks adjacent to public streets, major sidewalks internal to sites and sidewalks adjacent to retail and service storefronts must have an unobstructed, walkable width of at least eight feet. Additional width is encouraged in appropriate areas to accommodate outdoor seating, benches, landscaping, light posts, trash receptacles, bicycle parking and similar pedestrian oriented infrastructure.~~

~~—— (B) All other sidewalks must have an unobstructed, walkable width of at least six feet.~~

~~—— (C) The City Council may require greater sidewalk widths through condition of approval when greater widths are deemed necessary to meet anticipated pedestrian needs or state aid standards.~~

~~—— (I) *Open space and landscaping.*~~

~~—— (1) Landscaping must conform with the requirements of § 21.301.15 and other applicable requirements of this code.~~

~~—— (2) Development must conform with any applicable district streetscape or open space plan.~~

~~—— (3) Each development site subject to park donation requirements as specified in § 22.10 must include at least one on-site plaza or park that meets the following requirements.~~

~~—— (A) The plaza or park must include at least 5,000 square feet of contiguous area. The first 5,000 square feet of plaza or park area qualifies as a credit toward the park donation requirements of § 22.10. Additional plaza or park land area above 5,000 square feet may qualify as a credit toward the park donation requirements of § 22.10 if the city determines that additional land is needed on the site to meet the park and recreation needs of area workers and residents.~~

~~—— (B) To avoid long and narrow spaces, the length of the plaza or park must not exceed three times the width of the plaza or park.~~

~~—— (C) The plaza or park must be reserved for public use through a permanent easement and must be open to the public every day between 7:00 a.m. and 9:00 p.m.~~

~~—— (D) At least 30% of the plaza or park must consist of landscaping or water features.~~

~~—— (E) The plaza or park must include pedestrian lighting at an illumination level of at least 2.0 foot candles.~~

~~—— (F) At least 25% of the perimeter of the plaza or park must abut a public or private street.~~

~~—— (G) The plaza or park must be easily accessible via sidewalk.~~

~~—— (H) The plaza or park must be designed to encourage public use through the provision of seating, tables, trash receptacles, water features and areas for public entertainment or public display of art or cultural exhibits. Seating must be provided at a rate of not less than one seat per 200 square feet of plaza or park area for the first 10,000 square feet.~~

~~—(I) The plaza or park must be maintained in good order.~~

~~—(J) The site development agreement must include provisions ensuring public access as well as the installation, preservation, maintenance and replacement, if necessary, of plaza or park features.~~

~~—(m) Reserved.~~

~~—(n) Reserved.~~

~~—(o) *Public art.* The provision and exterior display of public art creates visual interest within the HX-R Zoning District and helps to facilitate a pedestrian oriented environment.~~

~~—(1) Preliminary and final development plans for new development in the HX-R Zoning District must designate potential future locations for public art near high volume pedestrian corridors. At least one potential future public art location must be designated per two and one half acres of site area. The HX-R Zoning District does not require the provision of public art but does offer floor area ratio bonuses for public art subject to the provisions of subsection (g)(4)(D) above.~~

~~—(p) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.~~

~~—(q) *Construction or expansion not in compliance with HX-R District standards.* Where construction or expansion not in compliance with HX-R District residential use and minimum floor area ratio requirements is allowed to occur through issuance of a conditional use permit or interim use permit, such construction or expansion is subject to the following provisions:~~

~~—(1) The new or expanded use is not required to comply with HX-R District residential use and minimum floor area ratio requirements. The new or expanded use must meet all other applicable requirements of the district and city code, including parking requirements.~~

~~—(2) Expansion of an existing use not in compliance with HX-R District residential use and minimum floor area ratio requirements must be contained within the parcel currently occupied by the existing use.~~

~~—(3) Additional requirements for nonconformities are set forth in § 21.504 of this code.~~

§ 19.30 RESERVED.

§ 19.31 RESERVED.

§ 19.31.01 REGIONAL COMMERCIAL (CR-1) DISTRICTS.

~~—(a) *Intent.* This district is intended to provide for the development of regional and community scale integrated retail, office, business services, personal services and~~

~~services to the traveling public near freeway interchanges. The provisions of this district are intended to:~~

- ~~—(1) Promote and properly manage high-intensity development;~~
- ~~—(2) Allow for the provision of other services related to principal uses;~~
- ~~—(3) Promote an integrated site and building design framework;~~
- ~~—(4) To avoid traffic hazard and congestion by careful location of accesses to public streets;~~
- ~~—(5) Protect future roadway improvements; and~~
- ~~—(6) Create a visual identity for the district while allowing reasonable identity for individual uses in scale with the size of use.~~

~~—(b) *Permitted principal uses.*~~

- ~~—(1) Retail shopping uses;~~
- ~~—(2) Office buildings;~~
- ~~—(3) Banks and financial institutions;~~
- ~~—(4) Medical and dental offices;~~
- ~~—(5) Theaters and cinemas, except drive-in theaters;~~
- ~~—(6) Hotels and motels;~~
- ~~—(7) Public uses;~~
- ~~—(8) Automobile rental agencies with an on-site inventory of ten or fewer rental vehicles, subject to performance standards set forth in § 19.63.07 of this code;~~
- ~~—(9) Transient merchant sales as an accessory use in hotel interiors only;~~
- ~~—(10) Entertainment and recreation special events;~~
- ~~—(11) Firearm sales, incidental, subject to standards set forth in § 21.302.11;~~
- ~~—(12) Farmers market subject to standards set forth in Chapter 14, Article IX;~~
- ~~—(13) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;~~
- ~~—(14) Restaurant without drive-through and rooftop seating;~~
- ~~—(15) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18;~~
- ~~—(16) Public utility facility, general;~~

~~—(17) Brewpub;~~

~~—(18) Taproom/cocktail room; and~~

~~—(19) Craft and micro-brewery/distillery/winery~~

~~—(c) *Provisional uses.* The uses described below are permitted uses, provided that:~~

~~—(1) The following uses are located in a structure containing a permitted principle use, or are located in a structure meeting the minimum floor area requirement of the CR-1 District:~~

~~—(A) Catering businesses, major and minor;~~

~~—(B) Personal service establishments, including licensed therapeutic massage enterprises, beauty and barber shops, exercise and health facilities, dry cleaning drop-off and pick-up stations, laundering, repair of household items and similar personal services;~~

~~—(C) Business services, including copying and printing businesses and similar services;~~

~~—(D) Commercial recreation facilities;~~

~~—(E) Licensed day care facilities;~~

~~—(F) Instructional center; and~~

~~—(G) Licensed body art establishments.~~

~~—(2) The following uses are adjacent to and integrated by means of orientation, parking, pedestrian and vehicular circulation, access and design with a permitted principal use:~~

~~—(A) Class I motor vehicle sales;~~

~~—(B) Convenience facility with fuel sales; and~~

~~—(C) Automobile repair businesses.~~

~~—(3) Accessory uses which are customarily incidental and are clearly subordinate to permitted principal uses;~~

~~—(4) Class II motor vehicle sales accessory to Class I motor vehicle sales;~~

~~—(5) Repair of motor vehicles accessory to Class I motor vehicle sales;~~

~~—(6) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 19.63.07(e);~~

~~—(7) Beekeeping; and~~

~~—(8) Hotel manager dwelling unit which is customarily incidental and clearly subordinate to the permitted principal use of a hotel.~~

~~—(d) Conditional uses.~~

~~—(1) New motor vehicle sales;~~

~~—(2) Restaurants with drive through (including drive in) or rooftop seating;~~

~~—(3) Reserved;~~

~~—(4) Public utility facility, limited;~~

~~—(5) Hotel airport parking;~~

~~—(6) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10 of this code;~~

~~—(7) Automobile rental agencies with an on-site inventory more than ten but no more than 35 rental vehicles, subject to performance standards set forth in § 19.63.07 of this code;~~

~~—(8) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 19.63.07(e);~~

~~—(9) Reserved; and~~

~~—(10) Major commercial golf facility.~~

~~—(e) Interim uses.~~

~~—(1) Temporary Pandemic, Epidemic, or Emergency Service Facility.~~

~~—(f) Minimum floor area requirements. The minimum floor area of any building within the CR-1 District must be 6,000 square feet for restaurants and 20,000 square feet for all other uses, except that there shall be no minimum floor area where the proposed use is listed as a provisional use in subsection (c)(2) above.~~

~~—(g) Maximum floor area ratio. The maximum floor area ratio within the CR-1 District shall be one square foot of gross floor area for each one square foot of net lot area.~~

~~—(h) Dimensional requirements.~~

Minimum district area	10 acres
Minimum lot size	2 acres
Minimum lot width	120 feet
Setback requirements	
—Front yard	65 feet

—Side yard	25 feet
—Rear yard	25 feet
—Side or rear adjacent to a public street	65 feet
Maximum structure lot coverage	30%

~~—(i) *Special provisions.*~~

~~—(1) Reserved.~~

~~—(2) The City Council may waive the minimum lot size required for any use, provided that the use and building is integrated, or, where adjacent property is undeveloped may be shown to be reasonably integrated, by means of orientation, parking, access, circulation and design with other adjacent conforming development in the CR-1 District.~~

~~—(3) Reserved.~~

~~—(4) A parking structure or the portion of any structure used for parking shall not be counted as building floor area or structure coverage for the purpose of calculating building floor area and percentage of site coverage by structures.~~

~~—(5) No loading docks may be on any street frontage or facing a residential district, unless completely screened by a wall constructed of materials equivalent to that of the structure.~~

~~—(6) Exterior materials. The exterior materials and finish of all buildings erected on lands within Regional Commercial CR-1 Zoning Districts shall be in conformance with the applicable requirements of § 19.63.08 of this code.~~

~~—(7) All refuse storage must comply with the requirements of § 21.301.17 of this code.~~

~~—(8) In instances where second-level pedestrian connections are made across public streets or to adjacent properties, setbacks may be reduced to 20 feet for a width not to exceed 100 feet.~~

~~—(9) Reserved.~~

~~—(10) Structure height shall be regulated pursuant to § 21.301.10 of this code.~~

~~—(11) Reserved.~~

~~—(j) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.~~

§ 19.32 RESERVED.

~~§ 19.33 RESERVED.~~

~~§ 19.33.01 RESERVED.~~

~~§ 19.34 RESERVED.~~

~~§ 19.35 RESERVED.~~

~~§ 19.36 RESERVED.~~

~~§ 19.37 RESERVED.~~

~~§ 19.37.05 RAILROAD LINES.~~

~~—Any preliminary or final plat which has been approved as of January 22, 1979 with conditions specifically relating to railroad lines shall not be affected by Ordinance 79-1.~~

~~§ 19.38 OVERLAY ZONING DISTRICTS.~~

~~—(a) *Purpose.* To provide overlay zoning districts which additionally regulate uses and characteristics of uses permitted in primary zoning districts as deemed in the public interest.~~

~~—(b) *Establishment of districts.* The following overlay districts are hereby established:~~

~~—(1) Planned Development PD;~~

~~—(2) Flood Hazard FH (section moved to § 21.208.01);~~

~~—(3) Bluff Protection BP (section moved to § 21.208.02);~~

~~—(4) Reserved;~~

~~—(5) Airport Runway (AR-17) Overlay District; and~~

~~—(6) Airport Runway (AR-22) Overlay District.~~

~~—(c) *Applicability and interpretation.* All provisions of the Zoning Code shall apply to the overlay zoning districts; however, in any instance where the provisions of an overlay zoning district shall conflict with the provisions of a primary zoning district, the provisions of the overlay zoning district shall take precedence and govern.~~

~~—(d) *Supplemental definitions.* The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise.~~

~~—**2004 MSP ZONING ORDINANCE.** The restated and amended Minneapolis-St. Paul International Airport (Wold Chamberlain Field) zoning ordinance adopted by the Wold Chamberlain Field Joint Airport Zoning Board on April 29, 2004 which became effective on the effective date.~~

—~~**ABOVE-GROUND FUEL TANK.** A container, vessel or other enclosure designed to contain or dispense fuel that is located above the ground surface, that is not contained within a building or structure, and that is not part of or connected to a boat, motor vehicle or rail car.~~

—~~**AIRPORT HAZARD.** Any structure, tree or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the Airport; and any use of land that is hazardous to persons or property because of its proximity to the Airport.~~

—~~**AIRSPACE SURFACES.** The surfaces established in § IV.A of the 2004 MSP zoning ordinance.~~

—~~**AIRSPACE ZONES.** The land use zones established in § IV.A of the 2004 MSP zoning ordinance.~~

—~~**BLUFF FACE.** The finished grade surface of the Minnesota River Bluff.~~

—~~**BOARD OF ADJUSTMENT.** The body established in § XII.A of the 2004 MSP zoning ordinance.~~

—~~**CALIPER MEASURE.** Tree diameter measure made one inch above the root flare.~~

—~~**CONTOUR.** Synonymous with elevation and does not imply either existing or proposed circumstances unless specified.~~

—~~**DEVELOPMENT POTENTIAL.** The theoretical maximum dwelling unit density or maximum floor area which would be permitted in a zoning district without bonus provisions or planned development incentives.~~

—~~**DISTRICT.** Includes both primary and overlay zoning districts.~~

—~~**ELEVATION.** Has the meaning of height above mean sea level.~~

—~~**ESTABLISHED RESIDENTIAL NEIGHBORHOOD.** The areas identified in the 2004 MSP zoning ordinance as **ESTABLISHED RESIDENTIAL NEIGHBORHOODS** in built-up urban areas and listed in Exhibit B-Legal Description of Established Residential Neighborhoods and shown on Exhibit C-Map of Established Residential Neighborhoods in Built-up Urban Areas and pursuant to the criteria noted in the 2004 MSP zoning ordinance.~~

—~~**OVERLAY ZONING DISTRICT.** Established to additionally regulate uses and characteristics of uses permitted in primary zoning districts in order to protect the public health, safety and welfare from the improper use of land subject to flooding and other natural hazards or to provide for the most appropriate use of land by providing design flexibility to allow for the preservation of natural features, the efficient provision of streets and utilities and the sensitive blending of new development with existing uses.~~

~~— **OVER-THE-BLUFF STORM WATER DISCHARGE.** Sheet surface drainage which flows on the surface of the Minnesota River Bluff, or Nine Mile Creek Bluff, but does not include storm sewers which do not discharge within the Bluff Protection Overlay District.~~

~~— **PRIMARY ZONING DISTRICT.** Established to protect the public health, safety and welfare by designating specific areas for uses of similar characteristics and requirements. In these districts, further regulations are established which are designed to protect the public well-being by regulating the location and extent of land utilization.~~

~~— **RUNWAY 4-22.** The 11,006-foot precision instrument runway at the Airport, with a planned extension to 12,006 feet, whose 4-End is the end closest to the Cities of Bloomington and Richfield and whose 22-End is the end closest to the Cities of Minneapolis and St. Paul.~~

~~— **RUNWAY 17-35.** The 8,000-foot precision instrument runway at the Minneapolis-St. Paul International Airport (Wold Chamberlain Field) whose 17-End is the end closest to the City of Minneapolis and whose 35-End is the end closest to the City of Bloomington.~~

~~— **RUNWAY PROTECTION ZONE.** A zone mandated by FAA regulations that is longitudinally centered on the extended centerline of each end of Runways 4-22 and 17-35, whose in edge is at the same width and elevation as, and coincides with, the end of the primary surface, and that extends outward a horizontal distance of 2,500 feet expanding uniformly to a width of 1,750 feet.~~

~~— **SAFETY ZONES.** The land use zones established in § V.A of the 2004 MSP zoning ordinance.~~

~~— (e) **Designation.** All overlay districts shall be designated on the zoning district map of the city.~~

~~§ 19.38.01 PLANNED DEVELOPMENT (PD) OVERLAY DISTRICTS.~~

~~— (a) **Intent.** The purpose of the Planned Development Overlay District is to promote creative and efficient use of land by providing design flexibility in the application of development standards. The planned development provisions are also intended to create both private and public benefit by:~~

~~— (1) Allowing improved site and structure design,~~

~~— (2) Allowing development on multiple lots to function as one coordinated site,~~

~~— (3) Ensuring coordination of phased development;~~

~~— (4) Allowing the location of structures, facilities and lot lines on a site to be adjusted to protect natural features; and~~

~~— (5) Allowing the shared use of facilities, including, but not limited to, parking, access and storm water management infrastructure.~~

~~—(b) *Uses.* All uses allowed in the underlying zoning district are also allowed in the Planned Development Overlay District subject to any necessary approvals including, but not limited to, conditional uses and interim uses. Uses not allowed in the underlying zoning district are also not allowed in the Planned Development Overlay District.~~

~~—(c) *Flexibility in standards.* Within the Planned Development Overlay District, the City Council may grant flexibility on development standards through the approval of preliminary and final development plans, subject to the following limitations and when such flexibility provides public benefit and meets the intent of the overlay district. Flexibility may not be granted that:~~

~~—(1) Exceeds maximum structure coverage of a site by more than 50% of the applicable district provision;~~

~~—(2) Exceeds maximum density or floor area ratio by more than 20% of the applicable district provision;~~

~~—(3) Reduces minimum lot area and lot width by more than 25% of the applicable district provision;~~

~~—(4) Reduces minimum setback in an industrial zoning district from a property line adjoining a residential zoning district;~~

~~—(5) Does not conform to the requirements of the shore area regulations of the city code (§§ 19.87.01 through 19.87.08);~~

~~—(6) Deviates from any of the requirements of Chapter 21, Article III, Division D, the sign code, except:~~

~~—(A) The location of freestanding signs on the site;~~

~~—(B) In Class II, III, and V sign districts, not more than 20% of the sign area allowed on any wall may be applied to increase the allowed sign area on any other wall, provided that the increased signage on any wall does not exceed the permitted area of signage by more than 40% of the area allowed on that wall by the regulations for the sign district; and~~

~~—(C) In Class II, III, IV, and V sign districts, the number of freestanding signs may be increased so long as the total area of the proposed signs does not exceed the total area of the freestanding signs of the same type permitted in the sign district.~~

~~—(7) Reduces minimum floor area ratio requirements by more than 20% of the applicable zoning district provision. This subsection does not apply to minimum non-residential floor area ratio requirements of § 21.302.02(b); and~~

~~—(8) Reduces minimum residential density requirements by more than 20% of the applicable zoning district provision.~~

~~—(d) *Procedures.* The zoning district map must not be amended to establish a new Planned Development Overlay District unless the City Council has also concurrently reviewed and approved an associated preliminary development plan for the site (see city code §§ 21.501.02 and 21.501.03). No permit for development within a Planned Development Overlay District may be granted unless the City Council or Planning Commission has approved a final development plan for the site (see city code § 21.501.03).~~

~~§ 19.38.02 RESERVED.~~

~~§ 19.38.03 AIRPORT RUNWAY OVERLAY DISTRICTS.~~

~~—(a) *Purpose and intent.* The Airport Runway Overlay Districts are established to implement the 2004 Minneapolis-St. Paul International Airport (Wold Chamberlain Field) zoning ordinance (hereinafter 2004 MSP zoning ordinance). The 2004 MSP zoning ordinance, pursuant to the provisions and authority of M.S. § 360.063, as it may be amended from time to time, takes precedent within areas of the city regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Minneapolis-St. Paul International Airport. The 2004 MSP zoning ordinance creates zones and establishes boundaries that extend into the city.~~

~~—It is the purpose of the Airport Runway Overlay Districts to protect the public health, safety, order, convenience, prosperity and general welfare and to promote the most appropriate use of land by preventing the creation or establishment of Airport Hazards subject to the 2004 MSP zoning ordinance and Minnesota Statutes.~~

~~—(b) *Creation of districts and applicability.* The Airport Runway Overlay Districts shall apply to all land within the city designated as Safety Zone A and Safety Zone B in the 2004 MSP zoning ordinance. The following overlay districts are hereby established as follows:~~

~~—Airport Runway (AR-17) Overlay District. Includes all land in the city within Safety Zone A and Safety Zone B to the south of MSP Runway 17-35 as described in the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones Plate SZ-21 and Plate SZ-27 and shown on the zoning district map of the city; and~~

~~—Airport Runway (AR-22) Overlay District. Includes all land in the city within Safety Zone B to the southwest of MSP Runway 4-22 as described in the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones Plate SZ-20 and Plate SZ-21 and shown on the zoning district map of the city.~~

~~—(c) *Uses.* All permitted principal, provisional, conditional, interim and accessory uses allowed in the primary zoning district are allowed in the Airport Runway Overlay Districts with the exception of the following prohibited uses.~~

~~—(1) *Airport Runway (AR-17) Overlay District.*~~

~~—— (A) Within the portion of the Airport Runway (AR-17) Overlay District designated as Safety Zone A in the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones Plate SZ-21 there shall be no structures or trees, except structures related to airport operations or air navigation as allowed in a runway protection zone by federal laws and regulations or by FAA advisory circulars.~~

~~—— (B) Within the portion of the Airport Runway (AR-17) Overlay District designated as Safety Zone B as contained in § V Land Use Safety Zoning of the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones Plate SZ-21 and Plate SZ-27, the following uses are prohibited unless a variance permitting the use is granted by the Board of Adjustment established by the 2004 MSP zoning ordinance:~~

~~—— (I) Amphitheaters;~~

~~—— (II) Campgrounds;~~

~~—— (III) Places of assembly;~~

~~—— (IV) Fuel storage tank farms;~~

~~—— (V) Above-ground fuel tanks;~~

~~—— (VI) Gasoline station;~~

~~—— (VII) Hospital;~~

~~—— (VIII) Nursing homes;~~

~~—— (IX) Residential uses (including low, medium and high density residential uses);~~

~~—— (X) Schools;~~

~~—— (XI) Stadiums;~~

~~—— (XII) Theaters;~~

~~—— (XIII) Trailer courts; and~~

~~—— (XIV) Ponds or other uses that might attract waterfowl or other birds such as putrescible waste disposal operations, wastewater treatment facilities and associated settling ponds, and dredge spoil containment areas; provided, however, the prohibition on ponds or other uses that might attract waterfowl or other birds shall not apply to acres below an elevation of 800 feet above mean sea level along the bluff of the Minnesota River.~~

~~—— (2) *Airport Runway (AR-22) Overlay District.*~~

~~—— (A) Within the portion of the Airport Runway (AR-22) Overlay District designated as Safety Zone B as contained in § V Land Use Safety Zoning of the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones Plate SZ-20, the following~~

~~uses are prohibited unless a variance permitting the use is granted by the Board of Adjustment established by the 2004 MSP zoning ordinance:~~

- ~~—— (I) Amphitheaters;~~
- ~~—— (II) Campgrounds;~~
- ~~—— (III) Churches;~~
- ~~—— (IV) Fuel storage tank farms;~~
- ~~—— (V) Above-ground fuel tanks;~~
- ~~—— (VI) Gasoline station;~~
- ~~—— (VII) Hospital;~~
- ~~—— (VIII) Nursing homes;~~
- ~~—— (IX) Residential uses (including low, medium and high density residential uses) except in an established residential neighborhood in a built-up urban area;~~
- ~~—— (X) Schools;~~
- ~~—— (XI) Stadiums;~~
- ~~—— (XII) Theaters;~~
- ~~—— (XIII) Trailer courts; and~~
- ~~—— (XIV) Ponds or other uses that might attract waterfowl or other birds such as putrescible waste disposal operations, wastewater treatment facilities and associated settling ponds, and dredge spoil containment areas.~~

~~—(d) *Height.* In addition to the restrictions of § 21.301.10 of this code, all structures in the Airport Runway (AR-17) Overlay District and Airport Runway (AR-22) Overlay District shall be subject to the height restrictions imposed by the 2004 MSP zoning ordinance.~~

~~—— (1) *Airport Runway (AR-17) Overlay District.* Within the Safety Zone B of Airport Runway (AR-17) Overlay District, except as necessary and incidental to airport operations, no new structure shall be constructed or established; no existing structure shall be altered, changed, rebuilt, repaired or replaced; and no tree shall be allowed to grow or be altered, repaired or replaced, or replanted in any way so as to project above any airspace surface as shown on MSP Zoning Map Airspace Zones-Plate A-21 and Plate A-27.~~

~~—— (2) *Airport Runway (AR-22) Overlay District.* Within the Safety Zone B of the Airport Runway (AR-22) Overlay District, except as necessary and incidental to airport operations, no new structure shall be constructed or established; no existing structure~~

shall be altered, changed, rebuilt, repaired or replaced; and no tree shall be allowed to grow or be altered, repaired or replaced or replanted in anyway so as to project above any airspace surface as shown on MSP Zoning Map Airspace Zones Plate A-20 and Plate A-21.

~~—(e) 2004 MSP zoning ordinance use variances. Within the Airport Runway Overlay Districts, variances to allow uses listed as prohibited in the Airport Runway Overlay Districts that are granted by the Board of Adjustment as contained in the 2004 MSP zoning ordinance may only be established in the city to the extent that they comply with all other provisions of this code. A use not allowed in the primary zoning district shall not be established under any circumstances.~~

~~§§ 19.38.04—19.38.10 RESERVED.~~

~~§ 19.38.11 RESERVED.~~

~~§ 19.38.12 RESERVED.~~

~~§ 19.38.13 RESERVED.~~

ARTICLE IIIA: ADDITIONAL ZONING DISTRICTS

~~§ 19.40.01 PURPOSE.~~

~~—This Article IIIA is established to provide additional zoning districts to supplement the previously adopted zoning districts. Regulations which pertain specifically to the zoning districts in this Article IIIA are contained within this Article IIIA.~~

~~§ 19.40.02 ESTABLISHMENT OF DISTRICTS.~~

~~—The following zoning districts are hereby established:~~

- ~~—(1) Reserved;~~
- ~~—(2) Commercial Service CS-0.5 and CS-1;~~
- ~~—(3) Reserved;~~
- ~~—(4) Commercial Office CO-1;~~
- ~~—(5) Reserved;~~
- ~~—(6) Residential Office RO-24; and~~
- ~~—(7) Conservation SC.~~

~~§ 19.40.03 APPLICABILITY AND INTERPRETATION.~~

~~—All provisions of the Zoning Code shall apply to the districts established in this Article IIIA; however, in any instance where the provisions of this Article IIIA are in conflict with~~

any other provision of the Zoning Code, the provisions of this Article IIIA shall take precedence and govern.

~~§ 19.40.04 RESERVED.~~

~~§ 19.40.05 RESERVED.~~

~~§ 19.40.06 RESERVED.~~

~~§ 19.40.07 COMMERCIAL SERVICE DISTRICTS CS-0.5 AND CS-1.~~

~~—(a) *Intent.* These districts are intended to provide for the development of service use near freeway interchanges or in proximity to intense land uses where the development of support services is appropriate. Provision of food, lodging, automotive service, motor vehicle fuel and other goods and services is the principal use within this district; however, other uses which are interrelated to these uses are appropriate in these districts. The provisions of these districts are intended to allow for the convenient provision of services without creating unreasonable traffic congestion and hazards in areas of high volume traffic movement.~~

~~—(b) *Permitted principal uses:*~~

~~—(1) Hotels;~~

~~—(2) Offices;~~

~~—(3) Cinema and theaters;~~

~~—(4) Transit stations;~~

~~—(5) Public uses;~~

~~—(6) The following accessory uses :~~

~~—(i) Uses customarily incidental and clearly subordinate to permitted principal uses.~~

~~—(ii) Beekeeping.~~

~~—(iii) Retail sales of computers when accessory to a computer training facility in the CS-0.5 District.~~

~~—(7) Transient merchant sales as an accessory use in hotel interiors only;~~

~~—(8) Entertainment and recreation special events;~~

~~—(9) Farmers market subject to standards set forth in Chapter 14, Article IX;~~

~~—(10) Arts and crafts festival subject to standards set forth Chapter 14, Article X;~~

~~—(11) Restaurants without drive through and rooftop seating;~~

~~—(12) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18;~~

~~—(13) Public utility facility, general;~~

~~—(14) Multi-family dwellings in the CS-0.5 District, provided they are developed in accordance with the provisions of the RO-24 District;~~

~~—(15) Parking structures as principal uses when included in a planned development;~~

~~—(16) Post-secondary educational institutions;~~

~~—(17) Brewpub;~~

~~—(18) Taproom/cocktail room; and~~

~~—(19) Craft and micro-brewery/distillery/winery.~~

~~—(c) *Provisional uses.* If the following uses are developed as a related element to a development primarily devoted to a principal use, they are permitted within the CS Districts:~~

~~—(1) Retail stores for the sale of arts and crafts, gifts, flowers, plants, groceries, bakery goods, produce, dairy products, drugs, sundry items, books, newspapers, magazines, apparel and similar retail stores;~~

~~—(2) Personal service establishments including licensed therapeutic massage enterprises, barber and beauty shops, exercise and health activities, dry-cleaning drop-off and pick-up stations, laundering, repair services incidental to retail stores, and similar personal services;~~

~~—(3) Financial institutions;~~

~~—(4) Athletic and recreational facilities;~~

~~—(5) Automotive service facilities;~~

~~—(6) Catering businesses, major and minor;~~

~~—(7) Class II motor vehicle sales accessory to Class I motor vehicle sales;~~

~~—(8) Repair of motor vehicles accessory to Class I motor vehicle sales;~~

~~—(9) Type I home businesses pursuant to standards as set forth in § 21.302.13; and~~

~~—(10) Hotel manager dwelling unit.~~

~~—(d) *Conditional uses.*~~

~~—(1) Reserved;~~

- ~~—(2) Public utility facility, limited;~~
- ~~—(3) Hotel airport parking;~~
- ~~—(4) Uses requiring a maximum floor area ratio of above 1.0 within the CS-1 District and above one-half within the CS-0.5 District, subject to the provisions of subsection (i) below;~~
- ~~—(5) Class I motor vehicle sales in the CS-0.5 District, when part of a planned development, pursuant to § 19.38.01 of this code;~~
- ~~—(6) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 19.63.07(e);~~
- ~~—(7) Reserved;~~
- ~~—(8) Reserved;~~
- ~~—(9) Reserved;~~
- ~~—(10) Restaurants with drive through (including drive in) or rooftop seating;~~
- ~~—(11) Reserved;~~
- ~~—(12) Manufacturing and warehousing in the CS-0.5 District;~~
- ~~—(13) Reserved;~~
- ~~—(14) Reserved;~~
- ~~—(15) Reserved;~~
- ~~—(16) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10;~~
- ~~—(17) Reserved;~~
- ~~—(18) Secondary educational institutions (Grade 6-12);~~
- ~~—(19) Type II home businesses pursuant to standards as set forth in § 21.302.13;~~
- ~~—(20) Manufactured home parks pursuant to standards as set forth in § 21.302.10;~~
~~and~~
- ~~—(21) Major commercial golf facility; and~~
- ~~—(22) Cannabis manufacturing in the CS-0.5 District.~~
- ~~—(e) Interim uses.~~
 - ~~—(1) Car rental businesses in the CS-1 District, including storage of rental cars provided that such parking does not occupy space otherwise required by ordinance for other uses on the same site;~~

- ~~— (2) Parking for an off-site use or as a primary use;~~
- ~~— (3) Retail or wholesale use (not to include outdoor storage) of an existing structure, provided that:

 - ~~— (A) The site has approved plans in place for redevelopment to a use allowed under the Comprehensive Plan and zoning ordinance;~~
 - ~~— (B) The applicant has documented that the site owner is actively working toward redevelopment of the site as approved;~~
 - ~~— (C) Redevelopment of the site as approved is not likely to occur within the period of the interim use permit;~~
 - ~~— (D) The use will be compatible with the structure, site and area in which it will be located;~~
 - ~~— (E) The use will not create a nuisance for adjacent uses or the public;~~
 - ~~— (F) The use will not negatively impact public infrastructure;~~
 - ~~— (G) The use will require only minor alterations to the existing structure; and~~
 - ~~— (H) The cost of alterations to the existing structure is commensurate with an interim use.~~~~
- ~~— (4) Temporary Pandemic, Epidemic, or Emergency Service Facility; and~~
- ~~— (5) Reserved.~~
- ~~— (f) *Maximum floor area ratio.* The maximum floor area ratio within the CS-1 District shall be one square foot of floor area for each one square foot of lot area and the maximum floor area ratio within the CS-0.5 District shall be one-half square foot of floor area for each one square foot of lot area, except as these standards may be modified by the provisions of subsection (i) below.~~
- ~~— (g) *Dimensional requirements.*~~

Minimum lot area	120,000 square feet
Minimum lot width	200 feet
Minimum setback, front	60 feet
Minimum setback, side	20 feet plus 0.25 feet for each one foot of structure height in excess of 60 feet
Minimum setback, rear	Same as side setback, but in no instance less than 30 feet
Maximum structure height	As regulated by § 21.301.10 of this code

Maximum structure lot coverage	30%
Maximum structure floor area ratio	CS-1 = 1.0 FAR, CS-0.5 = 0.5 FAR

~~—(h) *Reserved.*~~

~~—(i) *Special provisions.*~~

~~—(1) *Reserved.*~~

~~—(2) The maximum floor area ratio in the CS-1 District may be increased to one and one-half square feet of floor area and in the CS-0.5 District to three-fourths square feet of floor area for each one square foot of lot area and maximum building coverage may be increased to 40% of lot area provided that peak period project trip generation is equal or less than trip generation from the same type of use with a 1.0 floor area ratio in the CS-1 District and 0.5 floor area ratio in the CS-0.5 District. A Tier I TDM Program in accordance with the requirements of city code § 21.301.09 and a development agreement is required for all uses exceeding the maximum floor area ratio in subsection (f) above.~~

~~—(3) The minimum floor area for structures in the CS Districts must be 6,000 square feet for freestanding restaurants and 20,000 square feet for all other uses.~~

~~—(4) In instances in which second level pedestrian connections are made across public streets or to adjacent properties, setbacks may be reduced to zero feet for a width of 120 feet.~~

~~—(5) Exterior materials: the exterior materials and finish of all buildings erected on lands within Commercial Service CS-0.5 and CS-1 Zoning Districts shall be in conformance with the applicable requirements of § 19.63.08 of this code.~~

~~—(j) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.~~

~~§ 19.40.07.01 RESERVED.~~

~~§ 19.40.08 COMMERCIAL OFFICE DISTRICT CO-1.~~

~~—(a) *Intent.* The Commercial Office District is intended to provide areas where offices, compatible office-like businesses and high-density residential uses may be developed with the assurance that commercial uses with incompatible characteristics will not impede or disrupt the establishment of an attractive and cohesive grouping of mixed yet interrelated uses. This district is to be applied only in areas adjacent to arterial or~~

~~collector streets. Residential uses within this district is appropriate provided they are subsidiary to office uses on the site.~~

~~—(b) *Permitted principal uses.*~~

~~—(1) Offices;~~

~~—(2) Public uses;~~

~~—(3) Transit stations;~~

~~—(4) The following accessory uses:~~

~~—(i) Uses customarily incidental and clearly subordinate to permitted principal uses.~~

~~—(ii) Beekeeping.~~

~~—(5) Entertainment and recreation special events;~~

~~—(6) Farmers market subject to standards set forth in Chapter 14, Article IX;~~

~~—(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;~~

~~—(8) Restaurants, without drive through and rooftop seating;~~

~~—(9) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18;~~

~~—(10) Non-profit clubs in the CO-1 Zoning District;~~

~~—(11) Post-secondary educational institutions;~~

~~—(12) Brewpub;~~

~~—(13) Taproom/cocktail room;~~

~~—(14) Craft and microbrewery/distillery/winery;~~

~~—(15) Research laboratories;~~

~~—(16) Public utility facility, general; and~~

~~—(17) Multi-family dwellings in the CO-1 District provided they are developed in accordance with the provisions of the C-4 District.~~

~~—(c) *Provisional uses.* If the following uses are within a building primarily devoted to a permitted principal use, and if they have common indoor access to permitted principal uses, they are permitted within the CO District:~~

~~—(1) Retail stores for the sale of arts and crafts, gifts, flowers, plants, groceries, bakery goods, produce, dairy products, drugs, sundry items, books, newspapers, magazines, apparel and similar retail stores;~~

~~—(2) Personal service establishments including licensed therapeutic massage enterprises, barber and beauty shops, exercise and health activities, dry-cleaning drop-off and pick-up stations, laundering, repair services incidental to retail stores and similar personal services;~~

~~—(3) Financial institutions;~~

~~—(4) Athletic and recreation facilities;~~

~~—(5) Catering businesses, major and minor;~~

~~—(6) Sales and servicing of office equipment;~~

~~—(7) Business services including printing and duplicating;~~

~~—(8) Product design, development and testing; and~~

~~—(9) Type I home businesses pursuant to standards as set forth in § 21.302.13.~~

~~—(d) *Conditional uses.*~~

~~—(1) Reserved;~~

~~—(2) Manufacturing, provided that at least 75% of the floor area of structures on the site is devoted to a permitted principal use;~~

~~—(3) Reserved;~~

~~—(4) Automotive service facilities which form an integrated part of a larger development;~~

~~—(5) Public utility facility, limited;~~

~~—(6) Computer component manufacturing;~~

~~—(7) Uses requiring a maximum floor area ratio above 1.0 within the CO-1 District, subject to the provisions of subsection (i) below;~~

~~—(8) Air passenger and transit terminals;~~

~~—(9) Reserved;~~

~~—(10) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10 of this code;~~

~~—(11) Reserved;~~

- ~~— (12) Type II home businesses pursuant to standards as set forth in § 21.302.13;~~
- ~~— (13) Places of assembly in the CO-1 Zoning District;~~
- ~~— (14) Manufactured home parks pursuant to standards as set forth in § 21.302.10;~~
- ~~— (15) Major commercial golf facility; and~~
- ~~— (16) Restaurants with drive through (including drive-in) or rooftop seating; and~~
- ~~— (17) Cannabis testing facility.~~

~~— (e) *Interim uses.*~~

~~— (1) *Uses.* The following uses are allowed on an interim basis in accordance with the provisions of this section.~~

~~— (A) Short term storage of rental car inventory for rental by the public at the Minneapolis/St. Paul International Airport and short term parking of personal vehicles by auto rental employees and construction related employees working at the Minneapolis/St. Paul International Airport;~~

~~— (B) Car rental businesses, including storage of rental cars provided that such parking does not occupy space otherwise required by ordinance or other uses on the same site;~~

~~— (C) Temporary Pandemic, Epidemic, or Emergency Service Facility; and~~

~~— (D) Parking for an off-site use or as a primary use.~~

~~— (2) *Standards.* In addition to standards in § 21.501.05, the following standards also apply to interim uses in the Commercial Office District CO-1.~~

~~— (A) Any buildings or other site improvements associated with the interim use shall be of nominal value or portable. Temporary buildings shall be allowed only to support the proposed use. Temporary buildings are exempt from the requirements of subsection (i) below, but must be designed and constructed in a manner assuring safety for occupants and others affected, as determined by the issuing authority.~~

~~— (f) *Maximum floor area ratio.* The maximum floor area ratio for nonresidential uses within the CO-1 District shall be one square foot of floor area for each one square foot of lot area.~~

~~— (g) *Dimensional requirements.*~~

Minimum lot area	120,000 square feet
Minimum lot width	200 feet
Minimum setback, front	60 feet

Minimum setback, side	20 feet plus 0.25 foot for each one foot of structure height in excess of 60 feet
Minimum setback, rear	Same as side setback, but in no instance less than 30 feet
Maximum structure height	As regulated by § 21.301.10 of this code
Maximum structure lot coverage	30%
Maximum structure floor area ratio	CO-1 = 1.0 FAR for nonresidential uses

~~—(h) *Reserved.*~~

~~—(i) *Special provisions.*~~

~~—(1) *Reserved.*~~

~~—(2) In the CO District, the floor area of residential uses shall not exceed 50% of the floor area of nonresidential uses in a particular development.~~

~~—(3) The maximum floor area ratio in the CO-1 District may be increased to one and one-half square feet of floor area and maximum building coverage may be increased to 40% of lot area provided that peak period project trip generation is equal or less than trip generation from the same type of use with a 1.0 floor area ratio in the CO-1 District. A Tier I TDM Program in accordance with the requirements of city code § 21.301.09 and a development agreement is required for all uses exceeding the maximum floor area ratio in subsection (f) above.~~

~~—(4) In instances in which second level pedestrian connections are made across public streets or to adjacent properties, setbacks may be reduced to zero feet for a width of 120 feet.~~

~~—(5) Exterior materials: the exterior materials and finish of all buildings erected on lands within Commercial Office CO-1 Zoning District shall be in conformance with the applicable requirements of § 19.63.08 of this code.~~

~~—(j) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.~~

~~§ 19.40.08.01 RESERVED.~~

~~§ 19.40.09 RESIDENTIAL OFFICE DISTRICTS RO-24 AND RO-50.~~

~~—(a) *Intent.* It is the purpose of these districts to provide for a mix of uses appropriate to a high density residential environment. It is intended that these districts provide an arrangement of land uses which incorporates office and commercial activities which are interrelated to the principal residential use. These districts are to be applied only to areas with direct access to arterial or collector streets in proximity to high intensity employment areas and adjacent to public open space.~~

~~—While special attention to design is needed to blend multiple uses on an individual site, the unique character of sites suitable for these districts will provide convenience and amenities not immediately available in most neighborhoods.~~

~~—(b) *Permitted principal uses.*~~

~~—(1) Multi-family dwellings;~~

~~—(2) Public uses;~~

~~—(3) Transit stations;~~

~~—(4) Accessory uses customarily incidental and clearly subordinate to permitted principal uses;~~

~~—(5) Entertainment and recreation special events;~~

~~—(6) Farmers market subject to standards set forth in Chapter 14, Article IX;~~

~~—(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;~~

~~—(8) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18; and~~

~~—(9) Public utility facility, general.~~

~~—(c) *Provisional uses.* If the following uses are within a building devoted to a permitted principal or conditional use and if the total area of all provisional uses does not exceed 10% of the building area of the principal or conditional use, they are permitted in the RO Districts:~~

~~—(1) Retail stores for the sale of arts and crafts, gifts, flowers, plants, groceries, bakery goods, produce, dairy products, drugs, sundry items, books, newspapers, magazines and apparel;~~

~~—(2) Personal service establishments including barber and beauty shops, exercise and health activities, dry-cleaning drop-off and pick-up stations, laundering, repair services incidental to retail stores and similar personal services;~~

~~—(3) Athletic and recreation facilities, separate from those provided for residents;~~

~~—(4) Nurseries, kindergartens and day care centers;~~

~~—(5) Restaurants without drive-up facilities, provided their access for customers and service is separate from access for residential uses;~~

~~—(6) Offices within a multi-family residential building; and~~

~~—(7) Type I home businesses pursuant to standards as set forth in § 21.302.13.~~

~~—(d) *Conditional uses.*~~

- ~~—(1) Offices within a multi-family residential building, not to exceed 30% of the building area of the multi-family residential use;~~
- ~~—(2) Freestanding offices in lieu of a permitted principal use;~~
- ~~—(3) Product design, development, and testing;~~
- ~~—(4) Public utility facility, limited;~~
- ~~—(5) Towers. For related provisions see §§ 15.14, 19.63.05 and 21.301.10 of this code;~~
- ~~—(7) Type II home businesses pursuant to standards as set forth in § 21.302.13; and~~
- ~~—(8) Manufactured home parks pursuant to standards as set forth in § 21.302.10.~~
- ~~—(e) Interim uses.~~
 - ~~—(1) Temporary Pandemic, Epidemic, or Emergency Service Facility.~~
- ~~—(f) Minimum and maximum gross density. The maximum density shall be 24 dwelling units per acre.~~
- ~~—(g) Dimensional requirements.~~

Minimum lot area	80,000 square feet
Minimum lot width	200 feet
Minimum setback, front	60 feet from arterial or collector streets, 40 feet from local streets
Minimum setback, side	10 feet plus 0.25 foot for each one foot of structure height in excess of 20 feet
Minimum setback, rear:	Same as side setback, but in no instance less than 30 feet
Maximum structure height:	As regulated by § <u>21.301.10</u> of this code
Maximum structure lot coverage:	30%
Maximum structure floor area ratio	0.30 for nonresidential uses in the RO-24 District, except as these standards may be modified by the provisions of subsection (h) below
Minimum usable open space for dwelling unit	400 square feet

- ~~—(h) Special provisions.~~

~~—(1) Reserved.~~

~~—(2) The provision of private balconies and porches directly accessible by individual dwelling units creates usable open space more beneficial to the residents of multi-family dwelling units than open space situated away from their units. Such balconies and porches shall be counted as contributing to the usable open space requirement according to the following bonuses. The minimum area and width for a balcony or porch to qualify for a bonus shall be 80 square feet of area and eight feet of width.~~

<i>Balcony or Porch Area</i>	<i>Counts as Usable Open Space of</i>
First 80 square feet	200 square feet
Each additional one square foot to 180 square feet	2.0 square feet

~~—(3) Reserved.~~

~~—(4) Reserved.~~

~~—(5) Reserved.~~

~~—(6) Exterior materials: the exterior materials and finish of all buildings erected on lands within Residential Office RO-24 Zoning District shall be in conformance with the applicable requirements of § 19.63.08 of this code.~~

~~—(7) In the RO-24 District, the maximum structure floor area ratio for nonresidential uses may be increased to 0.50 FAR when the majority of the parking is located in the building or within a multi-level structure.~~

~~—(i) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.~~

§ 19.40.10 CONSERVATION DISTRICT SC.

~~—(a) *Intent.* It is intended that this district provide areas within the city for habitat protection and wildlife management. The Conservation District may be applied to either public or private land where preservation of natural resources is appropriate. The designation of a Conservation District not only will regulate land use within its boundaries, but will assure that adjacent land in other districts will not significantly impact the natural areas it is designed to protect.~~

~~—(b) *Permitted principal uses.*~~

~~—(1) Public and private natural areas, conservation areas and wildlife management areas;~~

~~—(2) Public recreation uses;~~

- ~~—(3) The following accessory uses :~~
 - ~~—(i) Uses customarily incidental and clearly subordinate to permitted principal uses.~~
 - ~~—(ii) Beekeeping.~~
- ~~—(4) Transient merchant sales as an accessory use in a park or government building interior, where incidental and clearly subordinate to a special event;~~
- ~~—(5) Entertainment and recreation special events;~~
- ~~—(6) Farmers market subject to standards set forth in Chapter 14, Article IX;~~
- ~~—(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article X; and~~
- ~~—(8) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.~~
- ~~—(c) Provisional uses. Single family dwelling uses in existence at the time of application of this zoning district to the property.~~
- ~~—(d) Conditional uses.~~
 - ~~—(1) Nature centers and administrative buildings;~~
 - ~~—(2) Utility uses;~~
 - ~~—(3) Quarrying of sand, gravel, soil or minerals;~~
 - ~~—(4) Other public uses;~~
 - ~~—(5) Parking lots serving public and quasi-public recreation or conservation uses;~~
 - ~~—(6) Reserved; and~~
 - ~~—(7) Reserved.~~
- ~~—(e) Interim uses.~~
 - ~~—(1) Temporary Pandemic, Epidemic, or Emergency Service Facility.~~
- ~~—(f) Dimensional requirements.~~

Minimum district area	40 acres
Minimum district width	200 feet

~~—(g) *Minimum off-street parking.* As specified in § 21.301.06 of this code.~~

~~—(h) *Special provisions.*~~

~~—(1) *Reserved.*~~

~~—(2) In the review of final site and building plans in the SC District, or in any district bordering the SC District in instances in which the City Council determines that protection of natural features warrants additional protection over the applicable setback, buffering and development standards; the City Council may, by motion and majority vote, require that structures, parking areas or storage areas be set back up to 100 feet from the SC District boundary, that landscaping be provided for habitat protection and wildlife management, and that additional development standards be applied to assure that proposed development is appropriately related to the natural environment and meets the intent of the SC District.~~

~~—(3) Public recreation uses shall constitute no more than 20% of the land area of any unit of land zoned SC.~~

~~—(i) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.~~

ARTICLE IV: DISTRICT REGULATIONS

§ 19.41 TABLE OF CONSERVATION DISTRICT (SC) REQUIREMENTS.

~~—(a) *Reserved.*~~

~~—(b) *Reserved.*~~

~~—(c) *Nonresidential development.*~~

	<i>SC District</i>
Lot width	100 feet
Lot area	—
Floor area of principal building (sq. ft.)	—
Front yard setback	50 feet
Side yard setback	20 feet*
Rear yard setback	30 feet
Side or rear yard adjoining street	50 feet
* The side yard in no event may be less than the height of the structure.	

§ 19.42 RESERVED.

~~§ 19.43 RESERVED.~~

~~§ 19.44 RESERVED.~~

~~§ 19.44.01 RESERVED.~~

~~§ 19.45 RESERVED.~~

~~§ 19.46 RESERVED.~~

~~§ 19.47 RESERVED.~~

~~§ 19.48 RESERVED.~~

~~§ 19.49 EXCEPTIONS TO CONSTRUCTION REQUIREMENTS.~~

~~—When a building is sought to be erected in any zoning district by a governmental agency for the purpose of storage of chemical road materials, to protect against any adverse impact which might be caused by such outside storage, the construction requirements of the zoning district in which the building is to be located need not be complied with so long as the proposed building has been reviewed by the Planning Commission and has been approved by the City Council as:~~

~~—(1) Necessary for environmental protection;~~

~~—(2) Not contrary to the purposes of the Zoning Code and the purposes of the zoning district in which the building is to be erected;~~

~~—(3) Not having an appearance which will adversely affect adjacent uses; and~~

~~—(4) Having the building sufficiently separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and so that there will be no deterrence to development of vacant land.~~

~~ARTICLE V: PERFORMANCE STANDARDS~~

~~§ 19.50 RESERVED.~~

~~§ 19.50.01 RESERVED.~~

~~§ 19.50.02 RESERVED.~~

~~§ 19.50.03 RESERVED.~~

~~§ 19.51 RESERVED.~~

~~§ 19.52 RESERVED.~~

~~§ 19.52.01 RESERVED.~~

~~§ 19.53 RESERVED.~~

~~§ 19.54 RESERVED.~~

~~§ 19.55 TRAFFIC CONTROL.~~

~~—The traffic generated by any use shall be channeled and controlled in a manner that will avoid congestion on the public streets, traffic hazards, and excessive traffic through residential areas, particularly truck traffic. Internal traffic shall be so regulated as to ensure a safe and orderly flow. Traffic into and out of business and industrial areas shall in all cases be forward moving with no backing onto street.~~

~~§ 19.56 RESERVED.~~

~~§ 19.57 RESERVED.~~

~~§ 19.57.01 SLOPES PROTECTION.~~

~~(a) *Purpose.* The purpose of this section is to protect areas with slopes from erosion caused by surface runoff due to development. These provisions apply to all properties in Single-Family R-1 and R-1A, and Large Lot Single-Family Residential RS-1 Zoning Districts with 12% or greater slope shown in a final plat or otherwise approved by the City Council after May 1, 1993. Additional provisions for the Bluff Protection (BP) Overlay District are in § 21.208.02.~~

~~—(b) *Lots with an average slope of 12% or greater.* For lots with an average slope of 12% or greater impervious surface coverage shall be limited according to the following table:~~

<i>Average Slope</i>	<i>Maximum Coverage</i>	<i>Average Slope</i>	<i>Maximum Coverage</i>
12%	34%	22%	24%
13%	33%	23%	23%

14%	32%	24%	22%
15%	31%	25%	21%
16%	30%	26%	20%
17%	29%	27%	19%
18%	28%	28%	18%
19%	27%	29%	17%
20%	26%	30%	16%
21%	25%		

— Impervious surface coverage for properties with average slopes greater than 30% shall be decreased by 1% for each percent of slope greater than 30%.

— (c) ~~Average percentage slope.~~ Average percentage slope shall be calculated according to one of the following methods, based on existing conditions prior to the proposed development:

— (1) ~~In those instances where the lot is rectangular or regularly shaped, and the contour lines are generally parallel throughout the property, the average percentage slope may be calculated by determining the slope of a line drawn from the highest point on the property to the lowest point on the property, according to the following formula:~~

— $S = (VH - VL) / H$

S = ~~Average percentage slope~~

VH = ~~Elevation of the highest point of the line above mean sea level~~

VL = ~~Elevation of the lowest point of the line above mean sea level. In no event shall the lowest point used in this calculation have an elevation lower than 722 feet above mean sea level.~~

H = ~~The horizontal distance separating the highest point from the lowest point~~

— (2) ~~In those instances where the lot is rectangular or regularly shaped, and the contour lines are not generally parallel through the property, the average percentage slope may be calculated by determining the average of the slopes of several lines, evenly spaced across the property, drawn from the highest points on the property to the lowest points on the property. The slope of each line shall be calculated in the manner specified in subsection (c)(1) above;~~

— (3) ~~In those instances where the lot is irregularly shaped, the following formula may be used:~~

~~$S = (0.00229 \times L \times F) / A$~~

~~S = Average percentage slope~~

~~L = Length of all contours (above 722 feet above mean sea level) in feet~~

~~F = Contour interval in feet~~

~~A = Area of the lot (above 722 feet above mean sea level) in acres~~

~~(4) Any other methodology commonly recognized in the field of civil engineering and which is approved by the issuing authority. In no instance shall the calculation incorporate elevations below the 722-foot contour elevation above mean sea level.~~

~~(d) *Best management practices.* The following best management practices (BMPs) are encouraged to filter, slow, and disperse surface water runoff:~~

~~(1) Minimize stormwater runoff over slopes;~~

~~(2) Limit or reduce impervious surfaces;~~

~~(3) Direct runoff from impervious surfaces into a storm sewer system or well vegetated area;~~

~~(4) Manage soil erosion;~~

~~(5) Plant bare areas with native seedlings or seeds of native species and mulch; and~~

~~(6) Cover bare soils with biodegradable erosion control blankets and/or logs while vegetation becomes established.~~

~~(e) *Special provisions.*~~

~~(1) *Surface runoff redirected away from slopes.* In those instances where surface water runoff from impervious surface is directed away from steep slopes and into a public storm sewer or public or approved private BMP, such areas shall not be considered as impervious surface for the maximum coverage limitations identified in subsections § 19.57.01(b)(c). However, in no instance shall the total impervious surface, including those areas affected by this provision, exceed the maximum impervious allowed in the zoning district as shown in § 21.301.01(c).~~

~~(2) *Development occurring on areas with less than 12% slopes.* In those instances where all impervious surfaces on lots with steep slopes are located in an area of the lot with slopes of less than 12%, and surface water runoff from impervious surface is~~

~~directed away from steep slopes and into a public storm sewer or public or approved BMP, the restrictions of this section 19.57.01 do not apply.~~

~~—(3) *Mitigation.* When the City Council grants relief from the requirements of this section by granting of a variance, approval of a Planned Development (PD) Overlay District, approval of a conditional use permit for a Neighborhood Unit Development or other action, the City Council may require mitigation of the effects of surface runoff on steep slopes by any reasonable method, including but not limited to:~~

~~—(i) *Trees.* The City Council may require applicants to plant additional trees to intercept rainwater on open portions of the lot. Any overstory tree of two and one-half caliper inches or greater or any evergreen tree of six feet or more feet in height at the time of planting, shall qualify as meeting this requirement. This provision shall not be required for any lot which has more than one tree of qualifying size (but not species) for each 3,000 square feet of lot area;~~

~~—(ii) *Redirection of surface water.* The City Council may require applicants to redirect surface water runoff away from steep slopes by the provision of gutters and downspouts, reorientation of roof slopes, regrading and/or installation of an approved private storm sewer system; and~~

~~—(iii) *Removal of existing impervious surfaces.* The City Council may require the removal of certain existing impervious surfaces which will reduce surface water runoff. This requirement may include replacement of impervious plastic sheeting under landscaping materials with permeable landscaping membrane, replacement of parking areas (other than in driveways) with permeable surfaces, or removal of any impermeable surface which is in violation of any of the provisions of this code.~~

~~§ 19.58 EXPLOSIVES.~~

~~—No activities involving the storage, use or manufacture of materials or products which could decompose by detonation shall be permitted except such as are specifically permitted by the Fire Prevention Code.~~

~~§ 19.59 RADIATION AND ELECTRICAL EMISSIONS.~~

~~—No activities shall be permitted that emit dangerous radioactivity beyond enclosed areas. There shall be no electrical disturbances (except from domestic household appliances) adversely affecting the operation at any point of any equipment other than that of the creator of such disturbance.~~

~~§ 19.60 OTHER NUISANCE CHARACTERISTICS; VIBRATION.~~

~~—*Vibration.* Any vibration discernible (beyond property line) to the human sense of feeling for three minutes or more duration in any one hour and any vibration producing an acceleration of more than 0.1 g or resulting in any combination of amplitudes and~~

frequencies beyond the “safe” range of Table 7, United States Bureau of Mines Bulletin No. 442, *Seismic Effects of Quarry Blasting*, on any structure.

~~§ 19.61 RESERVED.~~

~~§ 19.61.01 RESERVED.~~

~~§ 19.62 RESERVED.~~

~~§ 19.62.01 RESERVED.~~

~~§ 19.63 PLACES OF ASSEMBLY.~~

~~(a) Standards. Freestanding place of assembly uses and sites must comply with the following standards.~~

~~(1) Minimum site area of two acres;~~

~~(2) Reserved;~~

~~(3) Maximum building coverage 12%;~~

~~(4) Minimum building setback from all public streets 60 feet;~~

~~(5) Minimum building setback from property lines other than public street rights-of-way 60 feet except a 25-foot side or rear yard setback will be permitted where such side or rear yard is adjacent to nonresidentially used property;~~

~~(6) Notwithstanding the provisions of § 21.301.10 of this code, an additional one-foot setback is required for each foot of height of the place of assembly in excess of 35 feet;~~

~~(7) Canopies and similar auxiliary structures may extend into the required side and rear setback areas, but in no event closer than 25 feet to a side or rear property line. When attached to and architecturally integrated with the principal structure, bell towers, canopies and similar auxiliary structures may extend ten feet into the required front setback area, but in no event may be closer than 50 feet to a front property line;~~

~~(8) Parking lot shall cover no more than 50% of the site;~~

~~(9) No parking is permitted on the site in front of the place of assembly except where a parking lot exists on a site under the provisions of a previously approved conditional use permit. No exterior storage, motor vehicle parking or motor vehicle storage is permitted on the site except when incidental to allowed uses in place on the site. Exterior storage must meet the standards of city code § 21.301.16; and~~

~~(10) Bell towers, steeples, spires and similar structures must meet the following standards:~~

~~(A) *Height.* The height of bell towers, steeples, spires and similar structures must not exceed 65 feet.~~

~~(B) *Location.* Bell towers, steeples, spires and similar structures must be located at least 25 feet from a side or rear property line and at least 50 feet from a front property line or property line abutting a public street.~~

~~(C) *Antenna mounting.* When antennas are mounted on bell towers, steeples, spires or similar structures, the following standards apply.~~

~~(i) *Design.* The structure must be designed to visually appear as a bell tower, steeple, spire or similar structure and not be identifiable as an antenna tower. To ensure that a bell tower, steeple, spire or similar structure that supports antennas is fully camouflaged and appears to be a planned architectural element rather than an antenna tower, the design of the bell tower, steeple, spire or similar structure must replicate the unique design features of the place of assembly principal building structure, must be constructed of materials and use colors that complement and effectively integrate it with the principal structure and must not be a replication of a similar structure that supports antennas at another site within the city. The number of bell towers, steeples, spires or similar structures on an individual site must be compatible with the design of the principal structure. If more than one bell tower, steeple, spire or similar structure is present on a site, each must be architecturally coordinated with the other and they must appear as planned design elements.~~

~~(ii) *Antenna visibility.* The antennas, cables and associated mounting devices must be screened or otherwise concealed from view.~~

~~(iii) *Equipment.* The associated ground equipment must meet the setback requirements of the structure and must be fully screened by a wall or fence that is architecturally compatible with the principal structure.~~

~~(b) *Screening.* Where a place of assembly is adjacent to a residential use screening must be provided along the boundary adjacent to any property used for residential purposes. Such screening must consist of a solid fence or wall not less than five feet high, but may not extend within 15 feet of any street or driveway. Such screening will not be required along a public street. The provisions of § 21.301.15(d)(1) apply to place of assembly sites. This provision may be waived by the City Council at the time of approval of site plans if the Council finds that no adverse impact on adjacent properties will be created by such waiver, or if the Council finds that requiring such screening would have an adverse impact on adjacent residential properties.~~

~~(c) *Expansion, alteration or addition.* If a conditional use permit is granted for an expansion, addition or alteration to an existing place of assembly, the combination of the existing place of assembly and proposed development shall not exceed the following.~~

~~(1) The combined total building coverage will not exceed 15% of the place of assembly site.~~

~~(2) The required parking for the combined total building will not cover more than 70% of the place of assembly site.~~

~~(d) Columbaria. Columbaria are permitted as accessory uses to any freestanding place of assembly for worship subject to the following standards.~~

~~(1) Location. If located exterior to the principal structure, columbaria must satisfy the minimum setback requirements of the principal structure.~~

~~(2) Size. Columbaria, not counting landscaping, plazas or screening, may not exceed 600 square feet.~~

~~(3) Height. Columbaria may not exceed seven feet in height.~~

~~(4) Screening. If not themselves designed as a screen wall, columbaria must be fully screened from all adjacent residential properties during the entire year. If designed as a screen wall and not otherwise screened from adjacent residential properties, columbaria openings must not be visible from adjacent residential properties.~~

~~(5) Preserving redevelopment potential. Given that places of assembly for worship are sometimes redeveloped as other uses, given that such redevelopment is in the public interest when a place of assembly for worship site becomes vacant, and given that columbaria can create an impediment for redevelopment, the following additional standards apply.~~

~~(A) Columbaria must be removed from the site upon vacancy.~~

~~(B) Any agreement or lease signed with the legal representatives of columbaria occupants must specify that the remains be removed from the columbaria upon site vacancy, specify what will happen to the remains at that time and specify that the place of assembly for worship has authority to remove and dispose of the remains upon site vacancy if the legal representatives do not.~~

~~(C) Model agreements or leases must be submitted for city review in conjunction with the columbaria application.~~

~~(6) Approval process. Columbaria must receive final site and building plan approval prior to construction.~~

§ 19.63.01 RESERVED.

§ 19.63.02 RESERVED.

§ 19.63.03 RESERVED.

§ 19.63.04 RESERVED.

§ 19.63.05 TOWERS.

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

~~(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;~~

~~(2) Minimize adverse visual effects of towers through careful design and siting standards;~~

~~(3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and~~

~~(4) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.~~

~~(b) Area specific requirements for towers and antennas.~~

~~(1) Towers outside the right of way in residential zoning districts. Towers shall be allowed only in the following residentially zoned areas:~~

~~(A) Towers supporting amateur radio antennas and conforming to all applicable provisions of this code shall be allowed only in the rear yard of residentially zoned parcels.~~

~~(B) Towers supporting commercial antennas and conforming to all applicable provisions of this code shall be allowed only in the following residentially zoned locations:~~

~~(i) Church sites, when the antenna support structure is fully camouflaged as a bell tower, steeple or similar structure;~~

~~(ii) Park sites, when compatible with the nature of the park; and~~

~~(iii) Government, school, utility and institutional sites.~~

~~(2) Antennas and towers in the public right-of-way. Wireless telecommunication facilities, towers and antennas in the city, county or state right of way are also subject to the requirements in Chapter 17, Article IV of this code.~~

~~(c) Co-location requirements. All commercial wireless telecommunication towers erected, constructed or located within the city shall comply with the following requirements.~~

~~(1) A proposal for a new commercial wireless telecommunication service tower shall not be approved unless the approving body finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius (one-half mile search radius for towers under 120 feet in height, one-quarter mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:~~

~~(a) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;~~

~~(b) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;~~

~~(c) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; and/or~~

~~(d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.~~

~~(2) Any proposed commercial wireless telecommunication service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.~~

~~(d) *Tower construction requirements.* All towers erected, constructed, or located within the city, and all wiring therefor, shall comply with the requirements set forth of § 15.14 of this code.~~

~~(e) *Tower and antenna design requirements.* Proposed or modified towers and antennas shall meet the following design requirements.~~

~~(1) Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. The use of color or design features to attract attention to the tower is prohibited.~~

~~(2) Commercial wireless telecommunication service towers shall be of a monopole design unless the approving body determines that an alternative design would better blend into the surrounding environment.~~

~~(f) *Tower setbacks.* Towers shall conform with each of the following minimum setback requirements:~~

~~(1) Towers shall meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.~~

~~(2) Towers shall be set back from the planned public rights-of-way as shown on the most recently adopted Master Street Plan of the city by a minimum distance equal to one-half of the height of the tower including all antennas and attachments.~~

~~(3) Towers shall not be located between a principal structure and a public street, with the following exceptions:~~

~~(a) In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street;~~

~~(b) On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street; and~~

~~(c) Temporary towers erected to support special events and news truck towers may be placed between a principal structure and a public street subject to the time limits of subsection (r) below.~~

~~(4) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the approving body, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.~~

~~(5) Towers erected on protected residential property as defined in § 19.03 of this code are also subject to the setback provisions of § 15.14(d)(8) of this code.~~

~~(g) *Tower height.* All proposed towers shall meet the height restrictions set forth in § 21.301.10 of this chapter.~~

~~(h) *Tower lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.~~

~~(i) *Signs and advertising.* The use of any portion of a tower for signs other than warning or equipment information signs is prohibited. Towers must not be colored or designed in a manner meant to draw attention.~~

~~(j) *Associated equipment.* Ground equipment associated with a tower or wireless telecommunications facility shall be screened by vegetative or other screening compatible with the surrounding environment if deemed necessary by the Planning~~

~~Manager or designee. When associated ground equipment is housed in a building or structure, that building or structure shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum tower setback requirements as outlined in § 19.63.05(f). Ground equipment associated with a wireless telecommunications facility may be located on residentially used property only within a utility easement adjacent to the public right-of-way and in conformance with the limitations discussed in § 17.70(d)(3), except in the multi-family zoning districts (R-4, RM-12, RM-24 and RM-50) where ground equipment associated with a wireless telecommunications facility may also be located within a code-complying building or structure after receiving the approvals required by this code.~~

~~(k) *Discontinued or unused towers or portions of towers.* Discontinued or unused towers or portions of towers shall be removed as follows.~~

~~(1) All discontinued or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Manager. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site shall be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.~~

~~(2) Unused portions of towers above a manufactured connection shall be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.~~

~~(l) *Antennas mounted on roofs, walls and existing towers.* The placement of wireless telecommunication antennas on roofs, walls and existing towers may be approved by the Planning Manager, provided the antennas meet the requirements of this code, after submittal of: 1) a final site and building plan as specified by § 21.501.01 of this code; and 2) a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment must be indicated. Antennas must be mounted on the facade of the building or penthouse structure unless the Planning Manager or designee determines that another antenna mounting location decreases the visual impact of the antennas. All roof mounted equipment must be screened from view in accordance with § 21.301.18 of this code.~~

~~(m) *Reserved.*~~

~~(n) *Additional submittal requirements.* In addition to the information required elsewhere in this code, development applications for towers shall include the following supplemental information:~~

~~(1) A report from a qualified and licensed professional engineer which:~~

~~(A) Describes the tower height and design including a cross section and elevation;~~

~~(B) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;~~

~~(C) Describes the tower's capacity, including the number and type of antennas that it can accommodate;~~

~~(D) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;~~

~~(E) Includes an engineer's stamp and registration number; and~~

~~(F) Includes other information necessary to evaluate the request.~~

~~(2) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use; and~~

~~(3) Before the issuance of a building permit, the following supplemental information shall be submitted:~~

~~(A) Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and~~

~~(B) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.~~

~~(4) A design plan and/or route for backhaul facilities, signed by a qualified and licensed professional engineer.~~

~~(e) *Violations.* Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.~~

~~(p) *Maintenance.* Tower and antenna finish and paint shall be maintained in good condition, free from rust, graffiti, peeling paint or other blemish.~~

~~(q) *Antenna design and mounts.* Applicants shall use antenna designs and mounts that minimize visual impact.~~

~~(r) *Variances.* The following standards apply to variance requests for towers, antennas or wireless telecommunication facilities.~~

~~(1) The approving body shall consider the following issues in addition to the variance findings required in § 2.85.04.~~

~~(A) The viability of code-complying alternative locations for the proposed tower, antenna or wireless telecommunication facility;~~

~~(B) The impacts of the tower, antenna or wireless telecommunication facility at the proposed site relative to the impacts of the tower, antenna or wireless telecommunication facility at a code-complying alternative location;~~

~~(C) The extent to which there is a significant gap in coverage surrounding the proposed tower, antenna or wireless telecommunication facility or other evidence of inadequate service due to antenna location;~~

~~(D) The extent to which the proposed tower, antenna or wireless telecommunication facility is the least intrusive, lowest impact design available;~~

~~(E) The extent to which the height of the proposed tower, antenna or wireless telecommunication facility could be reduced and still provide adequate coverage;~~

~~(F) The extent to which the size of the proposed accessory equipment could be reduced; and~~

~~(G) The feasibility of placing the proposed accessory equipment underground.~~

~~(2) The applicant shall pay the reasonable cost of the city retaining a qualified, independent radio frequency engineer to provide a professional opinion to the approving body if the Planning Manager or designee determines that an independent radio frequency engineer is needed to assist in consideration of subsections (q)(1)(A) through (q)(1)(G) above.~~

~~(s) *Temporary towers.* The following standards apply to structures that meet the definition of "tower" that are not intended to be permanent structures.~~

~~(1) *Emergencies.* Temporary towers erected in response to emergencies may be approved for up to three months by the Planning Manager. Emergency temporary towers must meet all city code requirements applicable to permanent towers.~~

~~(2) *News truck towers.* Towers temporarily erected from vehicles for no more than 24 hours do not require prior approval. News truck towers must meet parking requirements.~~

~~(3) *Special events.* Temporary towers erected to support special events may be approved for up to seven days by the Planning Manager. Temporary towers erected to support special events must meet all city code requirements applicable to permanent towers.~~

~~(4) *Other temporary towers.* All other temporary towers must meet all city code requirements and follow the approval process applicable to permanent towers.~~

~~(t) *Conflict with state statutes.* To the extent that standards in this section are in conflict with applicable provisions in state statutes, the applicable state statute provisions supersede the standards in this section.~~

~~§ 19.63.06 TENTS AND CANOPIES.~~

~~(a) *Intent.* The purpose of this section is to establish standards for tents and canopies for special events. The use of tents and canopies for the purpose of housing motor or recreational vehicles or storage is prohibited.~~

~~(b) *Where allowed.* Tents and canopies are permitted in all zoning districts with the following exceptions:~~

~~(1) Outdoor tents and canopies are allowed within the CX-2 Zoning District only when:~~

~~(A) A determination has been made by the City Engineer or designee that the tent or canopy will not adversely interfere with parking needs or traffic flow.~~

~~(c) *Permit required.* Permits are required for tents and for canopies having an area in excess of 400 square feet. When an interim use permit is issued for an event that includes a tent or canopy, Fire Marshal review of the proposed tent or canopy is required but a separate tent or canopy permit is not required. Tent and canopy permits are issued by the Community Development Department.~~

~~(d) *Performance standards.* Tents and canopies must comply with the following performance standards:~~

~~(1) Tents and canopies must conform with the provisions of the Fire Prevention Code, Chapter 6, Article II of this code.~~

~~(2) Tents and canopies must be set back at least ten feet from any property line. The issuing authority may require tents and canopies to be set back an additional distance from property lines when adjacent to an incompatible land use.~~

~~(3) Unless entirely surrounded by buildings, tents and canopies shall not be erected for more than 25 days per year per site. The Planning Commission may extend the allowed time period after holding a public hearing and finding that the proposed tent or canopy will not be injurious to the neighborhood or otherwise detrimental to the public welfare.~~

~~(4) Adequate parking and traffic circulation must be preserved and the health, safety and welfare of the community must not be adversely impacted by the proposed tent or canopy.~~

~~(e) *Conditions of approval.* Conditions of approval may be attached to a tent or canopy permit by the issuing authority or the Planning Commission to ensure adequate parking and traffic circulation, to minimize impacts on adjacent property, to ensure~~

~~adequate setbacks from property lines, and to otherwise protect the health, safety and welfare of the community.~~

~~(f) *Findings.* Tent and canopy permits will be issued only when the issuing authority or the City Council finds the following:~~

~~(1) The tent or canopy will not adversely impact adjacent property;~~

~~(2) The tent or canopy will not disrupt traffic circulation or otherwise create a safety hazard;~~

~~(3) Adequate parking levels will be preserved when the tent or canopy is on-site; and~~

~~(4) The tent or canopy will not adversely impact the health, safety and welfare of the community.~~

~~(g) *Appeal.* An applicant may appeal a tent or canopy permit denial, any conditions of approval for a tent or canopy permit, or a time extension request denial to the City Council within 30 days of the denial or approval with conditions. The appeal must be submitted in writing to the Director of Community Development and must specify the issue or condition being appealed and the basis of appeal. The appeal must be filed at least ten days prior to the meeting of the City Council.~~

§ 19.63.07 AUTOMOBILE RENTAL AGENCY PERFORMANCE STANDARDS.

~~—(a) *Intent.* The purpose of this section is to establish standards for businesses providing short-term rental of automobiles to the general public. These regulations shall apply to businesses operating as permitted, conditional or interim uses in zoning districts where they are allowed. It is the intent of these regulations to restrict such businesses to neighborhood and community service. It is not the intent to allow such businesses to service metropolitan, regional or interstate clients.~~

~~—(b) *Scope of operations.* Automobile rental agencies allowed under this code shall be restricted to these activities:~~

~~—(i) Office uses;~~

~~—(ii) Storage of rental vehicles; and~~

~~—(iii) One interior space for the cleaning and normal maintenance of rental vehicles.~~

~~—(c) *Site and building standards.*~~

~~—(i) The automobile rental agency must be located in an office of at least 1,000 square feet, excluding vehicle service areas. In the Regional Commercial (CR-1)~~

~~District, the agency must be located in a multiple tenant building containing at least 20,000 square feet of floor area.~~

~~—(ii) The site and building shall comply with the screening and landscaping requirements of this code.~~

~~—(iii) Vehicle access to the interior vehicle cleaning area shall be limited to the side or rear of the building. The car service space shall be located at the side or rear of the building, shall not front on any arterial or collector street, nor shall it face a residential zone or use.~~

~~—(iv) Parking spaces allocated for rental vehicle storage shall be located in a contiguous area not used by other businesses. They shall be designated and identified in a manner approved by the issuing authority.~~

~~—(v) The number of parking spaces used for storage of rental vehicles shall be in excess of the number of spaces required for all other uses on the site.~~

~~—(d) *Operational requirements.*~~

~~—(1) Vehicle cleaning and maintenance:~~

~~—(i) Only automobiles continuously owned by the automobile rental agency will be stored or cleaned on the property;~~

~~—(ii) All cleaning and maintenance shall occur inside and completely enclosed within the building in which the rental agency is located, or off-site; and~~

~~—(iii) Cleaning and maintenance shall be limited to washing, vacuuming and fluid changes and refills. No mechanical repair, body repair or painting shall be permitted.~~

~~—(2) Vehicles used and stored at the automobile rental agency shall not be older than two model years.~~

~~—(3) Vehicles used and stored at the automobile rental agency shall not be towed to and from the site nor shall they be transported by truck or trailer. No towing vehicles shall be parked at the site.~~

~~—(4) No vehicles shall be displayed or located above the elevation of the parking lot area, or on a display raised platform, a berm, planting island or any landscaped portion of the property.~~

~~—(5) No vehicles shall be displayed or stored in the public right-of-way of any city, county or state highway, nor shall they be displayed or stored in any location not designated for such storage as approved by the issuing authority.~~

~~—(6) No trucks, trailers or commercial vehicles, other than rental automobiles shall be rented by the automobile rental agency or stored on the property.~~

~~—(7) The vehicles stored on the property shall not be utilized for display purposes, nor shall such vehicles have rental information displayed on the windows or any other part of the vehicles.~~

~~—(8) No flags, balloons, banners, signs, pennants, ribbons, streamers or whirling devices shall be attached to vehicles.~~

~~—(9) Notwithstanding other provisions of this code, no vehicle sales shall be permitted in conjunction with the automobile rental agency. The city shall not approve an application for a license for sale of vehicles issued by the state.~~

~~—(e) *Motor vehicle rental accessory to Class I motor vehicle sales.* The following standards apply to motor vehicle rental uses accessory to Class I motor vehicle sales uses.~~

~~—(1) The rental of the vehicles must be clearly incidental and accessory to the primary use of the property as a Class I motor vehicle sales dealership.~~

~~—(2) Only those makes and models of vehicles that the Class I dealership sells as new may be rented.~~

~~—(3) The rental operation must be owned and operated by the Class I dealership or a unit of the parent company of which the dealership is part.~~

~~—(4) No exterior signage for the vehicle rental business is allowed.~~

~~—(5) The rental vehicles must not be parked or stored in parking spaces required by this code to serve the customers and employees of the dealership. Rental vehicles must be parked in approved and designated on-site spaces.~~

~~—(6) Rental vehicles must not be used for display purposes, must not have any rental information displayed on them, nor have any type of banners, flags, pennants, streamers or other attention-getting devices attached to them.~~

~~§ 19.63.08 EXTERIOR MATERIALS AND FINISH.~~

~~(a) Purpose. The City Council finds that it is necessary to regulate the exterior finish and appearance of all primary and accessory buildings and structures that are erected in all of the primary nonresidential zoning districts in the city in order to ensure the consistency in quality, compatibility and character of buildings within comparable zoning districts. The regulation of exterior materials and building construction assures consistent provision of both a high level of structural durability relative to impacts from natural and human-made forces over time and a safe environment for those occupants, equipment and goods within the structure. The provision of a quality exterior finish compliments the building construction by reducing maintenance needs, providing a surface more resistant to damage, assisting in maintaining structure and property value over a longer period, contributing substantially to the compatibility and character of its neighborhood. A quality exterior finish also provides for improved health, safety and welfare of occupants and enclosed goods or equipment by providing increased protection through durability, strength, security, damage resistance and stability.~~

~~(b) The following regulations apply to all nonresidential primary and accessory buildings and their additions in the following zoning districts:~~

~~Single-Family Residential R-1 Districts~~

~~Single-Family Residential R-1A Districts~~

~~Large Lot Single-Family Residential RS-1 Districts~~

~~Townhouse Residential R-3 Districts~~

~~Multiple-Family Residential R-4 Districts~~

~~Multiple-Family Residential RM-12 Districts~~

~~Multiple-Family Residential RM-24 Districts~~

~~Conservation SC District~~

~~(1) Coating of exterior walls. No existing uncoated exterior wall finish material approved by the City Council as part of a development approval process shall be coated after the effective date of this section except for the following:~~

~~(A) As approved in subsections (f), (g), and (h) below;~~

~~(B) Those portions of foundation walls above finished grade may be coated or sealed;~~

~~(C) Secondary materials may be coated or sealed; and~~

~~(D) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include, sealing and recoating, in a manner appropriate to that wall finish~~

~~material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority.~~

~~(c) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:~~

~~Multiple-Family Residential RM-50 Districts~~

~~Multiple-Family Residential RM-100 Districts~~

~~Neighborhood Office B-1 District~~

~~General Commercial B-2 District~~

~~Neighborhood Commercial Center B-4 District~~

~~Freeway Office and Service C-1 District~~

~~Freeway Commercial C-2 District~~

~~Freeway Commercial Center C-3 District~~

~~Freeway Office C-4 District~~

~~Freeway Mixed Use C-5 District~~

~~Regional Commercial CR-1 District~~

~~Freeway Development FD-2 District~~

~~Commercial Service CS-0.5 and CS-1 Districts~~

~~Commercial Office CO-1 District~~

~~Residential Office RO-24 District~~

~~High Intensity Mixed Use with Residential HX-R District~~

~~Lindau Mixed Use LX District~~

~~Innovation and Technology IT District~~

~~Transitional Industrial TI District~~

~~(1) *Exterior wall finish.* Exterior wall surfaces of all buildings, excluding those portions of foundation walls extending normally above finished grade, shall be faced with glass, exterior cement plaster (stucco), natural stone, brick, architectural concrete (excluding tilt-up panel construction unless faced with code-compliant material), metal in accordance with adopted policies and procedures set forth in the adopted resolution, or an equivalent or better. Except for glass or metal, all color shall be integral to the exterior wall finish material unless a colored and opaque coating for all or some part of the exterior wall finish material is specifically approved by the City Council as part of a development approval process and where the application has included:~~

~~(A) Certification by the coating manufacturer that the coating is appropriate for the intended purpose and will not damage the exterior wall finish material to which it is to be applied; and~~

~~(B) Certification by the exterior wall finish material manufacturer that the coating to be applied is one that is appropriate for the exterior wall finish material and that its use will not reduce or void the exterior wall finish material warranty.~~

~~(2) *Coating of exterior walls.* No existing uncoated exterior wall finish material regulated by this section shall be coated after the effective date of this section except for the following:~~

~~(A) As approved in subsections (f), (g), and (h) below;~~

~~(B) Those portions of foundation walls above finished grade may be coated or sealed;~~

~~(C) Secondary materials as listed in subsection (c)(3) below may be coated or sealed;~~

~~(D) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority; and~~

~~(E) Murals are counted as a secondary material. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation.~~

~~(3) *Secondary materials.* Up to 15% of the exterior wall surface of a building elevation may be secondary materials, such as, wood, metal, exterior insulation finish system (EIFS) or other equivalent material as approved by the issuing authority.~~

~~(4) *Canopies and awnings.* Up to 15% of the exterior wall surface of a building elevation may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of this section and, depending on the wall surface material, count as secondary materials. Canopies and awnings must meet all applicable building code requirements to ensure proper installation.~~

~~(d) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:~~

~~Industrial Park I-1 District~~

~~Limited Industrial I-2 District~~

~~General Industrial I-3 District~~

~~Industrial Park IP District~~

~~(1) Exterior wall finish.~~

~~(A) Exterior wall surfaces of all buildings, excluding those portions of foundation walls extending normally above finished grade, shall be faced with glass, exterior cement plaster (stucco), natural stone, brick, architectural concrete, architectural concrete masonry units, metal in accordance with adopted policies and procedures set forth in the adopted resolution, or an equivalent or better. Except for glass or metal, all color shall be integral to the exterior wall finish material unless a colored and opaque coating for all or some part of the exterior wall finish material is specifically approved by the City Council as part of a development approval process and where the application has included:~~

~~(i) Certification by the coating manufacturer that the coating is appropriate for the intended purpose and will not damage the exterior wall finish material to which it is to be applied; and~~

~~(ii) Certification by the exterior wall finish material manufacturer that the coating to be applied is one that is appropriate for the exterior wall finish material and that its use will not reduce or void the exterior wall finish material warranty.~~

~~(B) Buildings which do not currently comply with the exterior wall finish materials regulated by this section may be expanded using identical exterior wall finish materials with the approval of the issuing authority, provided that:~~

~~(i) More than 50% of the total exterior wall surface area of the existing building, excluding secondary materials as listed in subsection (d)(3) below, does not comply with the exterior wall finish materials regulated by this section;~~

~~(ii) The noncomplying exterior wall finish materials are used in compliance with the State Building Code, current edition; and~~

~~(iii) The total floor area of the addition does not exceed 50% of the total floor area of the building existing on the effective date of this section.~~

~~(2) Coating of exterior walls. No existing uncoated exterior wall finish material regulated by this section shall be coated after the effective date of this section, except for the following:~~

~~(A) The application of a clear, gas permeable coating on architectural concrete masonry units at the time of construction only upon certification of such recommendation or requirement by the manufacturer of the units when presented to and approved by the issuing authority. Maintenance shall be allowed thereafter, consistent with the recommendations or requirements of the unit manufacturer;~~

~~(B) As approved in subsections (f), (g), and (h) below;~~

~~(C) Those portions of foundation walls above finished grade may be coated or sealed;~~

~~(D) Secondary materials as listed in subsection (d)(3) below may be coated or sealed;~~

~~(E) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority; and~~

~~(F) Murals are counted as a secondary material. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation.~~

~~(3) *Secondary materials.* Up to 15% of the exterior wall surface of a building elevation may be secondary materials, such as, wood, metal, exterior insulation finish system (EIFS), or other equivalent material as approved by the issuing authority.~~

~~(4) *Canopies and awnings.* Up to 15% of the exterior wall surface of a building elevation, not counting secondary materials, may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of this section and, depending on the wall surface material, count as secondary materials. Canopies and awnings must meet all applicable building code requirements to ensure proper installation.~~

~~(e) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:~~

~~Mixed Use CX-2 District.~~

~~(1) *Exterior wall finish.* Exterior wall surfaces of all buildings, excluding those portions of foundation walls extending normally above finished grade, shall be faced with glass, exterior cement plaster (stucco), natural stone, brick, architectural concrete, metal in accordance with adopted policies and procedures set forth in the adopted resolution, or an equivalent or better. An exterior insulation finish system (EIFS) may also be used for exterior wall finish material provided that such system is utilized no lower than 18 feet above grade level. Except for glass or metal, all color shall be integral to the exterior wall finish material unless a colored and opaque coating for all or some part of the exterior wall finish material is specifically approved by the City Council as part of a development approval process and where the application has included:~~

~~(A) Certification by the coating manufacturer that the coating is appropriate for the intended purpose and will not damage the exterior wall finish material to which it is to be applied; and~~

~~(B) Certification by the exterior wall finish material manufacturer that the coating to be applied is one that is appropriate for the exterior wall finish material and that its use will not reduce or void the exterior wall finish material warranty.~~

~~(2) *Coating of exterior walls.* No existing uncoated exterior wall surface material regulated by this section shall be coated after the effective date of this section except for the following:~~

~~(A) As approved in subsections (f), (g), and (h) below;~~

~~(B) Those portions of foundation walls above finished grade may be coated or sealed;~~

~~(C) Secondary materials as listed in subsection (e)(3) below may be coated or sealed;~~

~~(D) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority; and~~

~~(E) Murals are counted as a secondary material. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation.~~

~~(3) *Secondary materials.* Up to 15% of the exterior wall surface of a building elevation may be secondary materials, such as, wood, metal, exterior insulation finish system (EIFS) when less than 18 feet above grade level, or other equivalent material as approved by the issuing authority.~~

~~(4) *Canopies and awnings.* Up to 15% of the exterior wall surface of a building elevation, not counting secondary materials, may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of this section and, depending on the wall surface material, count as secondary materials. Canopies and awnings must meet all applicable requirements to ensure proper installation.~~

~~(f) *Administrative appeal.*~~

~~(1) Relief from the coating restriction of this section can be sought through an application for administrative approval of revised plans unless such relief is contrary to the action of the City Council. The administrative process can only be used for the purpose of allowing the application of a coating to an existing uncoated exterior wall finish material regulated by this section for the following purposes:~~

~~(A) Application of a coating to address a building maintenance or exterior wall finish material condition; or~~

~~(B) Application of a graffiti-resistant coating.~~

~~(2) The application for administrative approval shall be filed by the property owner and, in addition to the documentation normally required for such application, shall include the following documentation as may be applicable to the purpose of the coating:~~

~~(A) For resolution of a building maintenance or exterior wall finish material condition:~~

~~(i) Certification by an architect, engineer or other qualified professional of the existence of a building maintenance or exterior wall finish material condition that requires the application of a coating to the exterior wall finish material; and~~

~~(ii) Certification by an architect, engineer or other qualified professional that the application of a coating to the exterior wall finish material is part of a comprehensive solution to correct the identified condition.~~

~~(B) For application of a graffiti-resistant coating:~~

~~(i) Certification that the coating is specifically designed for that purpose and is either sacrificial or permanent in nature; and~~

~~(ii) Certification that the coating is a clear coating which is resistant to weathering, is UV stable, does not change the appearance of the exterior wall finish material, shall have no effect on the substrate, caulking or sealant material, and has a performance guarantee.~~

~~(C) General documentation:~~

~~(i) That the coating to be applied is specially formulated for the exterior wall finish material to which it is to be applied and is warranted to protect that surface;~~

~~(ii) That the coating to be applied does not reduce or void the exterior wall finish material warranty; and~~

~~(iii) That the coating shall be applied strictly in accordance with the instructions of both the coating manufacturer and the exterior wall finish material manufacturer.~~

~~(g) *Variance to coating restriction.* Relief from the coating restriction of this section can be sought through the variance process as set forth in Chapter 2 of this code, unless contrary to previous specific action by the City Council, in order to allow the~~

~~application of a coating to an existing uncoated exterior wall finish material regulated by this section for any purpose. The application shall be filed by the property owner and, in addition to the documentation normally required for such application, shall include without limitation that of the following documentation as may be applicable:~~

~~(1) Certification by an architect, engineer or other qualified professional of the existence of a building maintenance or exterior wall finish material condition that requires the application of a coating to the exterior wall finish material;~~

~~(2) Certification by an architect, engineer or other qualified professional that the application of a coating to the exterior wall finish material is part of a comprehensive solution to correct the identified condition;~~

~~(3) Certification that a proposed graffiti-resistant coating is specifically designed for that purpose and is either sacrificial or permanent in nature;~~

~~(4) Certification that a graffiti-resistant coating is a clear coating which is resistant to weathering, is UV stable, does not change the appearance of the exterior wall finish material, shall have no effect on the substrate, caulking or sealant material, and has a performance guarantee;~~

~~(5) That the coating to be applied is specially formulated for the surface material to which it is to be applied and is warranted to protect that surface;~~

~~(6) That the coating to be applied does not reduce or void the surface material warranty; and~~

~~(7) That the coating shall be applied strictly in accordance with the applicable instructions of both the coating and the exterior wall surface manufacturers.~~

~~(h) *Acrylic finishes.* Acrylic finish coatings may be applied over portland cement plaster (stucco) when the following requirements are met:~~

~~(1) The applicator complete and submit the installation certification form.~~

~~(2) The surface must be smooth, flat and prepared in accordance with a manufacturer's specifications prior to applying the acrylic finish.~~

~~(3) Brush or roll on application of the acrylic finish is not permitted.~~

~~(4) The acrylic finish must be comprised of sufficient acrylic solids and aggregate to be troweling consistency.~~

~~(5) The following minimum required surface related test criteria must be met in accordance with the testing standards in the exterior materials policy: Accelerated weathering, freeze thaw, salt spray resistance, tensile bond adhesion, water resistance, surface burning, water vapor permeability, mildew, abrasion resistance, and pull-off strength of coatings using portable adhesion testers.~~

~~(6) For newly applied stucco, the portland cement plaster basecoat must be allowed to cure for a minimum of seven days before the acrylic finish may be applied. The applicator or contractor must notify the issuing authority when the brown coat has been completed.~~

~~(7) Acrylic finish must not be applied to an exterior with existing acrylic finish until:~~

~~(A) An architect or engineer licensed by the State of Minnesota or certified applicator of the acrylic finish certifies that the application of additional acrylic finish on the existing acrylic finish will not compromise the structural integrity of the wall;~~

~~(B) Certification by an architect, engineer, or certified applicator of the acrylic finish that the acrylic finish will be applied strictly in accordance with the applicable manufacturer's and ASTM standards.~~

~~(i) *Severability.* The provisions of this section are declared to be separate and severable. If any section, subsection, sentence, clause or phrase of this section or the application thereof to any person or circumstance, is held to be invalid, such decision shall not affect the validity of the remaining portions of this section, or the validity of its application to other persons or circumstances. The City Council hereby declares that it would have adopted the section and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.~~

~~§ 19.63.09 RESERVED.~~

~~§ 19.63.10 SEVERABILITY.~~

~~If any section, subsection, sentence, clause or phrase of this Article V is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article V. The City Council hereby declares that it would have adopted the Article V in each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.~~

~~19.63.11 PENALTY.~~

~~—Violation of the standards set forth in this Article V shall be enforceable in all of the following manners, without limitation: civil injunctive action; the assessment of civil administrative fines and penalties that are assessable against the property; as well as criminal misdemeanor prosecution.~~

ARTICLE VI: RESERVED

ARTICLE VII: RESERVED

ARTICLE VIII: ANTI-BLIGHT REGULATIONS

~~§ 19.80 PURPOSE.~~

~~—The purpose of this Article VIII of the city code is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods.~~

~~§ 19.81 FINDINGS OF THE CITY COUNCIL.~~

~~—The City Council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making the findings, the City Council accepts the recommendations of a staff committee that has studied the experiences of other urban areas in the nation where sexually-oriented businesses have located.~~

~~—(a) Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of assembly for worship; children attending state-licensed family day care homes, state-licensed group family day care homes and state-licensed child-care centers; students attending schools ; and people using public parks and libraries.~~

~~—(b) Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime prevention programs and law enforcement services.~~

~~—(c) Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.~~

~~—(d) The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating. Other businesses move out of the vicinity and residents flee from the area. Declining real estate values, which can result from the concentration of such businesses, erode the city's tax base and contribute to overall urban blight.~~

~~§ 19.82 CONCLUSIONS OF THE CITY COUNCIL.~~

~~—In order to minimize the detrimental effect sexually-oriented businesses have on adjacent land uses, the City Council adopts the following land use regulations,~~

recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods.

§ 19.83 DEFINITIONS.

—The following words and terms, when used in this Article VIII, shall have the following meanings unless the context clearly indicates otherwise.

—**~~ADULT BODY PAINTING STUDIO.~~** An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas as defined herein.

—**~~ADULT BOOK STORE.~~** An establishment that has 40% or greater of its current store stock in merchandise, videos, books, magazines and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined.

—**~~ADULT CAR WASH.~~** A wash facility for any type of motor vehicle that allows employees, agents, independent contractors or persons to appear in a state of partial or total nudity in terms of specified anatomical areas as defined herein.

—**~~ADULT COMPANIONSHIP ESTABLISHMENT.~~** A companionship establishment which excludes minors by reason of age, or which provides the service for a fee of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

—**~~ADULT ENTERTAINMENT FACILITY.~~** A building or space wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein.

—**~~ADULT MINI-MOTION PICTURE THEATER.~~** A building or space with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas herein defined, for observation by patrons therein. The phrase **~~USED FOR~~** in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.

—**~~ADULT MODELING STUDIO.~~** An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing

~~sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as defined herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.~~

~~—**ADULT MOTION PICTURE THEATER.** A building or space with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase **USED FOR** in this definition shall mean a regular and substantial course of conduct and not a one-time presentation of such material.~~

~~—**ADULT SAUNA.** A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.~~

~~—**DWELLING UNIT.** One or more rooms arranged for residential use containing cooking, living, sanitary and sleeping facilities and physically separated from any other rooms or dwelling units which may be in the same structure.~~

~~—**MINOR.** Any natural person under the age of 18 years.~~

~~—**NUDITY.** The showing of the human male or female genitals or pubic area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.~~

~~—**PUBLIC LIBRARY.** Any library that provides free access to all residents of a city or county without discrimination, receives at least half of its financial support from public funds and is organized under the provisions of M.S. Chapter 134, as it may be amended from time to time.~~

~~—**PUBLIC PARK.** A park, reservation, open space, playground, beach or recreation center in the city owned, leased or used, wholly or in part, by a city, county, state, school district or federal government for recreation purposes.~~

~~—**PLACE OF ASSEMBLY FOR WORSHIP.** A building or space that is principally used as a place where people of the same faith or religion regularly assemble for worship.~~

~~— **SCHOOL.** A building or space that is principally used as a place where 25 or more persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college, shall not be deemed a school for purposes of this Article VIII.~~

~~— **SIGN.** A name, identification, description, display or illustration which is affixed to, painted or represented directly or indirectly upon a building or other outdoor surface or piece of land and which directs attention to an object, project, place, activity, person, institution, organization or business. However, a **SIGN** shall not include any display of official court or governmental office notices nor shall it include the flag, emblem or insignia of a nation, political unit, school or religious group. A **SIGN** shall not include a sign located completely within an enclosed building unless the context shall so indicate. Each display surface of a sign shall be considered a **SIGN**.~~

~~— **SINGLE-FAMILY DWELLING.** A residential building containing one dwelling unit as herein defined including detached, semi-detached and attached dwellings.~~

~~— **STATE-LICENSED FAMILY DAY CARE HOME, STATE-LICENSED GROUP FAMILY DAY CARE HOME, STATE-LICENSED CHILD CARE CENTER.** A facility holding a license from the state pursuant to M.S. Chapter 245A, as it may be amended from time to time, and/or Minnesota Rules Chapter 9502 or Chapter 9503, as amended.~~

~~— **SEXUALLY-ORIENTED BUSINESS.** An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash or adult sauna as herein defined.~~

~~— **SPECIFIED ANATOMICAL AREAS.**~~

~~— (a) Less than completely and opaquely covered:~~

~~— (1) Human genitals, pubic region or pubic hair;~~

~~— (2) Buttock;~~

~~— (3) Female breast or breasts below a point immediately above the top of the areola; or~~

~~— (4) Any combination of the foregoing.~~

~~— (b) Human male genitals in a discernibly turgid state even if completely and opaquely covered.~~

~~— **SPECIFIED SEXUAL ACTIVITIES.** Include the following:~~

~~— (1) Human genitals in a discernible state of sexual stimulation or arousal;~~

~~— (2) Acts of human masturbation, sexual intercourse, or sodomy;~~

~~— (3) Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock, or female breast or breasts; or~~

~~—(4) Any combination of the foregoing.~~

§ 19.84 ZONING REGULATIONS.

~~—(a) Sexually oriented businesses shall be prohibited in all of the city's use districts detailed in § 19.24 of this code, except the following use districts, where such businesses shall be a permitted use, provided the conditions in subsection (b) below are met:~~

- ~~—Industrial Park I-1 District~~
- ~~—Limited Industry I-2 District~~
- ~~—General Industry I-3 District~~
- ~~—Industrial Park IP District~~

~~—(b) In use districts in which sexually oriented businesses are permitted uses, the following conditions shall be met prior to a sexually oriented business being allowed.~~

~~—(1) No sexually oriented business shall be located closer than 500 feet from any other sexually oriented business. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest point of the actual business premises of any other sexually oriented business.~~

~~—(2) No sexually oriented business shall be located closer than 500 feet from any single family dwelling, place of assembly for worship, school, public park, state-licensed family day care home, state-licensed group family day care home, public library or state-licensed child care center. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest point of the actual premises used as a single family dwelling, place of assembly for worship, school, park or state-licensed family day care home, state-licensed group family day care home or state-licensed child care center.~~

~~—(3) No sexually oriented business shall be located closer than 500 feet from any of the following residential use districts. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually oriented business to the nearest boundary of the residential use district:~~

- ~~—Single Family Residential R-1A District~~
- ~~—Single Family Residential R-1 District~~
- ~~—Townhouse Residential R-3 District~~

~~Multiple Family Residential R-4 District~~

~~Multiple Family Residential RM-12 District~~

~~Multiple Family Residential RM-24 District~~

~~Multiple Family Residential RM-50 District~~

~~Multiple Family Residential RM-100 District~~

~~Apartment Park R-5 District~~

~~Large Lot Single Family RS-1 District~~

~~(4) A sexually oriented business must comply with the licensing requirements of Chapter 14 of this code.~~

~~(5) The operation or maintenance of more than one of the following uses in the same building or structure shall be prohibited:~~

~~Adult body painting studio~~

~~Adult book store~~

~~Adult car wash~~

~~Adult companionship establishment~~

~~Adult entertainment facility~~

~~Adult modeling studio~~

~~Adult sauna~~

~~Adult motion picture theater~~

~~Adult mini motion picture theater~~

~~§ 19.85 SIGN RESTRICTIONS.~~

~~In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually oriented businesses, the following~~

~~sign regulations shall apply to all sexually-oriented businesses in the city notwithstanding any other provision of this code.~~

~~—(a) All signs shall be flat wall signs. No signs shall be freestanding, located on the roof or contain any flashing lights, moving elements, or electronically or mechanically changing messages.~~

~~—(b) The amount of allowable sign area shall be one square foot of sign area per foot of lot frontage on a street not to exceed 80 square feet.~~

~~—(c) No merchandise, photos or pictures of the products or entertainment on the premises shall be displayed in window areas or any area where they can be viewed from the sidewalk or public right of way adjoining the building or structure in which the sexually-oriented business is located.~~

~~—(d) No signs shall be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adults only.~~

~~§ 19.85.01 PENALTY.~~

~~—A violation of this Article VIII shall be a misdemeanor under state law.~~

~~§ 19.86 SEVERABILITY.~~

~~—If any section, subsection, sentence, clause or phrase of this Article VIII is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Article VIII. The Council hereby declares that it would have adopted the Article VIII and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.~~

~~ARTICLE IX: SHORE AREA REGULATIONS~~

~~§ 19.87.01 PURPOSE.~~

~~—The purpose of this Article IX is to implement regulations concerning the use, development and alteration of certain shore areas in the city in compliance with the directives and requirements of M.S. § 103F.221, subd. 1, as it may be amended from time to time, and regulations adopted pursuant thereto. These regulations are adopted in order to protect the natural characteristics of such shore areas and adjacent water areas, to prevent the pollution of surface and ground waters, to minimize flood damage, to manage the effects of shore area crowding and development and to maintain shore area property values.~~

~~§ 19.87.02 APPLICABILITY; RELATIONSHIP TO OTHER REGULATIONS.~~

~~—(a) The provisions of this Article IX shall apply to all “shore areas” of the city, as defined in § 19.87.03.~~

~~—(b) Unless specifically stated to the contrary, the provisions of this Article IX shall be in addition to, and not in derogation of, other statutes, regulations or ordinances, affecting shore areas. If both these regulations and other regulations impose similar restrictions upon shore areas, the more restrictive regulation shall apply.~~

~~§ 19.87.03 DEFINITIONS.~~

~~—The following words and terms, when used in this Article IX, shall have the ascribed meanings unless the context clearly indicates otherwise.~~

~~—**ACCESSORY STRUCTURE.** A subordinate structure the use of which is incidental and customary to that of the principal structure.~~

~~—**BACKYARD APPURTENANT STRUCTURE.** Children’s recreational equipment (such as a swing set or sandbox); clotheslines; arbors and trellises; outdoor fireplaces or grills; permanent benches; utility wires or poles; other public sewer, water and gas utility appurtenances; flag poles; walls and fences less than six feet in height; landscaping retaining walls; or dog enclosures.~~

~~—**BEST MANAGEMENT PRACTICES.** The methods and practices described in the State Pollution Control Agency’s *Protecting Water Quality in Urban Areas*, commonly known as *Best Management Practices In Minnesota* (October 1989).~~

~~—**DECK.** A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to the principal use of the site.~~

~~—**DNR.** Minnesota Department of Natural Resources.~~

~~—**EXOTIC SPECIES.** Flora and fauna that are not indigenous to the state, as determined by the DNR, the city or other public agency.~~

~~—**FLOODWAY.** The channel of the watercourse of a creek or river and those portions of the adjoining floodplains (as that term is defined in city code § 19.03) which are reasonably required to carry and discharge the regional flood (as that term is defined in city code § 19.03).~~

—~~**GARDEN.** An area used for the noncommercial growing of vegetables, flowers or other plants.~~

—~~**IMPERVIOUS SURFACE.** Any surface which prevents absorption of storm water into the soil.~~

—~~**NOXIOUS WEED.** Those weeds so defined in M.S. § 18.77, subd. 8, as it may be amended from time to time, or any plant which is identified and placed by the county on its noxious weed list.~~

—~~**ORDINARY HIGH WATER LEVEL (OHWL).** The boundary of public waters, which is the elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. The OHWL's for those public waterbodies under this Article IX which are lakes, are as shown in Table 1 at the end of this section. For watercourses, the **OHWL** is the elevation of the top of the bank of the channel.~~

—~~**PAVED AREA.** Any impervious ground surface area created by means of concrete, asphalt, brick, mortar or other materials.~~

—~~**PUBLIC WATERBODY.** Each of the wetlands, lakes, creeks or rivers listed in Table 1 at the end of this section.~~

—~~**SHORE AREA.** All land in the city lying within the distances described in Table 1 at the end of this section, from the given public waterbody, as measured from the ordinary high water level (OHWL).~~

—~~**SHORE AREA IMPACT ZONE.** All land in the city lying within the distances described in Table 1 at the end of this section, from the given public waterbody, as measured from the ordinary high water level (OHWL).~~

—~~**STRUCTURE.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.~~

—~~**UTILITY SHED.** An enclosed accessory structure no larger than 120 square feet in area or 12 feet in height which is used for the storage of equipment and materials which are not water-oriented in nature.~~

—~~**VEGETATION.** Flora of any variety, including trees, shrubs, plants and grass.~~

— **~~WATERCRAFT LANDING FACILITY.~~** A dock, ramp or other structure used to land watercraft.

— **~~WATERCRAFT LIFT OR STORAGE FACILITY.~~** An unenclosed structure designed and used solely to raise watercraft out of the water or for the storage of watercraft and related equipment.

— **~~WATER-ORIENTED ACCESSORY STRUCTURE.~~** An accessory structure which, because of its relationship to the public waterbody, reasonably needs to be located within the shore area . Excluded from the definition of a water-oriented accessory structure are stairways, stairway landings, pedestrian lifts, watercraft landing facilities, watercraft lift or storage facilities, backyard appurtenant structures and utility sheds.

TABLE 1

<i>Public Waterbody</i>	<i>Public Waterbody ID Number or Section/Township /Range Description</i>	<i>Public Waterbody Ordinary High Water Level (OHWL)</i>	<i>“Shore Area”- Distance from OHWL of Public Waterbody</i>	<i>“Shore Area Impact Zone”- Distance from OHWL of Public Waterbody</i>
1. Oxboro Lake	27-11P	803.7 feet	75 feet	37-1/2 feet
2. Upper Penn Lake	27-4P	811.5 feet	75 feet	37-1/2 feet
3. Lower Penn Lake	27-4P	807.0 feet	75 feet	37-1/2 feet
4. Bush Lake	27-47P	833.2 feet	75 feet	37-1/2 feet
5. Anderson Lake	27-62P	839.0 feet	75 feet	37-1/2 feet
6. Hyland Lake	27-48P	817.9 feet	150 feet	75 feet
7. Nine Mile (Coleman) Lake	27-13P	700.0 feet	150 feet	75 feet
8. Long Meadow Lake	27-2P	695.5 feet	150 feet	75 feet
9. Nine Mile Creek	From § 16-116-21 to § 28-27-24	Top of bank of channel	50 feet	25 feet
10. Nine Mile Creek - South Fork	From § 18-116-21 to § 17-116-21	Top of bank of channel	50 feet	25 feet

11. Minnesota River- I-494 to I-35W	From § 28- 27-24 to § 5- 27-23	Top of bank of channel	100 feet	50 feet
12. Minnesota River- I-35W to western city boundary	From § 6- 115-21 to § 28-27-24	Top of bank of channel	150 feet	75 feet]

~~§ 19.87.04 USE, DEVELOPMENT AND ALTERATION OF SHORE AREAS; PERMITS.~~

~~—(a) *Generally.* The use, development and alteration of shore areas shall be subject to the regulations and permitting requirements of this section. The use, development and alteration of the lands lying between the shore areas and the existing waterline are subject to the regulation and control of the DNR.~~

~~—(b) *Shore area alteration.*~~

~~—(1) *Removal or alteration of vegetation.*~~

~~—(A) No removal or alteration of vegetation within the shore areas shall occur without a shore area permit, except that no permit shall be required:~~

~~—(i) For the removal of dead, diseased, hazardous or storm-damaged vegetation, or for the mowing of turf;~~

~~—(ii) For the periodic pruning of woody vegetation up to four inches in diameter (as measured at the base) of the cut provided the roots are left intact;~~

~~—(iii) For removal of exotic species, noxious weeds or other public nuisances;~~

~~—(iv) For the creation of a garden located outside of the shore area impact zone;~~

~~—(v) For the creation of a garden located within the shore area impact zone and more than ten feet inland from the OHWL, provided that the only vegetation which will be removed for the garden is lawn turf;~~

~~—(vi) For removals or alterations for purposes of the construction of backyard appurtenant structures located more than ten feet inland from the OHWL; or~~

~~—(vii) For the maintenance of existing gardens.~~

~~—(B) A shore area permit for the removal or alteration of vegetation may be granted only for the following purposes:~~

~~—— (i) To construct the improvements permitted pursuant to subsections (b)(2)(C)(vii); (c); (d); (e); or (f) below; or~~

~~—— (ii) To create a garden located within the shore area impact zone and more than ten feet inland from the OHWL, to create an access path to the water, to create a watercraft access area, to create public park, beach and marina facilities or to provide a view to the water from the principal dwelling site.~~

~~—— (C) No shore area permit for the removal or alteration of vegetation shall be issued unless:~~

~~—— (i) The removal or alteration is the minimum reasonably required for the permitted activity;~~

~~—— (ii) The existing vegetative screening of structures, vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is substantially maintained; and~~

~~—— (iii) Along rivers, existing shading of water surfaces is substantially preserved, assuming summer, leaf-on conditions.~~

~~—— (D) Use of fertilizers in a shore area is prohibited.~~

~~—— (E) No gardens shall be created within ten feet of the OHWL.~~

~~—— (2) *Grading and filling.*~~

~~—— (A) No grading or filling within the shore areas shall occur without issuance of a shore area permit by the city.~~

~~—— (B) Before any permit may be issued to grade or fill, the applicant must provide evidence that all provisions of federal, state and local law pertaining to wetlands and shore area (including, but not limited to, the Wetland Conservation Act, Watershed District regulations, United States Corps of Engineers regulations, DNR protected waters regulations and city floodplain, steep slope and bluff regulations) have been satisfied.~~

~~—— (C) All shore area permits for grading shall be subject to the following conditions:~~

~~—— (i) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed and is exposed for the shortest time possible;~~

~~———— (ii) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;~~

~~———— (iii) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;~~

~~———— (iv) Altered areas must be stabilized to acceptable erosion control standards consistent with best management practices;~~

~~———— (v) Fill or excavated material must not be placed in a manner that creates an unstable slope;~~

~~———— (vi) Alterations of topography may be allowed only if accessory to uses allowed by this section and does not adversely affect adjacent or nearby properties;~~

~~———— (vii) Placement of natural rock rip rap, including associated grading and placement of a filter blanket, is permitted only if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the OHWL (as measured along the ground surface), and the height of the rip rap above the OHWL does not exceed three feet; and~~

~~———— (viii) Such other conditions as are reasonable and necessary under the circumstances.~~

~~———— (D) Excavations where the intended purpose is connection to a public waterbody (such as boat slips, canals, lagoons and harbors) shall not be allowed without the approval of the DNR.~~

~~—(c) *Structures.*~~

~~———— (1) *Permits.* No structures shall be constructed within the shore areas without a shore area permit, except that no permit shall be required for the construction of backyard appurtenant structures located more than ten feet inland from the OHWL.~~

~~———— (2) *Types of structures permitted.*~~

~~———— (A) Only the following types of structures may be constructed in shore areas:~~

~~———— (i) Stairways, stairway landings and pedestrian lifts;~~

~~———— (ii) Watercraft landing facilities;~~

~~———— (iii) Watercraft lift or storage facilities;~~

~~———— (iv) Water-oriented accessory structures;~~

~~———— (v) Utility sheds;~~

~~———— (vi) Decks, but only to the extent that the deck is a detached, water-oriented accessory structure, or, is attached to a principal structure that exists on the effective date of this section and the following criteria are met:~~

~~———— (aa) No reasonable location exists for the deck outside of the shore area;~~

~~———— (bb) The deck encroachment toward the OHWL does not exceed 15% of the existing setback of the principal structure from the OHWL or does not encroach into the shore area impact zone, whichever is more restrictive; and~~

~~———— (cc) The deck is constructed primarily of wood, and is not enclosed, roofed or screened, and does not result in the creation of an impervious surface.~~

~~———— (vii) Backyard appurtenant structures; and~~

~~———— (viii) Public park, beach and marina facilities and other public improvements.~~

~~———— (B) Nothing herein is intended to permit private watercraft landing facilities or other private water access where such rights have been acquired by the public.~~

~~———— (3) *Limits on number of structures.*~~

~~———— (A) The shore area lying within any given parcel of land may contain no more than one watercraft landing facility, one watercraft lift or storage facility, and either one water-oriented accessory structure or one utility shed.~~

~~———— (B) Such shore area may also contain any stairways, stairway landings and pedestrian lifts reasonable and necessary for pedestrian access to the water, backyard appurtenant structures, and any decking which is a permitted addition to a structure pursuant to subsection (c)(2)(A)(vi) above.~~

~~———— (C) Nothing herein shall be interpreted to allow more than the one accessory building per residential lot otherwise permitted under the City Zoning Code.~~

~~———— (4) *Location of structures.*~~

~~—— (A) All water-oriented accessory structures and backyard appurtenant structures shall be located at least ten feet inland from the OHWL of the public waterbody, shall be located so as to minimize the impact upon existing vegetation, and shall be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.~~

~~—— (B) Utility sheds shall only be located outside of the shore area impact zone; shall be located as to minimize the impact upon existing vegetation, and shall be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.~~

~~—— (C) Stairways, stairway landings, pedestrian lifts, watercraft landing facilities and watercraft lifts or storage facilities shall be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.~~

~~—— (D) Fencing and walls may not be located within a floodway.~~

~~—— (5) Construction and design.~~

~~—— (A) Stairways, stairway landings and pedestrian lifts.~~

~~—— (i) Stairways and pedestrian lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and planned developments where more than one lot or more than four dwelling units are served.~~

~~—— (ii) Landings for stairways and pedestrian lifts on residential lots must not exceed 32 square feet in area. Landings not exceeding 60 square feet may be used for commercial properties, public open-space recreational properties and planned developments where more than one lot is served.~~

~~—— (iii) Canopies or roofs are not allowed on stairways, stairway landings or pedestrian lifts.~~

~~—— (iv) Stairways, stairway landings and pedestrian lifts may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.~~

~~—— (B) Water-oriented accessory structures, utility sheds, backyard appurtenant structures or other permitted facilities.~~

~~—— (i) The structure or facility must not exceed 12 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet; provided that utility sheds shall not exceed 120 square feet in area. Detached decks must not exceed eight feet above grade at any point.~~

~~—— (ii) The structure or facility must be treated to reduce visibility as viewed from the public waterbodies and adjacent shore areas by vegetation, topography, increased setbacks, color or other approved means, assuming summer, leaf-on conditions.~~

~~—— (iii) A roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.~~

~~—— (iv) The structure or facility must not be designed or used for human habitation, must not contain water or sewer facilities, and must not be located within a floodway.~~

~~—— (v) Decks shall be constructed primarily of wood and shall not be constructed so as to create an impervious surface.~~

~~— (d) *Roads, driveways and parking areas.*~~

~~—— (1) No roads, driveways, parking areas or other paved areas shall be constructed within shore areas without a shore area permit.~~

~~—— (2) No shore area permit for the construction of such surface improvements shall be issued unless:~~

~~—— (A) No reasonable alternative outside of the shore area exists for location of the surface improvement, and~~

~~—— (B) The surface improvement design takes advantage of natural vegetation and topography to achieve maximum screening of view from the public waterbody; limitations on the removal or alteration of vegetation are met, the improvement is designed so as to minimize and control erosion to the public waterbody consistent with best management practices, and it is designed so as to minimize adverse impacts to the shore area.~~

~~— (e) *Water and sewage facilities.*~~

~~—— (1) No new water wells or on-site sewage treatment systems may be constructed within shore areas without a shore area permit.~~

~~—— (2) No shore area permit for the construction of water wells or on-site sewage treatment systems shall be issued unless:~~

~~—(A) There is no city water or sewer utility (as applicable) available to the property;~~

~~—(B) There is no reasonable alternative location outside of the shore area of the property for the well or sewage treatment system (as applicable);~~

~~—(C) The well or sewage treatment system (as applicable) meets all state and local standards; and~~

~~—(D) The well or sewage treatment system (as applicable) is separated from the public waterbody and from sources of contamination by the distances required by Minnesota Rules parts 4725.4350 and 4725.4450.~~

~~—(3) All lots containing shore areas shall be connected to the public water and sanitary sewer systems in accordance with the provisions of §§ 11.03 and 11.26(c) of this code, and old sewer and water systems shall be abandoned in conformance with state law and city ordinances.~~

~~—(f) Storm water.~~

~~—(1) Impervious surface coverage of the shore area of lots shall not exceed 10% of said area.~~

~~—(2) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and detain storm water runoff before discharge to public waters.~~

~~—(3) Development and construction must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected using methods and facilities designed and installed consistent with best management practices.~~

~~—(4) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.~~

~~—(5) When constructed facilities are used for storm water management, they must be designed and installed consistent with best management practices.~~

~~—(6) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.~~

~~—(g) *Agricultural use standards.*~~

~~—(1) If otherwise allowed under the Zoning Code, general cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted in the shore area of a property if it is maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts of the United States Soil Conservation Service.~~

~~—(2) Use of fertilizers in the shore area is prohibited.~~

~~—(h) *Shore area permits.*~~

~~—(1) Whenever a given activity within the shore area requires more than one shore area permit pursuant to this section, only a single shore area permit fee shall be required to be paid.~~

~~—(2) The fee for a shore area permit shall be as set forth in City Code Appendix A, except that a double fee may be required by the city in instances where work or an activity has been initiated without the required permit.~~

~~—(3) The obtaining of a shore area permit for a given activity shall not abrogate the need to obtain any other permits required for the activity under the city code or other federal, state or local laws.~~

~~—(4) Applications for a shore area permit shall be filed with the Building and Inspection Division of the city and shall contain information necessary and relevant to the review and analysis of the application, as determined by the city. Such information may include a scaled plan showing some or all of the following:~~

~~—(A) Existing and proposed contour lines with two-foot intervals and ground elevations;~~

~~—(B) The OHWL;~~

~~—(C) Existing vegetation and proposed removals;~~

~~—(D) Existing and proposed improvements and utilities;~~

~~—(E) Location of wells and private septic systems;~~

~~——(F) Easements;~~

~~——(G) Wetlands;~~

~~——(H) Lot lines;~~

~~——(I) Adjacent streets and right-of-way;~~

~~——(J) Shore area and shore area impact zone; and~~

~~——(K) Other information relevant to the application, as determined by the city.~~

~~——(5) Whenever another development application (e.g. final site and building plans, planned developments) on the same project is required, both the shore area permit and development application may occur concurrently through their respective review process.~~

~~§ 19.87.05 EXISTING USES.~~

~~—Except for wells and on-site sewage treatment systems whose use must be discontinued pursuant to § 19.87.04(e), existing uses and improvements within shore area may be maintained in accordance with the provisions and limitations of § 21.504 of this code.~~

~~§ 19.87.06 VARIANCES.~~

~~—Variances from the provisions of this Article IX may be permitted in accordance with city code § 2.85.04.~~

~~§ 19.87.07 VIOLATION.~~

~~—Violation of any of the provisions of city code §§ 19.87.01 through 19.87.06 shall be a misdemeanor, punishable by up to \$700 or 90 days in jail, or both.~~

~~§ 19.87.08 NOTIFICATION OF DNR.~~

~~—The DNR shall be notified by the city at least ten days in advance of any public hearing involving the proposed use, development, subdivision, or rezoning of a shore area within the city or the amendment of this Article IX.~~

ARTICLE X: RESERVED]

Section 14. That Chapter 21 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 21: ZONING AND LAND DEVELOPMENT
ARTICLE I: INTRODUCTION AND ESTABLISHMENT

§ 21.101 PURPOSE.

The provisions of Chapter 21 have been enacted in order to protect and promote the public health, safety and general welfare of the people of the city. Specifically, the provisions are designed to achieve amongst others the following objectives:

- (1) Adequate light, air and safety from fire for occupants of structures;
- (2) Conservation of the value of land and buildings;
- (3) A balanced tax base as between residential, commercial and industrial uses;
- (4) Avoidance of business failures through improper location;
- (5) A minimum of congestion in the public streets;
- (6) Compatibility between different land uses; and
- (7) Reasonable standards to which structures and uses shall conform.

§ 21.102 RESERVED.

§ 21.103 TITLE.

Chapter 21 may be referred to as the “zoning ordinance” or “Zoning Code” of the city.

§ 21.104 RESERVED.

§ 21.105 RESERVED.

§ 21.108 RESERVED~~[RELATIONSHIP BETWEEN CHAPTERS 19 AND 21.~~

~~—The city is in the process of updating and reorganizing its zoning and land development standards. As reorganization occurs, standards will be shifted from Chapter 19 to Chapter 21. Until reorganization has concluded, both Chapters 19 and 21 will collectively serve as the zoning ordinance of the city. After reorganization has concluded, Chapter 21 will serve as the zoning ordinance of the city and Chapter 19 will be reserved. Any reference that collectively refers to Chapter 19 must be interpreted to also refer collectively to Chapter 21 and vice versa.]~~

ARTICLE II: DISTRICTS AND USES

DIVISION A: ~~[RESERVED]~~ ESTABLISHMENT

§ 21.201 ESTABLISHMENT OF ZONING DISTRICTS.

(a) Zoning districts. For the purpose of this code, the city is hereby organized into the following primary zoning districts:

(1) Single-Family Residential Districts:

Single-Family Residential R-1 District. All of the city except those parts described as lying within one of the following primary zoning districts established by this section

Single-Family Residential R-1A District

Large Lot Single-Family RS-1 District

(2) Multiple-Family Residential Districts:

Townhouse Residential R-3 District

Multiple-Family Residential R-4 District

Multiple-Family Residential RM-12 District

Multiple-Family Residential RM-24 District

Multiple-Family Residential RM-50 District

Multiple-Family Residential RM-100 District

(3) Neighborhood Commercial Districts:

Neighborhood Office B-1 District

General Commercial B-2 District

Neighborhood Commercial Center B-4 District

(4) Freeway Commercial Districts:

Freeway Office and Service C-1 District

Freeway Commercial C-2 District

Freeway Commercial Center C-3 District

Freeway Office C-4 District

Freeway Mixed Use C-5 District

Regional Commercial CR-1 District

(5) Industrial Districts:

Industrial Park I-1 District

Limited Industry I-2 District

General Industry I-3 District

Industrial Park IP District

Innovation and Technology IT District

Transitional Industrial TI District

Freeway Development FD-2 District

(6) Mixed Use Districts:

Mixed Use CX-2 District

High Intensity Mixed Use With Residential HX-R District

Lindau Mixed Use LX District

(7) Commercial Service Districts:

Commercial Service CS-0.5 District

Commercial Service CS-1 District

(8) Commercial Office Districts:

Commercial Office CO-1 District

(9) Reserved.

(10) Residential Office District:

Residential Office RO-24 District

(11) Conservation SC District.

(b) *Overlay districts.* For the purpose of this code, the city is hereby organized into the following overlay zoning districts:

(1) Planned Development PD Overlay District;

(2) Flood Hazard FH Overlay District;

(3) Bluff Protection BP Overlay District;

(4) Reserved;

(5) Airport Runway (AR-17) Overlay District; and

(6) Airport Runway (AR-22) Overlay District.

(c) Rules in establishing zoning districts. The purpose of this section is to establish a framework and uniform rules for location and boundaries of zoning districts established by this chapter.

(1) Unless otherwise determined by the City Council the zoning district boundary lines will be established as follows:

(A) Zoning districts abutting municipal boundaries must utilize those boundaries;

(B) When an existing roadway, alley or railroad right-of-way or centerline is a zoning district boundary line and that right-of-way is vacated or legally discontinued, the zoning district boundary line will remain in place;

(C) When a channel centerline of a river, stream or water course is a zoning district boundary line and there is a natural change in the location of the channel centerline, the zoning district boundary will be considered to have moved with the channel centerline;

(D) District boundary lines for the Conservation SC, Flood Hazard FH Overlay, and Bluff Protection BP Overlay Districts may also be described as following a specific datum elevation contour above mean sea level between specified reference points. District boundary areas for the Bluff Protection BP Overlay District may also be described as steep slopes of 18 percent or greater over a horizontal distance of 25 feet or longer; and

(E) Where a dimensioned zoning district boundary line coincides approximately but not exactly with a lot line which did not exist on the effective date of incorporation of the zoning district boundary line into the zoning district map, the lot line will be the zoning district boundary line at that location.

(F) Ponds, lakes and other submerged areas:

(i) When entirely within or enclosed by a primary zoning district, the pond, lake or submerged area will have the same primary zoning unless otherwise described;

(ii) When a pond, lake or other submerged area abuts two or more primary zoning districts and is not located entirely within one of them nor described in a separate district, the boundaries of each abutting primary zoning district will be extended in a straight line across the pond, lake or submerged area until intersection with another district boundary; and

(iii) Primary zoning district boundaries shown as following the shorelines of any pond, lake, or submerged area will be considered to follow the ordinary high water line and, in event of a natural change in the ordinary high water line, will be considered to have moved with the ordinary high water line.

(2) Wherever a direction and distance is given as a zone boundary, it is intended and must be construed to mean a line parallel to the physical feature such as street centerline or right-of-way line last described.

(3) Wherever a strip of land is referred to, it is intended and must be construed to mean abutting upon the last described physical feature.

§ 21.202 ZONING DISTRICT MAP.

(a) *Zoning district map.* The location and boundaries of the primary and overlay zoning districts must be legally described in ordinances adopted by the City Council. Such zoning district descriptions must be reflected in an official zoning district map that is established and maintained as provided herein. In the event of a conflict between an ordinance adopting or amending a zoning district and the zoning district map, the ordinance will control.

(b) *Zoning district map.* The location and boundaries of the primary and overlay zoning districts established by this chapter of the city code will be set forth on the zoning district map of the city in accordance with the ordinances describing those districts, and the zoning district map will be effective as of the date of adoption of these ordinances. The zoning district map and all notations, references and other information shown thereon are hereby made a part of this chapter by reference and will have the same force and effect as if such map and all notations, references and other information shown thereon were fully set forth or described herein. The format of the zoning district map will be determined by the Department of Community Development.

(c) *Location of zoning district map.* The zoning district map will be kept permanently on file in the office of the Department of Community Development of the city and will be available for inspection by the public during normal business hours.

(d) *Amendments to the zoning district map.* Amendments to the zoning districts in this code and zoning district boundaries as shown in the zoning district map must be by ordinance adopted by the City Council in accordance with the procedures set forth in § 21.501.07.

(e) *Maintenance of zoning district map.* The Department of Community Development will be responsible for maintaining and updating the zoning district map. Any amendments to the zoning district map must be recorded on the appropriate map(s) within 30 days of adoption by the City Council.

DIVISION B: RESIDENTIAL ZONING DISTRICTS

§ 21.203 RESIDENTIAL ZONING DISTRICTS.

(b) General standards. Development in all Residential Zoning Districts must comply with the following standards:

(7) Occupancy. Single family dwelling units, accessory dwelling units and individual units within multiple family dwellings, townhouses, and two-family dwellings may be occupied by no more than one family as defined in § ~~[19.03]~~21.601).

§ 21.203.10 RESIDENTIAL OFFICE DISTRICT RO-24.

(a) Intent. It is the purpose of this district to provide for a mix of uses appropriate to a high-density residential environment. It is intended that this district provide an arrangement of land uses which incorporates office and commercial activities which are interrelated to the principal residential use. This district is to be applied only to areas with direct access to arterial or collector streets in proximity to high-intensity employment areas and adjacent to public open space.

While special attention to design is needed to blend multiple uses on an individual site, the unique character of sites suitable for this district will provide convenience and amenities not immediately available in most neighborhoods.

(b) Permitted principal uses.

(1) Multi-family dwellings;

(2) Public uses;

(3) Transit stations;

(4) Accessory uses customarily incidental and clearly subordinate to permitted principal uses;

(5) Entertainment and recreation special events;

(6) Farmers market subject to standards set forth in Chapter 14, Article IX;

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;

(8) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18; and

(9) Public utility facility, general.

(c) Provisional uses. If the following uses are within a building devoted to a permitted principal or conditional use and if the total area of all provisional uses does not exceed 10 percent of the building area of the principal or conditional use, they are permitted in the RO Districts:

(1) Retail stores for the sale of arts and crafts, gifts, flowers, plants, groceries, bakery goods, produce, dairy products, drugs, sundry items, books, newspapers, magazines and apparel;

(2) Personal-service establishments including barber and beauty shops, exercise and health activities, dry-cleaning drop-off and pick-up stations, laundering, repair services incidental to retail stores and similar personal services;

(3) Athletic and recreation facilities, separate from those provided for residents;

(4) Nurseries, kindergartens and day care centers;

(5) Restaurants without drive-up facilities, provided their access for customers and service is separate from access for residential uses;

(6) Offices within a multi-family residential building; and

(7) Type I home businesses pursuant to standards as set forth in § 21.302.13.

(d) Conditional uses.

(1) Offices within a multi-family residential building, not to exceed 30 percent of the building area of the multi-family residential use;

(2) Freestanding offices in lieu of a permitted principal use;

(3) Product design, development, and testing;

(4) Public utility facility, limited;

(5) Towers. For related provisions see §§ 15.14, 21.302.37 and 21.301.10;

(7) Type II home businesses pursuant to standards as set forth in § 21.302.13; and

(8) Manufactured home parks pursuant to standards as set forth in § 21.302.10.

(e) Interim uses.

(1) Temporary Pandemic, Epidemic, or Emergency Service Facility.

(f) Minimum and maximum gross density. The maximum density will be 24 dwelling units per acre.

(g) Dimensional requirements.

<u>Minimum lot area</u>	<u>80,000 square feet</u>
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<u>Minimum lot width</u>	<u>200 feet</u>
<u>Minimum setback, front</u>	<u>60 feet from arterial or collector streets, 40 feet from local streets</u>
<u>Minimum setback, side</u>	<u>10 feet plus 0.25 foot for each one foot of structure height in excess of 20 feet</u>
<u>Minimum setback, rear:</u>	<u>Same as side setback, but in no instance less than 30 feet</u>
<u>Maximum structure height:</u>	<u>As regulated by § 21.301.10</u>
<u>Maximum structure lot coverage:</u>	<u>30%</u>
<u>Maximum structure floor area ratio</u>	<u>0.30 for nonresidential uses in the RO-24 District, except as these standards may be modified by the provisions of subsection (h) below</u>
<u>Minimum usable open space for dwelling unit</u>	<u>400 square feet</u>

(h) Special provisions.

(1) Reserved.

(2) The provision of private balconies and porches directly accessible by individual dwelling units creates usable open space more beneficial to the residents of multi-family dwelling units than open space situated away from their units. Such balconies and porches will be counted as contributing to the usable open space requirement according to the following bonuses. The minimum area and width for a balcony or porch to qualify for a bonus is 80 square feet of area and eight feet of width.

<u>Balcony or Porch Area</u>	<u>Counts as Usable Open Space of</u>
<u>First 80 square feet</u>	<u>200 square feet</u>
<u>Each additional one square foot to 180 square feet</u>	<u>2.0 square feet</u>

(3) Reserved.

(4) Reserved.

(5) Reserved.

(6) Exterior materials: the exterior materials and finish of all buildings erected on lands within Residential Office RO-24 Zoning District will be in conformance with the applicable requirements of § 21.301.24.

(7) In the RO-24 District, the maximum structure floor area ratio for nonresidential uses may be increased to 0.50 FAR when the majority of the parking is located in the building or within a multi-level structure.

(i) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.

DIVISION D: FREEWAY COMMERCIAL ZONING DISTRICTS

§ 21.205.06 REGIONAL COMMERCIAL (CR-1) DISTRICTS.

(a) *Intent.* This district is intended to provide for the development of regional and community scale integrated retail, office, business services, personal services and services to the traveling public near freeway interchanges. The provisions of this district are intended to:

(1) Promote and properly manage high-intensity development;

(2) Allow for the provision of other services related to principal uses;

(3) Promote an integrated site and building design framework;

(4) To avoid traffic hazard and congestion by careful location of accesses to public streets;

(5) Protect future roadway improvements; and

(6) Create a visual identity for the district while allowing reasonable identity for individual uses in scale with the size of use.

(b) *Permitted principal uses.*

(1) Retail shopping uses;

(2) Office buildings;

(3) Banks and financial institutions;

(4) Medical and dental offices;

(5) Theaters and cinemas, except drive-in theaters;

(6) Hotels and motels;

(7) Public uses;

(8) Automobile rental agencies with an on-site inventory of ten or fewer rental vehicles, subject to performance standards set forth in § 21.302.38;

(9) Transient merchant sales as an accessory use in hotel interiors only;

(10) Entertainment and recreation special events;

(11) Firearm sales, incidental, subject to standards set forth in § 21.302.11;

(12) Farmers market subject to standards set forth in Chapter 14, Article IX;

(13) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;

(14) Restaurant without drive through and rooftop seating;

(15) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18;

(16) Public utility facility, general;

(17) Brewpub;

(18) Taproom/cocktail room; and

(19) Craft and micro-brewery/distillery/winery.

(c) *Provisional uses.* The uses described below are permitted uses, provided that:

(1) The following uses are located in a structure containing a permitted principle use, or are located in a structure meeting the minimum floor area requirement of the CR-1 District:

(A) Catering businesses, major and minor;

(B) Personal service establishments, including licensed therapeutic massage enterprises, beauty and barber shops, exercise and health facilities, dry cleaning drop-off and pick-up stations, laundering, repair of household items and similar personal services;

(C) Business services, including copying and printing businesses and similar services;

(D) Commercial recreation facilities;

(E) Licensed day care facilities;

(F) Instructional center; and

(G) Licensed body art establishments.

(2) The following uses are adjacent to and integrated by means of orientation, parking, pedestrian and vehicular circulation, access and design with a permitted principal use:

(A) Class I motor vehicle sales;

(B) Convenience facility with fuel sales; and

(C) Automobile repair businesses.

(3) Accessory uses which are customarily incidental and are clearly subordinate to permitted principal uses;

(4) Class II motor vehicle sales accessory to Class I motor vehicle sales;

(5) Repair of motor vehicles accessory to Class I motor vehicle sales;

(6) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 21.302.38(e);

(7) Beekeeping; and

(8) Hotel manager dwelling unit which is customarily incidental and clearly subordinate to the permitted principal use of a hotel.

(d) Conditional uses.

(1) New motor vehicle sales;

(2) Restaurants with drive through (including drive-in) or rooftop seating;

(3) Reserved;

(4) Public utility facility, limited;

(5) Hotel airport parking;

(6) Towers. For related provisions see §§ 15.14, 21.302.37 and 21.301.10;

(7) Automobile rental agencies with an on-site inventory more than ten but no more than 35 rental vehicles, subject to performance standards set forth in § 21.302.38;

(8) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 21.302.38(e);

(9) Reserved; and

(10) Major commercial golf facility.

(e) Interim uses.

(1) Temporary Pandemic, Epidemic, or Emergency Service Facility.

(f) Minimum floor area requirements. The minimum floor area of any building within the CR-1 District must be 6,000 square feet for restaurants and 20,000 square feet for all other uses, except that there is no minimum floor area where the proposed use is listed as a provisional use in subsection (c)(2) above.

(g) Maximum floor area ratio. The maximum floor area ratio within the CR-1 District must be one square foot of gross floor area for each one square foot of net lot area.

(h) Dimensional requirements.

<u>Minimum district area</u>	<u>10 acres</u>
<u>Minimum lot size</u>	<u>2 acres</u>
<u>Minimum lot width</u>	<u>120 feet</u>
<u>Setback requirements</u>	
<u>Front yard</u>	<u>65 feet</u>
<u>Side yard</u>	<u>25 feet</u>
<u>Rear yard</u>	<u>25 feet</u>
<u>Side or rear adjacent to a public street</u>	<u>65 feet</u>
<u>Maximum structure lot coverage</u>	<u>30 %</u>

(i) Special provisions.

(1) Reserved.

(2) The City Council may waive the minimum lot size required for any use, provided that the use and building is integrated, or, where adjacent property is undeveloped may be shown to be reasonably integrated, by means of orientation, parking, access, circulation and design with other adjacent conforming development in the CR-1 District.

(3) Reserved.

(4) A parking structure or the portion of any structure used for parking will not be counted as building floor area or structure coverage for the purpose of calculating building floor area and percentage of site coverage by structures.

(5) No loading docks may be on any street frontage or facing a residential district, unless completely screened by a wall constructed of materials equivalent to that of the structure.

(6) Exterior materials. The exterior materials and finish of all buildings erected on lands within Regional Commercial CR-1 Zoning Districts must be in conformance with the applicable requirements of § 21.301.24.

(7) All refuse storage must comply with the requirements of § 21.301.17.

(8) In instances where second-level pedestrian connections are made across public streets or to adjacent properties, setbacks may be reduced to 20 feet for a width not to exceed 100 feet.

(9) Reserved.

(10) Structure height will be regulated pursuant to § 21.301.10.

(11) Reserved.

(j) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.

§ 21.205.07 COMMERCIAL SERVICE DISTRICTS CS-0.5 AND CS-1.

(a) *Intent.* These districts are intended to provide for the development of service use near freeway interchanges or in proximity to intense land uses where the development of support services is appropriate. Provision of food, lodging, automotive service, motor vehicle fuel and other goods and services is the principal use within this district; however, other uses which are interrelated to these uses are appropriate in these districts. The provisions of these districts are intended to allow for the convenient provision of services without creating unreasonable traffic congestion and hazards in areas of high volume traffic movement.

(b) *Permitted principal uses.*

(1) Hotels;

(2) Offices;

(3) Cinema and theaters;

(4) Transit stations;

(5) Public uses;

(6) The following accessory uses :

(i) Uses customarily incidental and clearly subordinate to permitted principal uses.

(ii) Beekeeping.

(iii) Retail sales of computers when accessory to a computer training facility in the CS-0.5 District.

(7) Transient merchant sales as an accessory use in hotel interiors only;

(8) Entertainment and recreation special events;

- (9) Farmers market subject to standards set forth in Chapter 14, Article IX;
- (10) Arts and crafts festival subject to standards set forth Chapter 14, Article X;
- (11) Restaurants without drive through and rooftop seating;
- (12) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18;
- (13) Public utility facility, general;
- (14) Multi-family dwellings in the CS-0.5 District, provided they are developed in accordance with the provisions of the RO-24 District;
- (15) Parking structures as principal uses when included in a planned development;
- (16) Post-secondary educational institutions;
- (17) Brewpub;
- (18) Taproom/cocktail room; and
- (19) Craft and micro-brewery/distillery/winery.

(c) *Provisional uses.* If the following uses are developed as a related element to a development primarily devoted to a principal use, they are permitted within the CS Districts:

- (1) Retail stores for the sale of arts and crafts, gifts, flowers, plants, groceries, bakery goods, produce, dairy products, drugs, sundry items, books, newspapers, magazines, apparel and similar retail stores;
- (2) Personal-service establishments including licensed therapeutic massage enterprises, barber and beauty shops, exercise and health activities, dry-cleaning drop-off and pick-up stations, laundering, repair services incidental to retail stores, and similar personal services;
- (3) Financial institutions;
- (4) Athletic and recreational facilities;
- (5) Automotive service facilities;
- (6) Catering businesses, major and minor;
- (7) Class II motor vehicle sales accessory to Class I motor vehicle sales;
- (8) Repair of motor vehicles accessory to Class I motor vehicle sales;
- (9) Type I home businesses pursuant to standards as set forth in § 21.302.13; and

(10) Hotel manager dwelling unit.

(d) Conditional uses.

(1) Reserved;

(2) Public utility facility, limited;

(3) Hotel airport parking;

(4) Uses requiring a maximum floor area ratio of above 1.0 within the CS-1 District and above one-half within the CS-0.5 District, subject to the provisions of subsection (i) below;

(5) Class I motor vehicle sales in the CS-0.5 District, when part of a planned development, pursuant to § 21.208.03;

(6) Vehicle rental accessory to Class I motor vehicle sales subject to the regulations set forth in § 21.302.38(e);

(7) Reserved;

(8) Reserved;

(9) Reserved;

(10) Restaurants with drive through (including drive-in) or with rooftop seating;

(11) Reserved;

(12) Manufacturing and warehousing in the CS-0.5 District;

(13) Reserved;

(14) Reserved;

(15) Reserved;

(16) Towers. For related provisions see §§ 15.14, 21.302.37 and 21.301.10;

(17) Reserved;

(18) Secondary educational institutions (Grade 6-12);

(19) Type II home businesses pursuant to standards as set forth in § 21.302.13;

(20) Manufactured home parks pursuant to standards as set forth in § 21.302.10;
and

(21) Major commercial golf facility; and

(22) Cannabis manufacturing in the CS-0.5 District.

(e) Interim uses.

(1) Car rental businesses in the CS-1 District, including storage of rental cars provided that such parking does not occupy space otherwise required by ordinance for other uses on the same site;

(2) Parking for an off-site use or as a primary use;

(3) Retail or wholesale use (not to include outdoor storage) of an existing structure, provided that:

(A) The site has approved plans in place for redevelopment to a use allowed under the Comprehensive Plan and zoning ordinance;

(B) The applicant has documented that the site owner is actively working toward redevelopment of the site as approved;

(C) Redevelopment of the site as approved is not likely to occur within the period of the interim use permit;

(D) The use will be compatible with the structure, site and area in which it will be located;

(E) The use will not create a nuisance for adjacent uses or the public;

(F) The use will not negatively impact public infrastructure;

(G) The use will require only minor alterations to the existing structure; and

(H) The cost of alterations to the existing structure is commensurate with an interim use.

(4) Temporary Pandemic, Epidemic, or Emergency Service Facility; and

(5) Reserved.

(f) Maximum floor area ratio. The maximum floor area ratio within the CS-1 District must be one square foot of floor area for each one square foot of lot area and the maximum floor area ratio within the CS-0.5 District must be one-half square foot of floor area for each one square foot of lot area, except as these standards may be modified by the provisions of subsection (i) below.

(g) Dimensional requirements.

<u>Minimum lot area</u>	<u>120,000 square feet</u>
<u>Minimum lot width</u>	<u>200 feet</u>
<u>Minimum setback, front</u>	<u>60 feet</u>

<u>Minimum setback, side</u>	<u>20 feet plus 0.25 feet for each one foot of structure height in excess of 60 feet</u>
<u>Minimum setback, rear</u>	<u>Same as side setback, but in no instance less than 30 feet</u>
<u>Maximum structure height</u>	<u>As regulated by § 21.301.10</u>
<u>Maximum structure lot coverage</u>	<u>30%</u>
<u>Maximum structure floor area ratio</u>	<u>CS-1 = 1.0 FAR, CS-0.5 = 0.5 FAR</u>

(h) Reserved.

(i) Special provisions.

(1) Reserved.

(2) The maximum floor area ratio in the CS-1 District may be increased to one and one-half square feet of floor area and in the CS-0.5 District to three-fourths square feet of floor area for each one square foot of lot area and maximum building coverage may be increased to 40 percent of lot area provided that peak period project trip generation is equal or less than trip generation from the same type of use with a 1.0 floor area ratio in the CS-1 District and 0.5 floor area ratio in the CS-0.5 District. A Tier I TDM Program in accordance with the requirements of § 21.301.09 and a development agreement is required for all uses exceeding the maximum floor area ratio in subsection (f) above.

(3) The minimum floor area for structures in the CS Districts must be 6,000 square feet for freestanding restaurants and 20,000 square feet for all other uses.

(4) In instances in which second-level pedestrian connections are made across public streets or to adjacent properties, setbacks may be reduced to zero feet for a width of 120 feet.

(5) Exterior materials: the exterior materials and finish of all buildings erected on lands within Commercial Service CS-0.5 and CS-1 Zoning Districts must be in conformance with the applicable requirements of § 21.301.24.

(j) Sign regulations. Refer to Chapter 21, Article III, Division D, the sign code.

§ 21.205.08 COMMERCIAL OFFICE DISTRICT CO-1.

(a) Intent. The Commercial Office District is intended to provide areas where offices, compatible office-like businesses and high-density residential uses may be developed with the assurance that commercial uses with incompatible characteristics will not

impede or disrupt the establishment of an attractive and cohesive grouping of mixed yet interrelated uses. This district is to be applied only in areas adjacent to arterial or collector streets. Residential uses within this district is appropriate provided they are subsidiary to office uses on the site.

(b) Permitted principal uses.

(1) Offices;

(2) Public uses;

(3) Transit stations;

(4) The following accessory uses:

(i) Uses customarily incidental and clearly subordinate to permitted principal uses.

(ii) Beekeeping.

(5) Entertainment and recreation special events;

(6) Farmers market subject to standards set forth in Chapter 14, Article IX;

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;

(8) Restaurants, without drive through and without outdoor or rooftop seating;

(9) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18;

(10) Non-profit clubs in the CO-1 Zoning District;

(11) Post-secondary educational institutions;

(12) Brewpub;

(13) Taproom/cocktail room;

(14) Craft and microbrewery/distillery/winery;

(15) Research laboratories;

(16) Public utility facility, general; and

(17) Multi-family dwelling in the CO-1 District provided they are developed in accordance with the provisions of the C-4 District.

(c) Provisional uses. If the following uses are within a building primarily devoted to a permitted principal use, and if they have common indoor access to permitted principal uses, they are permitted within the CO-1 District:

(1) Retail stores for the sale of arts and crafts, gifts, flowers, plants, groceries, bakery goods, produce, dairy products, drugs, sundry items, books, newspapers, magazines, apparel and similar retail stores;

(2) Personal-service establishments including licensed therapeutic massage enterprises, barber and beauty shops, exercise and health activities, dry-cleaning drop-off and pick-up stations, laundering, repair services incidental to retail stores and similar personal services;

(3) Financial institutions;

(4) Athletic and recreation facilities;

(5) Catering businesses, major and minor;

(6) Sales and servicing of office equipment;

(7) Business services including printing and duplicating;

(8) Product design, development and testing; and

(9) Type I home businesses pursuant to standards as set forth in § 21.302.13.

(d) *Conditional uses.*

(1) Reserved;

(2) Manufacturing, provided that at least 75 percent of the floor area of structures on the site is devoted to a permitted principal use;

(3) Reserved;

(4) Automotive service facilities which form an integrated part of a larger development;

(5) Public utility facility, limited;

(6) Computer component manufacturing;

(7) Uses requiring a maximum floor area ratio above 1.0 within the CO-1 District, subject to the provisions of subsection (i) below;

(8) Air passenger and transit terminals;

(9) Reserved;

(10) Towers. For related provisions see §§ 15.14, 21.302.37 and 21.301.10;

(11) Reserved;

(12) Type II home businesses pursuant to standards as set forth in § 21.302.13;

- (13) Places of assembly in the CO-1 Zoning District;
- (14) Manufactured home parks pursuant to standards as set forth in § 21.302.10;
- (15) Major commercial golf facility; and
- (16) Restaurants with drive through (including drive-in) or rooftop seating; and
- (17) Cannabis testing facility.

(e) Interim uses.

(1) Uses. The following uses are allowed on an interim basis in accordance with the provisions of this section.

(A) Short-term storage of rental car inventory for rental by the public at the Minneapolis/St. Paul International Airport and short term parking of personal vehicles by auto rental employees and construction related employees working at the Minneapolis/St. Paul International Airport;

(B) Car rental businesses, including storage of rental cars provided that such parking does not occupy space otherwise required by ordinance or other uses on the same site;

(C) Temporary Pandemic, Epidemic, or Emergency Service Facility; and

(D) Parking for an off-site use or as a primary use.

(2) Standards. In addition to standards in § 21.501.05, the following standards also apply to interim uses in the Commercial Office District CO-1.

(A) Any buildings or other site improvements associated with the interim use will be of nominal value or portable. Temporary buildings are allowed only to support the proposed use. Temporary buildings are exempt from the requirements of subsection (i) below, but must be designed and constructed in a manner assuring safety for occupants and others affected, as determined by the issuing authority.

(f) Maximum floor area ratio. The maximum floor area ratio for nonresidential uses within the CO-1 District will be one square foot of floor area for each one square foot of lot area.

(g) Dimensional requirements.

<u>Minimum lot area</u>	<u>120,000 square feet</u>
<u>Minimum lot width</u>	<u>200 feet</u>
<u>Minimum setback, front</u>	<u>60 feet</u>
<u>Minimum setback, side</u>	<u>20 feet plus 0.25 foot for each one foot of structure height in excess of 60 feet</u>

<u>Minimum setback, rear</u>	<u>Same as side setback, but in no instance less than 30 feet</u>
<u>Maximum structure height</u>	<u>As regulated by § 21.301.10</u>
<u>Maximum structure lot coverage</u>	<u>30%</u>
<u>Maximum structure floor area ratio</u>	<u>CO-1 = 1.0 FAR for nonresidential uses</u>

(h) Reserved.

(i) Special provisions.

(1) Reserved.

(2) In the CO District, the floor area of residential uses will not exceed 50 percent of the floor area of nonresidential uses in a particular development.

(3) The maximum floor area ratio in the CO-1 District may be increased to one and one-half square feet of floor area and maximum building coverage may be increased to 40 percent of lot area provided that peak period project trip generation is equal or less than trip generation from the same type of use with a 1.0 floor area ratio in the CO-1 District. A Tier I TDM Program in accordance with the requirements of § 21.301.09 and a development agreement is required for all uses exceeding the maximum floor area ratio in subsection (f) above.

(4) In instances in which second-level pedestrian connections are made across public streets or to adjacent properties, setbacks may be reduced to zero feet for a width of 120 feet.

(5) Exterior materials: the exterior materials and finish of all buildings erected on lands within Commercial Office CO-1 Zoning District will be in conformance with the applicable requirements of § 21.301.24.

(j) Sign regulations. Refer to Chapter 21, Article III, Division D, the sign code.

DIVISION E: INDUSTRIAL ZONING DISTRICTS

§ 21.206.01 INDUSTRIAL PARK (I-1) DISTRICT.

(c) *Standards.* Development in the I-1 District must comply with the following standards:

(4) *Exterior materials.* See § 21.301.24~~[19.63.08]~~ for applicable standards.

§ 21.206.02 LIMITED INDUSTRY (I-2) DISTRICT.

(c) *Standards.* Development in the I-2 District must comply with the following standards:

(4) *Exterior materials.* See § 21.301.24~~[19.63.08]~~ for applicable standards.

§ 21.206.03 GENERAL INDUSTRY (I-3) DISTRICT.

(c) *Standards.* Development in the I-3 District must comply with the following standards:

(4) *Exterior materials.* See § 21.301.24~~[19.63.08]~~ for applicable standards.

§ 21.206.04 INDUSTRIAL PARK (IP) DISTRICT.

(c) *Standards.* Development in the IP District must comply with the following standards:

(4) *Exterior materials.* See § 21.301.24~~[19.63.08]~~ for applicable standards.

§ 21.206.05 FREEWAY DEVELOPMENT (FD-2) DISTRICT.

(c) *Standards.* Development in the FD-2 District must comply with the following standards:

(4) *Exterior materials.* See § 21.301.24~~[19.63.08]~~ for applicable standards.

§ 21.206.06 INNOVATION AND TECHNOLOGY (IT) DISTRICT.

(c) *Standards.* Development in the IT District must comply with the following standards:

(3) *Structure height.* Structures in the IT District must meet the height limitations of §§ 21.301.10 and 21.208.04~~[19.38.03]~~.

(4) *Additional building design standards.* In addition to the requirements of § 21.301.03(a), buildings in the IT District must comply with the following:

(A) *Exterior materials.* The exterior materials and finish of all buildings and structures in the IT District must comply with the applicable requirements of § 21.301.24~~[19.63.08 of this code]~~.

§ 21.206.07 TRANSITIONAL INDUSTRIAL (TI) DISTRICT.

(c) *Standards.* Development in TI District must comply with the following standards:

(4) *Exterior materials.* See § 21.301.24~~[19.63.08]~~ for applicable standards.

(7) *Street enclosure.* It is the intent of the TI District to foster a more urban character along Lyndale Avenue by establishing clearly defined street edges enclosed by buildings and other vertical elements. A combination of building frontage and other vertical elements may be used to enclose and define the edge of Lyndale Avenue as follows:

At least 50% of the frontage of each site along Lyndale Avenue must be enclosed by buildings. An additional 20% must be enclosed by buildings and/or other vertical elements located along the minimum building setback line. Vertical elements may consist of trees, shrubs, walls, fences, and sculptural elements. Both buildings and vertical elements must comply with the Clear View Triangle area as defined in § ~~[19.03]~~21.601~~[of this Code]~~. Vertical elements over four feet in height must be consistent with the Crime Prevention Through Environmental Design (CPTED) objectives in the Planning Manager's Landscaping and Screening Policies and Procedures document, as it may be amended from time to time.

(12) *Structure design.* New structures and building additions in the TI District must comply with design standards shown below in subsections (A) through (D), in addition to the requirements of ~~[described in]~~ § 21.301.03(a). The following design standards are

meant to create an attractive street-level environment that promotes pedestrian activity, comfort, and public safety in the TI District. The highest design standards must be provided on the street front intended for the highest pedestrian-orientation; this is the primary façade. The issuing authority will determine which elevation is considered to be the primary façade. All other street frontages are considered secondary façades. Building fronts facing Harriett Avenue and Halsey Lane are exempt from the standards shown below in subsections (A) through (D).

(D) *Canopies and awnings.* First floor canopies and awnings are encouraged in order to promote a pedestrian-oriented environment and add visual interest to a building elevation. Canopies and awnings must meet the requirements of § 21.301.24[~~19.63.08~~].

DIVISION F: SPECIALIZED ZONING DISTRICTS

§ 21.207.03 HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.

(a) *Intent.* It is the purpose of this district to provide for high intensity employment-oriented, tourist-oriented and residential uses in areas close to frequent transit service. The provisions of this district are intended to:

(1) Promote high intensity development;

(2) Avoid under-utilization of the small supply of land in the city that lies within one-half mile of high frequency mass transit service;

(3) Require the creation of a significant high density residential node to diversify housing options available in the city and create a live-work-recreation environment;

(4) Reduce vehicle trips and vehicle miles traveled relative to the same level of development in other areas by allowing residences in close proximity to employment and services, by allowing intense development in close proximity to high frequency transit service, and by encouraging multi-purpose trips, walking trips, carpool trips and transit trips;

(5) Reduce overall costs and impacts of parking by making shared parking feasible where peak parking demand times vary among uses;

(6) Maximize return on public utility and transportation infrastructure investments by requiring high intensity development;

(7) More efficiently use public and private infrastructure by taking advantage of peak demand time variations for infrastructure (roads, transit, sewer, water, electricity, phone) among land uses. By becoming a source of trip origins as well as trip

destinations, roadway and transit systems can be used in a more efficient bi-directional manner;

(8) Ensure that residential development is compatible with the surrounding noise levels;

(9) Provide a pedestrian oriented environment; and

(10) Provide floor area ratio bonuses to encourage development characteristics that advance citywide and district specific objectives, including accessory and limited retail and service uses, below grade parking, parks or plazas, affordable housing, public art and sustainable design.

(b) Permitted principal uses.

(1) Offices;

(2) Hotels;

(3) Multiple-family dwellings;

(4) Transit stations;

(5) Public uses;

(6) Cinema and theaters;

(7) Medical offices and clinics;

(8) Conference, exposition and meeting facilities;

(9) Entertainment and recreation special events;

(10) Farmers market subject to standards set forth in Chapter 14, Article IX;

(11) Arts and crafts festival subject to standards set forth in Chapter 14, Article X; and

(12) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

(c) Permitted limited and accessory uses.

(1) Limited uses. The following uses are permitted as limited uses:

(A) Retail uses for the sale of groceries, bakery goods, drugs, sundry items, gifts, books, recorded music, arts and crafts, plants and similar items;

(B) Personal and business service establishments including dry-cleaners, exercise and health activities, beauty and barber shops, copying services, photo

developing, picture framing, licensed therapeutic massage, travel agencies and similar establishments;

(C) Restaurants without drive-up facilities;

(D) Financial institutions without drive-up facilities;

(E) Day care facilities;

(F) Fuel sales physically integrated within a structured parking facility;

(G) Beekeeping;

(H) Brewpub;

(I) Taproom/cocktail room; and

(J) Craft and micro-brewery/distillery/winery.

(2) Accessory uses. The following uses are permitted as accessory uses:

(A) Type I home businesses pursuant to standards as set forth in § 21.302.13;

(B) Hotel manager dwelling unit;

(C) Transient merchant sales in hotel interiors only; and

(D) Other uses customarily incidental and clearly subordinate to a permitted principal or conditional use. Drive through uses are prohibited.

(d) Conditional uses.

(1) Expansion of electric substation or electric transmission line facilities in existence prior to January 1, 2005, subject to the provisions of subsection (p) below;

(2) Type II home businesses pursuant to standards as set forth in § 21.302.13;

(3) Expansion of hotel facilities in existence prior to January 1, 2005, subject to the provisions of subsection (p) below; and

(4) Manufactured home parks pursuant to standards as set forth in § 21.302.10.

(e) Interim uses.

(1) Remote airport parking, subject to the provisions of subsection (p) below; and

(2) Temporary Pandemic, Epidemic, or Emergency Service Facility.

(f) Residential uses required.

(1) *Minimum density.* Development within the HX-R Zoning District must include at least 30 residential dwelling units per acre of gross site area, with the following exceptions.

(A) Residential uses are prohibited in areas forecast to have average future aircraft noise levels at or above 70 dB DNL.

(B) For the purposes of calculating the required number of residential dwelling units for a site within the HX-R Zoning District, the land area, as calculated by city staff, of the site forecast to be exposed to average future aircraft noise levels at or above 70 dB DNL will be subtracted from the overall site area.

(C) On sites in which over two-thirds of the site area is forecast to be exposed to average future mitigated aircraft noise levels at or above 70 dB DNL, residential uses in the area with less than 70 dB DNL are allowed but not required.

(D) Forecast aircraft noise levels will be determined based on the highest noise level shown on either the most recent annual noise contour map published in the Minneapolis St. Paul International Airport Annual Noise Contour report or the noise level forecast for the most distant year included in the most recent comprehensive plan or environmental documents adopted by the Minneapolis-St. Paul International Airport by the Metropolitan Airports Commission.

(2) *Phased developments.* When a mixed use development is constructed in phases, it is the intent of the HX-R Zoning District that the residential components of the development not be set aside until the final development phase(s). Therefore, when residential uses are required on a site, final development plans may not be approved for a structure or structures that would increase the total nonresidential floor area on the site to over 50 percent of the total nonresidential floor area on the site approved in the preliminary development plan unless:

(A) Construction has commenced on at least 50 percent of the total number of residential dwelling units on the site approved in the preliminary development plan;

(B) The structure or structures include both nonresidential and residential uses and its construction would bring the number of residential dwelling units on the site to at least 50 percent of the total number of residential dwelling units on the site approved in the preliminary development plan; or

(C) The City Council determines that the approval satisfies the intent of the HX-R Zoning District.

(g) *Floor area ratio.*

(1) The minimum floor area ratio required for development within the HX-R Zoning District is 1.5.

(2) Floor area ratio calculations include all residential and nonresidential development on a site but exclude structured or underground parking.

(3) In cases where development on a site occurs in phases, each individual development phase must comply with the floor area ratio requirements of this subsection (g) on its own or in conjunction with previous phases if previous phases exceeded floor area ratio requirements. The overall development must also comply with the floor area ratio requirements of this subsection (g).

(4) The maximum floor area ratio for development within the HX-R Zoning District is 2.0, but may be increased through the following bonus provisions:

(A) *Retail and service use bonus.* Developments including limited use retail and service uses are eligible for bonus floor area. Two square feet of additional floor area is allowed per square foot of limited use retail and service use floor area. In no case may the retail and service use floor area ratio bonus exceed 0.50.

(B) *Below grade parking bonus.* Developments including below grade parking are eligible for bonus floor area. Two square feet of additional floor area is allowed per gross square foot of below grade parking floor area. To qualify for the bonus, parking must be fully below the finished final grade on all sides. In no case may the below grade parking floor area ratio bonus exceed 0.75.

(C) *Plaza or park bonus.* Developments not subject to park donation requirements as specified in § 22.10 that include publicly accessible plaza or park areas are eligible for bonus floor area. One square foot of additional floor area is allowed per square foot of publicly accessible plaza or park area meeting the following requirements.

(i) Land used to satisfy park dedication requirements is not eligible for park or plaza bonus floor area.

(ii) The plaza or park must include at least 5,000 square feet of contiguous area.

(iii) To avoid long and narrow spaces, the length of the plaza or park must not exceed three times the width of the plaza or park.

(iv) At least 25 percent of the perimeter of the plaza or park must abut a public or private street.

(v) At least 30 percent of the plaza or park area must consist of landscaping or water features.

(vi) The plaza or park must be easily accessible via sidewalk.

(vii) The plaza or park must be designed to encourage public use through the provision of seating, tables, trash receptacles, water features and areas for public entertainment or public display of art or cultural exhibits. Seating must be provided at a

rate of not less than one seat per 200 square feet of plaza or park area for the first 10,000 square feet.

(viii) The site development agreement, or other appropriate agreement, must include provisions ensuring that the plaza or park is open to the public every day between 7:00 a.m. and 9:00 p.m. and maintained in good order.

(ix) In no case may the park or plaza floor area ratio bonus exceed 0.25.

(x) The site development agreement must include provisions ensuring the installation, preservation, maintenance and replacement, if necessary, of plaza or park features.

(xi) The plaza or park must include pedestrian lighting at an illumination level of at least 2.0 foot candles.

(D) *Affordable housing bonus.* Developments including affordable housing as defined by the Metropolitan Council are eligible for bonus floor area. Three square feet of additional floor area is allowed per square foot of affordable housing unit floor area subject to the following requirements.

(i) The site development agreement must include provisions ensuring that rental units receiving the bonus will continue to remain affordable for 30 years.

(ii) The site development agreement must include provisions ensuring that owned units receiving the bonus will initially be sold at an affordable level and that mechanisms are in place to ensure that the owned units receiving the bonus will continue to remain affordable when resold in the future.

(iii) In no case may the affordable housing floor area ratio bonus exceed 1.0.

(E) *Public art bonus.* Developments committing funds to on-site public art are eligible for bonus floor area. One square foot of additional floor area is allowed per \$50 committed to on-site public art, subject to the following requirements.

(i) In no case can the public art floor area ratio bonus exceed one-half.

(ii) Developments requesting the public art bonus must submit a plan, to be approved by the City Council, documenting the type of public art to be commissioned, the budget, location, schedule and artist selection process. To qualify for the bonus, the City Council must approve the plan.

(iii) Works of art must be placed outside of a building at a location clearly visible and freely accessible to the public.

(iv) The site development agreement must include provisions ensuring the installation, preservation, maintenance and replacement, if necessary, of the public art.

(v) To ensure that public art is installed as proposed, a performance security in an amount equal to the bonus level approved must be submitted prior to issuance of building permits for a building on a site receiving a public art bonus. The security may consist of a bond, irrevocable letter of credit, cash deposit or other instrument that provides an equal performance guarantee to the city.

(F) *Sustainable design bonus.* Developments designed to minimize negative impacts on the environment as measured by the LEED (Leadership in Energy and Environmental Design) Green Building Rating System® are eligible for bonus floor area. The LEED Rating System® is a voluntary national standard administered by the United States Green Building Council. Bonuses are subject to the following provisions.

(i) One quarter square foot of additional floor area is allowed per square foot of floor area within a building that receives LEED certification at the certified or silver award level. One-half square foot of additional floor area is allowed per square foot of floor area within a building that receives LEED certification at the gold or platinum award level.

(ii) In no case may the sustainable design floor area ratio bonus exceed 1.0. The sustainable design floor area ratio bonus applies only to the phase of development that includes a building receiving LEED certification and cannot be carried forward to future project phases.

(iii) Applications for development wishing to use the sustainable design bonus must include a report from a LEED certified architect or engineer that includes a statement of the anticipated LEED certification level, a copy of the most recent version LEED scorecard and a summary of how and/or why each LEED credit can or cannot be achieved.

(iv) A building permit for a building using the sustainable design bonus will not be issued until an independent, LEED certified inspector, architect or engineer under the supervision of the city and paid for by the applicant verifies that the construction plans include the elements necessary to receive LEED certification at the level for which the bonus was granted. In the event that the LEED certification level for which the bonus was granted cannot be verified during the building permit plan review process, the applicant must either modify the construction plans to achieve the verification or forfeit the bonus by amending the final development plans to remove the bonus floor area.

(v) A final certificate of occupancy for a building using the sustainable design bonus will not be issued until the city receives verification from the United States Green Building Council that the building has been granted LEED certification at the award level for which the bonus was granted.

(vi) The site development agreement must acknowledge that building permits and final certificates of occupancy will not be issued unless LEED certification at the level for which the bonus was granted can be verified.

(h) Dimensional requirements.

(1) Building placement. HX-R Zoning District building placement requirements are intended to promote intensity, to maximize design flexibility, to facilitate pedestrian movement and to create an active pedestrian environment.

(A) There is no minimum building setback required from property lines fronting public streets.

(B) The minimum building setback along a lot line not adjacent to a public street is ten feet, unless the lot line separates two portions of the same site, in which case no minimum building setback from the internal lot line is required.

(C) Buildings must not encroach into public easements.

(D) To create an active pedestrian level environment, at least one public entrance to buildings with ground level retail and service uses must be located within 20 feet of a public street, internal private street or major pedestrian way. The City Council may approve an alternative location for buildings with ground level retail and service uses provided the alternative location better serves the goal of creating an active pedestrian level environment.

(E) Skyways, tunnels and similar pedestrian connection structures have no setback requirements from property lines for a width of 120 feet.

(2) Minimum site area. The minimum site area within the HX-R Zoning District is 120,000 square feet. Parcels with areas below 120,000 square feet may be created as part of a planned development, provided the area of the overall planned development is at least 120,000 square feet.

(3) Maximum structure height. Maximum structure height is set forth in § 21.301.10.

(i) Parking.

(1) Number of parking spaces. The number of motor vehicle parking spaces provided within a development must not exceed 130 percent of the citywide requirements set forth in § 21.301.06, unless the City Council determines that additional motor vehicle parking levels are warranted based on the results of a motor vehicle parking study, prepared by an independent traffic engineering professional under the supervision of the city and paid for by the applicant.

(2) Location of motor vehicle parking. In order to more efficiently use available land, improve aesthetics and create a pedestrian-oriented environment that promotes walking, biking and transit use, the location of motor vehicle parking is restricted within the HX-R Zoning District.

(A) Motor vehicle parking must be located below grade, within structured ramps, or in individual on-street spaces parallel with and adjacent to low volume streets. At-

grade motor vehicle parking areas are prohibited with the exception of small, short-term visitor parking areas near structures. At-grade visitor parking areas, if provided, may include no more than one motor vehicle parking space per 20,000 square feet of floor area in the associated building.

(B) For phased developments where at grade motor vehicle parking already exists, the overall number of at grade motor vehicle parking spaces on-site must be proportionally reduced with each phase of development so that compliance with limitations on at grade parking is achieved prior to or in conjunction with the final phase of construction.

(3) *Bicycle parking.* Bicycle parking facilities commensurate with anticipated demand must be provided near building entrances.

(j) *Building design.*

(1) *Entrances.* Buildings adjacent to and within 100 feet of public streets must include at least one public entrance clearly visible and directly accessible from an adjacent public street. The public entrance may include security controls.

(2) *Windows.* First floor building facades facing and within 100 feet of public or private streets or major pedestrian corridors must meet the following window standards on those facades in order to promote a pedestrian oriented environment and add visual interest.

(A) For residential uses, a minimum of 25 percent of the area of the first floor building facade must be composed of windows or entrances.

(B) For nonresidential uses, a minimum of 50 percent of the area of the first floor building facade must be composed of windows or entrances. No more than 25 percent of the total window area and eye level window area may be obscured by signs, film coverings, product displays or similar covering. Blinds, curtains and similar temporary coverings for privacy or sunlight control are permitted.

(C) To count toward window area requirements, windows must be transparent.

(3) *Blank facades.* Blank building facades or walls must not exceed 20 feet in length. A building facade or wall is considered to be blank if it is uninterrupted by windows, doors, ornamentation, decoration, articulation or other architectural detailing.

(4) *Exterior materials.* The exterior materials and finish of all buildings and structures erected within the HX-R Zoning District must conform with the applicable requirements of § 21.301.24.

(5) *Canopies and awnings.* First floor canopies and awnings are encouraged on buildings in order to promote a pedestrian oriented environment and add visual interest.

Canopies and awnings must not extend above the first floor of a building or more than 15 feet above the finished grade.

(6) *Parking structures.* Given the anticipated intensity of development within the HX-R Zoning District, above grade parking structures are likely to be common features within the district. The following standards are intended to ensure that parking structures complement the visual character, pedestrian orientation and overall attractiveness of the area.

(A) *Placement.*

(i) Above grade parking structures must not front on either American Boulevard or 34th Avenue within 200 feet of the point at which the applicable site's property lines that front on both streets would intersect if extended.

(ii) To the extent feasible, parking structures should be placed in locations where their visibility from active areas is reduced.

(iii) Establishing retail and service uses on the ground floor of parking structures and partially wrapping the parking structure with active building space is encouraged.

(B) *Architecture and materials.* Parking structure facades visible from public streets, private streets or transit corridors must architecturally complement the building or buildings the parking structure serves through the use of exterior materials, architectural elements and color.

(i) Parking structure exterior materials must meet the requirements of § 21.301.24.

(ii) Parking structure exterior material color must complement the color of the building or buildings the parking structure serves.

(iii) Parking structures must include architectural elements that enhance the structure, break up its mass and complement the building or buildings the parking structure serves. Examples of specific architectural elements that may assist in meeting this requirement include decorative piers and pilasters, banding, reveals, architectural accents, wall plane articulation, decorative artwork, ornamental grillwork, recessed window openings, facade treatment variations and locating tenant signs on the side of parking ramps.

(iv) Parking structure access points must be architecturally articulated to add visual interest.

(v) Parking structures must be designed to block the visibility of vehicle headlights from outside the parking structure.

(k) *Pedestrians and bicycles.* Achieving the intent of the HX-R Zoning District will require high quality, linked sidewalks and bikeways.

(1) Development must provide sidewalks and bikeways that support movement throughout the Airport South District and are consistent with the Airport South sidewalk and bikeway plan.

(2) Site design for new development must promote pedestrian circulation and the principles of Crime Prevention Through Environmental Design (CPTED).

(3) Development must provide sidewalks and, where appropriate, bikeways along all public and private streets unless the City Council determines that an alternative sidewalk or bikeway location better serves the development and surrounding area.

(4) Development must provide sidewalks between building entrances and the streetside or areawide system.

(5) Development must provide for direct and continuous pedestrian and bicycle connections to adjacent sites, where links to existing, proposed or potential development are appropriate.

(6) Development sites that contain a transit station must provide direct and continuous sidewalk and bikeway connections between the transit station and buildings on-site as well as to adjacent sites, where links to existing, proposed or potential development are appropriate.

(7) To support street level retail uses, pedestrian movement between adjacent buildings and sites is encouraged to take place at grade rather than through skyways or tunnels. Grade separated pedestrian crossings over arterial and collector streets are encouraged.

(8) Sidewalk width requirements.

(A) Sidewalks adjacent to public streets, major sidewalks internal to sites and sidewalks adjacent to retail and service storefronts must have an unobstructed, walkable width of at least eight feet. Additional width is encouraged in appropriate areas to accommodate outdoor seating, benches, landscaping, light posts, trash receptacles, bicycle parking and similar pedestrian oriented infrastructure.

(B) All other sidewalks must have an unobstructed, walkable width of at least six feet.

(C) The City Council may require greater sidewalk widths through condition of approval when greater widths are deemed necessary to meet anticipated pedestrian needs or state aid standards.

(l) *Open space and landscaping.*

(1) Landscaping must conform with the requirements of § 21.301.15 and other applicable requirements of this code.

(2) Development must conform with any applicable district streetscape or open space plan.

(3) Each development site subject to park donation requirements as specified in § 22.10 must include at least one on-site plaza or park that meets the following requirements.

(A) The plaza or park must include at least 5,000 square feet of contiguous area. The first 5,000 square feet of plaza or park area qualifies as a credit toward the park donation requirements of § 22.10. Additional plaza or park land area above 5,000 square feet may qualify as a credit toward the park donation requirements of § 22.10 if the city determines that additional land is needed on the site to meet the park and recreation needs of area workers and residents.

(B) To avoid long and narrow spaces, the length of the plaza or park must not exceed three times the width of the plaza or park.

(C) The plaza or park must be reserved for public use through a permanent easement and must be open to the public every day between 7:00 a.m. and 9:00 p.m.

(D) At least 30 percent of the plaza or park must consist of landscaping or water features.

(E) The plaza or park must include pedestrian lighting at an illumination level of at least 2.0 foot candles.

(F) At least 25 percent of the perimeter of the plaza or park must abut a public or private street.

(G) The plaza or park must be easily accessible via sidewalk.

(H) The plaza or park must be designed to encourage public use through the provision of seating, tables, trash receptacles, water features and areas for public entertainment or public display of art or cultural exhibits. Seating must be provided at a rate of not less than one seat per 200 square feet of plaza or park area for the first 10,000 square feet.

(I) The plaza or park must be maintained in good order.

(J) The site development agreement must include provisions ensuring public access as well as the installation, preservation, maintenance and replacement, if necessary, of plaza or park features.

(m) *Reserved.*

(n) *Reserved.*

(o) *Public art.* The provision and exterior display of public art creates visual interest within the HX-R Zoning District and helps to facilitate a pedestrian oriented environment.

(1) Preliminary and final development plans for new development in the HX-R Zoning District must designate potential future locations for public art near high volume pedestrian corridors. At least one potential future public art location must be designated per two and one-half acres of site area. The HX-R Zoning District does not require the provision of public art but does offer floor area ratio bonuses for public art subject to the provisions of subsection (g)(4)(D) above.

(p) Sign regulations. Refer to Chapter 21, Article III, Division D, the sign code.

(q) Construction or expansion not in compliance with HX-R District standards. Where construction or expansion not in compliance with HX-R District residential use and minimum floor area ratio requirements is allowed to occur through issuance of a conditional use permit or interim use permit, such construction or expansion is subject to the following provisions.

(1) The new or expanded use is not required to comply with HX-R District residential use and minimum floor area ratio requirements. The new or expanded use must meet all other applicable requirements of the district and city code, including parking requirements.

(2) Expansion of an existing use not in compliance with HX-R District residential use and minimum floor area ratio requirements must be contained within the parcel currently occupied by the existing use.

(3) Additional requirements for nonconformities are set forth in § 21.504.

§ 21.207.04 CONSERVATION DISTRICT SC.

(a) Intent. It is intended that this district provide areas within the city for habitat protection and wildlife management. The Conservation District may be applied to either public or private land where preservation of natural resources is appropriate. The designation of a Conservation District not only will regulate land use within its boundaries, but will assure that adjacent land in other districts will not significantly impact the natural areas it is designed to protect.

(b) Permitted principal uses.

(1) Public and private natural areas, conservation areas and wildlife management areas;

(2) Public recreation uses;

(3) The following accessory uses :

(i) Uses customarily incidental and clearly subordinate to permitted principal uses.

(ii) Beekeeping.

(4) Transient merchant sales as an accessory use in a park or government building interior, where incidental and clearly subordinate to a special event;

(5) Entertainment and recreation special events;

(6) Farmers market subject to standards set forth in Chapter 14, Article IX;

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article X;
and

(8) Mobile food units pursuant to standards set forth in Chapter 14, Article V and § 21.302.18.

(c) Provisional uses. Single-family dwelling uses in existence at the time of application of this zoning district to the property.

(d) Conditional uses.

(1) Nature centers and administrative buildings;

(2) Utility uses;

(3) Quarrying of sand, gravel, soil or minerals;

(4) Other public uses;

(5) Parking lots serving public and quasi-public recreation or conservation uses;

(6) Reserved; and

(7) Reserved.

(e) Interim uses.

(1) Temporary Pandemic, Epidemic, or Emergency Service Facility.

(f) Dimensional requirements.

<u>Minimum district area</u>	<u>40 acres</u>
<u>Minimum district width</u>	<u>200 feet</u>

(g) Minimum off-street parking. As specified in § 21.301.06.

(h) Special provisions.

(1) Reserved.

(2) In the review of final site and building plans in the SC District, or in any district bordering the SC District in instances in which the City Council determines that protection of natural features warrants additional protection over the applicable setback, buffering and development standards; the City Council may, by motion and majority vote, require that structures, parking areas or storage areas be set back up to 100 feet from the SC District boundary, that landscaping be provided for habitat protection and wildlife management, and that additional development standards be applied to assure that proposed development is appropriately related to the natural environment and meets the intent of the SC District.

(3) Public recreation uses will constitute no more than 20 percent of the land area of any unit of land zoned SC.

(i) *Sign regulations.* Refer to Chapter 21, Article III, Division D, the sign code.

DIVISION G: OVERLAY ZONING DISTRICTS

§ 21.208 OVERLAY ZONING DISTRICTS.

(a) *Purpose.* Overlay zoning districts provide use limitations and standards to those in primary zoning districts to further the public interest.

(b) *Establishment of districts.* The following overlay districts are hereby established:

(1) Flood Hazard (FH);

(2) Bluff Protection (BP);

(3) Planned Development (PD);

(4) Airport Runway (AR-17) Overlay District; and

(5) Airport Runway (AR-22) Overlay District.

~~[(c) *Conflicts.* In the case of a conflict between the provisions of a primary zoning district, the provisions of the more restrictive standard will take precedence and govern.]~~

(c) *Applicability and interpretation.* All provisions of the Zoning Code shall apply to the overlay zoning districts; however, in any instance where the provisions of an overlay zoning district will conflict with the provisions of a primary zoning district, the provisions of the overlay zoning district shall take precedence and govern.

(d) *Designation.* All overlay districts shall be designated on the zoning district map of the city.

§ 21.208.01 FLOOD HAZARD (FH) OVERLAY DISTRICT.

(h) *Reserved.*~~[*Severability.* If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of law, the remainder of this ordinance shall not be affected and shall remain in full force.]~~

(dd) *Variances.*

(1) *Variance Applications.* An application for a variance to the provisions of this ordinance will be processed and reviewed in accordance with applicable state statutes and § 21.501.10~~[2.85.04 of the zoning ordinance].~~

(gg) *Penalties and Enforcement.*

(3) *Enforcement:* Violations of the provisions of this ordinance will be investigated and resolved in accordance with the provisions of § 21.506.50~~[19.21 of the City Code].~~ In responding to a suspected ordinance violation, the Planning Manager or designee and the Bloomington City Council may utilize the full array of enforcement actions available to it including but not limited to prosecution and fines, injunctions, after-the-fact permits, orders for corrective measures or a request to the National Flood Insurance Program for denial of flood insurance availability to the guilty party. The City of Bloomington must act in good faith to enforce these official controls and to correct ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

21.208.02 BLUFF PROTECTION (BP) OVERLAY DISTRICT

(e) *Standards.* In addition to the provisions of the primary zoning district, the following provisions further regulate all development within the Bluff Protection Overlay District:

(7) *Single-Family Zoning Districts.* The following additional standards apply to sites that are zoned R-1, RS-1 or R-1A:

(A) Impervious surface area within the Bluff Protection Overlay District must not exceed 20% of the lot area within the Bluff Protection Overlay District. This standard applies in conjunction with the impervious surface regulations of the underlying zoning district defined in § 21.301.01 and any applicable impervious surface regulations in § 21.303.04~~[19.57.04].~~

§ 21.208.03 PLANNED DEVELOPMENT (PD) OVERLAY DISTRICTS.

(a) Intent. The purpose of the Planned Development Overlay District is to promote creative and efficient use of land by providing design flexibility in the application of development standards. The planned development provisions are also intended to create both private and public benefit by:

- (1) Allowing improved site and structure design;
- (2) Allowing development on multiple lots to function as one coordinated site;
- (3) Ensuring coordination of phased development;
- (4) Allowing the location of structures, facilities and lot lines on a site to be adjusted to protect natural features; and
- (5) Allowing the shared use of facilities, including, but not limited to, parking, access and storm water management infrastructure.

(b) Uses. All uses allowed in the underlying zoning district are also allowed in the Planned Development Overlay District subject to any necessary approvals including, but not limited to, conditional uses and interim uses. Uses not allowed in the underlying zoning district are also not allowed in the Planned Development Overlay District.

(c) Flexibility in standards. Within the Planned Development Overlay District, the City Council may grant flexibility on development standards through the approval of preliminary and final development plans, subject to the following limitations and when such flexibility provides public benefit and meets the intent of the overlay district. Flexibility may not be granted that:

- (1) Exceeds maximum structure coverage of a site by more than 50 percent of the applicable district provision;
- (2) Exceeds maximum density or floor area ratio by more than 20 percent of the applicable district provision;
- (3) Reduces minimum lot area and lot width by more than 25 percent of the applicable district provision;
- (4) Reduces minimum setback in an industrial zoning district from a property line adjoining a residential zoning district;
- (5) Does not conform to the requirements of the shore area regulations of § 21.303.01;
- (6) Deviates from any of the requirements of Chapter 21, Article III, Division D, the sign code, except:
 - (A) The location of freestanding signs on the site;

(B) In Class II, III, and V sign districts, not more than 20 percent of the sign area allowed on any wall may be applied to increase the allowed sign area on any other wall, provided that the increased signage on any wall does not exceed the permitted area of signage by more than 40 percent of the area allowed on that wall by the regulations for the sign district; and

(C) In Class II, III, IV, and V sign districts, the number of freestanding signs may be increased so long as the total area of the proposed signs does not exceed the total area of the freestanding signs of the same type permitted in the sign district.

(7) Reduces minimum floor area ratio requirements by more than 20 percent of the applicable zoning district provision. This subsection does not apply to minimum non-residential floor area ratio requirements of § 21.302.02(b); and

(8) Reduces minimum residential density requirements by more than 20 percent of the applicable zoning district provision.

(d) *Procedures.* The zoning district map must not be amended to establish a new Planned Development Overlay District unless the City Council has also concurrently reviewed and approved an associated preliminary development plan for the site (see §§ 21.501.02 and 21.501.03). No permit for development within a Planned Development Overlay District may be granted unless the City Council or Planning Commission has approved a final development plan for the site (see § 21.501.03).

§ 21.208.04 AIRPORT RUNWAY OVERLAY DISTRICTS.

(a) *Purpose and intent.* The Airport Runway Overlay Districts are established to implement the 2004 Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) zoning ordinance (hereinafter 2004 MSP zoning ordinance). The 2004 MSP zoning ordinance, pursuant to the provisions and authority of M.S. § 360.063, as it may be amended from time to time, takes precedent within areas of the city regulating and restricting the height of structures and objects of natural growth and otherwise regulating the use of property in the vicinity of the Minneapolis-St. Paul International Airport. The 2004 MSP zoning ordinance creates zones and establishes boundaries that extend into the city.

It is the purpose of the Airport Runway Overlay Districts to protect the public health, safety, order, convenience, prosperity and general welfare and to promote the most appropriate use of land by preventing the creation or establishment of Airport Hazards subject to the 2004 MSP zoning ordinance and Minnesota Statutes.

(b) *Creation of districts and applicability.* The Airport Runway Overlay Districts will apply to all land within the city designated as Safety Zone A and Safety Zone B in the 2004 MSP zoning ordinance. The following overlay districts are hereby established as follows:

Airport Runway (AR-17) Overlay District. Includes all land in the city within Safety Zone A and Safety Zone B to the south of MSP Runway 17-35 as described in the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones-Plate SZ-21 and Plate SZ-27 and shown on the zoning district map of the city; and

Airport Runway (AR-22) Overlay District. Includes all land in the city within Safety Zone B to the southwest of MSP Runway 4-22 as described in the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones-Plate SZ-20 and Plate SZ-21 and shown on the zoning district map of the city.

(c) Uses. All permitted principal, provisional, conditional, interim and accessory uses allowed in the primary zoning district are allowed in the Airport Runway Overlay Districts with the exception of the following prohibited uses.

(1) Airport Runway (AR-17) Overlay District.

(A) Within the portion of the Airport Runway (AR-17) Overlay District designated as Safety Zone A in the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones-Plate SZ-21 there will be no structures or trees, except structures related to airport operations or air navigation as allowed in a runway protection zone by federal laws and regulations or by FAA advisory circulars.

(B) Within the portion of the Airport Runway (AR-17) Overlay District designated as Safety Zone B as contained in § V Land Use Safety Zoning of the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones-Plate SZ-21 and Plate SZ-27, the following uses are prohibited unless a variance permitting the use is granted by the Board of Adjustment established by the 2004 MSP zoning ordinance:

(I) Amphitheaters;

(II) Campgrounds;

(III) Places of assembly;

(IV) Fuel storage tank farms;

(V) Above-ground fuel tanks;

(VI) Gasoline station;

(VII) Hospital;

(VIII) Nursing homes;

(IX) Residential uses (including low, medium and high density residential uses);

(X) Schools;

(XI) Stadiums;

(XII) Theaters;

(XIII) Trailer courts; and

(XIV) Ponds or other uses that might attract waterfowl or other birds such as putrescible waste disposal operations, wastewater treatment facilities and associated settling ponds, and dredge spoil containment areas; provided, however, the prohibition on ponds or other uses that might attract waterfowl or other birds does not apply to acres below an elevation of 800 feet above mean sea level along the bluff of the Minnesota River.

(2) Airport Runway (AR-22) Overlay District.

(A) Within the portion of the Airport Runway (AR-22) Overlay District designated as Safety Zone B as contained in § V Land Use Safety Zoning of the 2004 MSP zoning ordinance and shown on MSP Zoning Map Safety Zones-Plate SZ-20, the following uses are prohibited unless a variance permitting the use is granted by the Board of Adjustment established by the 2004 MSP zoning ordinance:

(I) Amphitheaters;

(II) Campgrounds;

(III) Churches;

(IV) Fuel storage tank farms;

(V) Above-ground fuel tanks;

(VI) Gasoline station;

(VII) Hospital;

(VIII) Nursing homes;

(IX) Residential uses (including low, medium and high density residential uses) except in an established residential neighborhood in a built-up urban area;

(X) Schools;

(XI) Stadiums;

(XII) Theaters;

(XIII) Trailer courts; and

(XIV) Ponds or other uses that might attract waterfowl or other birds such as putrescible waste disposal operations, wastewater treatment facilities and associated settling ponds, and dredge spoil containment areas.

(d) Height. In addition to the restrictions of § 21.301.10, all structures in the Airport Runway (AR-17) Overlay District and Airport Runway (AR-22) Overlay District are subject to the height restrictions imposed by the 2004 MSP zoning ordinance.

(1) Airport Runway (AR-17) Overlay District. Within the Safety Zone B of Airport Runway (AR-17) Overlay District, except as necessary and incidental to airport operations, no new structure will be constructed or established; no existing structure will be altered, changed, rebuilt, repaired or replaced; and no tree will be allowed to grow or be altered, repaired or replaced, or replanted in any way so as to project above any airspace surface as shown on MSP Zoning Map Airspace Zones-Plate A-21 and Plate A-27.

(2) Airport Runway (AR-22) Overlay District. Within the Safety Zone B of the Airport Runway (AR-22) Overlay District, except as necessary and incidental to airport operations, no new structure will be constructed or established; no existing structure will be altered, changed, rebuilt, repaired or replaced; and no tree will be allowed to grow or be altered, repaired or replaced or replanted in anyway so as to project above any airspace surface as shown on MSP Zoning Map Airspace Zones-Plate A-20 and Plate A-21.

(e) 2004 MSP zoning ordinance use variances. Within the Airport Runway Overlay Districts, variances to allow uses listed as prohibited in the Airport Runway Overlay Districts that are granted by the Board of Adjustment as contained in the 2004 MSP zoning ordinance may only be established in the city to the extent that they comply with all other provisions of this code. A use not allowed in the primary zoning district cannot be established under any circumstances.

DIVISION H: USES

§ 21.209 USE TABLES.

(b) Table key. The following labeling conventions apply to each table in this section.

(1) Uses. Uses are often defined in § ~~[19.03]~~21.601. Uses not defined are subject to standard dictionary definitions.

(5) Accessory uses. Uses identified in the zoning district column with the letter "A" are allowed as accessory uses in the respective zoning district as defined in § ~~[19.03]~~21.601.

(7) Limited uses. Uses identified in the zoning district column with the letter "L" are allowed as limited uses in the respective zoning district as defined in § ~~[19.03]~~21.601.

(8) Conditional limited uses. Uses identified in the zoning district column with the letter “CL” are allowed as limited uses in the respective zoning district as defined in § [49.03]21.601 provided a conditional use permit is issued before the use commences.

(c) Residential Zoning Districts.

Use Type	Zoning District									References; see listed section
	R-1	R- 1A	RS-1	R-3	R-4	RM-12	RM-24	RM-50	RM-100	

Antenna, outside the right-of-way	L	L	L	L	L	L	L	L	L	21.302.37[49.63.05]
Amateur radio tower	A	A	A		A					15.14; 21.302.37[49.63.05]; 21.301.10
Tower, outside the right-of-way	CL	CL	CL	CL	CL	CL	CL	CL	CL	21.302.37(b)[49.63.05 (b)]

(d) Neighborhood and Freeway Commercial Zoning Districts.

Use Type	Zoning District								References ; See Listed Section	
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5		

Retail Sales and Services										

Financial institution – limited	[C]A									[49.03]21.601

Accessory										

Antenna, outside the	L	L	L	L	L	L	L	L	L	21.302.37[49.63.05]

right-of-way									

Tower, outside the right-of-way	CL	CL		CL	CL		CL		21.302.37[49-63-05]

(e) *Industrial Zoning districts.*

Use Type	Zoning District							References; see listed section
	IT	I-1	I-2	I-3	IP	TI	FD-2	

Antenna, outside the right-of-way	L	L	L	L	L	L	L	21.302.37[49-63-05]

Tower, outside the right-of-way	C	C	C	C	C	C	C	21.302.37[49-63-05]

(f) *Specialized zoning districts.*

Use Type	Zoning District		References; see listed section
	IT	I-1	

Antenna, outside the right-of-way	L	L	21.302.37[49-63-05]

Tower, outside the right-of-way	CL		21.302.37[49-63-05]

(g) Certificate of occupancy required. Where required by the current State Building Code, no building or premises may hereafter be used or occupied and no change in the

occupancy classification of a building, structure or portion of a building or structure may be made, unless a certificate of occupancy is issued by the issuing authority.

(h) *Permitted uses in all zoning districts.* The following uses must be construed to be permitted in all zoning districts within the city:

(1) Public streets and highways; and

(2) Underground public utilities.

(i) *Prohibited uses in all zoning districts.* These following uses must be construed to be prohibited in all zoning districts within the city.

(1) *Dealer in motor vehicles.* No building, structure, lot, yard, area or premises within the city will be kept, used or maintained by a dealer in motor vehicles for the purpose of therein or thereon keeping, storing, handling, buying, selling, leasing, wholesaling, brokering, auctioning or displaying any new, used, secondhand or junked motor vehicle or motor vehicle accessories when of a temporary or transient nature. A dealer in motor vehicles can only engage in such businesses at a permanent location and in accordance with permitted or conditional zoning district requirements. This provision does not apply to the occasional sale of a motor vehicle by a private owner upon his or her own property in a residential zone.

(2) *Bungee jumping.*

(A) *Purpose.* The City Council finds that the practice of bungee jumping, also known as bungee cord jumping and reverse bungee jumping, has resulted in personal injuries and deaths which are likely to continue to occur. The City Council notes that most bungee jumping operations are conducted in combination with the use of a crane which has not been designed or manufactured for those purposes. The City Council concludes that bungee jumping is an inherently dangerous and life- threatening practice, likely to cause great harm or death to the participants.

(B) *Definition. BUNGEE JUMPING* means the sport, activity or practice of jumping, stepping out, dropping or otherwise being released into the air while attached or fastened to a cord made of rubber, latex or other elastic type material, whether natural or synthetic, whereby the cord stops the fall, lengthens and shortens, allows the person to bounce up and down and is intended to finally bring the person to a stop at a point above the surface.

(C) *Prohibition.* The practice of bungee jumping in any form whatsoever, whether open to the general public or for demonstration, exhibition or other purposes, is hereby prohibited.

DIVISION I: GENERAL PROVISIONS

§ 21.211 RESERVED. [SEVERABILITY.

~~—If any division, section, subsection, sentence, clause or phrase of this Article II is for any reason held to be invalid, such decision does not affect the validity of the remaining portion of this Article II. The City Council hereby declares that it would have adopted the Article II in each division, section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more divisions, sections, subsections, sentences, clauses or phrases be declared invalid.]~~

ARTICLE III: DEVELOPMENT STANDARDS

DIVISION A: GENERAL STANDARDS

§ 21.301.01 DEVELOPMENT INTENSITY AND SITE CHARACTERISTICS.

(b) *Table key.* The following labeling conventions apply to each table in this section.

(1) *Floor area ratio; minimum.* The floor area ratio on a site, as calculated in [city code § 19.03] § 21.601, must meet or exceed the listed minimum for the respective zoning district. In cases where development on a site occurs in phases, each individual development phase must comply with the floor area ratio requirements of this subsection (b)(1) on its own or in conjunction with previous phase(s) if previous phase(s) exceeded floor area ratio requirements.

(c) *Residential Zoning Districts.*

(1) *Residential site standards.*

(E) Maximum gross density may be increased an additional ten dwelling units per acre provided that the lot area is in excess of 200,000 square feet, that the property fronts on an arterial street and that it is contiguous to public open space larger than the site itself.

(F) *Buildings on Lot.* In a single-family residential district, every building hereafter erected or structurally altered must be located on a lot. The words “principal building” must be given their common, ordinary meaning; in case of doubt, or on any question of interpretation the decision of the issuing authority is final.

(2) *Nonresidential site standards.*

Zoning District	Site Area	Site Width	Floor Area Ratio	Impervious Surface Area
	Minimum	Minimum	Maximum	Maximum
R-1, RS-1, R-1A	30,000 sq. ft.	120 feet	0.5	75%
R-3, R-4, RM-12, RM-24, RM-50, RM-100	40,000 sq. ft.	200 feet	0.5	Same as § 21.301.01(c)(1)
<u>SC</u>	=	<u>100 feet</u>	=	=

§ 21.301.02 STRUCTURE PLACEMENT.

(c) Reserved.~~[Encroachments. Selected site features and equipment are allowed to encroach into the required setback area to the extent specified in § 19.08.]~~

(d) *Residential District setbacks.*

(2) *Nonresidential structure setbacks in residential and conservation districts.*

Zoning District	Along Streets	Rear	Side Not Along Streets
	Minimum	Minimum	Minimum
R-1, RS-1, R-1A, R-3, R-4, RM-12, RM-24, RM-50, RM-100	50 feet (75 feet in R-1A)	30 feet	20 feet or the height of the structure, whichever is greater
<u>SC</u>	<u>50 feet</u>	<u>30 feet</u>	<u>20 feet or the height of the structure, whichever is greater</u>

(g) Encroachments. Selected site features and equipment are allowed to encroach into the required setback area to the extent specified below.

(1) *General.* Except where otherwise regulated by this code and as established below, all buildings, site features and equipment must maintain the setback requirements established for the zoning district in which they are located.

(2) *Permitted encroachments; required setbacks.* Except as prohibited by Chapter 17, Article II, Division E of this code, the site features and equipment listed below will be permitted to locate in yards and to encroach into required zoning district setbacks to the extent specified in this section, but in all cases must maintain the minimum setback indicated.

(A) *Yards.* The established yards of the Zoning Code and any primary zoning district. For the purposes of this section, the terms “front yard,” “side yard” and “rear yard” will have the same meanings as defined in § 21.601, except that any yard adjacent to a public street will in all cases be considered a “front” yard for setback purposes unless otherwise specified.

(B) *Setbacks from public streets.* All setbacks from public streets or proposed public streets will be measured from the planned widened rights-of-way in accordance with the Master Street Plan of the city. References to a “front property line” is assumed to denote the planned widened rights-of-way in accordance with the Master Street Plan of the city.

(C) *Required setback.* Except where otherwise noted, references to “required setback” means the minimum setback required for the principal building in the applicable zoning district.

(3) *In all zoning districts.*

(A) Utility poles and wires, water, gas and other public utility appurtenances are permitted at any location in a front, side or rear yard with no minimum setback from any property line.

(B) Retaining walls up to four feet in height are permitted at any location in a front yard provided that a front setback of not less than ten feet is maintained and at any location in a side or rear yard with no minimum setback from any property line. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(C) Steps, stoops, egress windows and exterior landings are permitted in a front, side or rear yard providing that front, side and rear setbacks of not less than five feet are maintained. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(D) Private sidewalks are permitted in a front yard without a minimum front setback provided that a side setback of not less than five feet is maintained, and a side or rear yard providing that side or rear setbacks of not less than five feet is maintained.

Private sidewalks cannot encroach into public easements of record without the written approval of the issuing authority.

(E) Overhanging eaves may encroach up to three feet into a required front, side or rear setback. Where a required setback to a property line is reduced to less than three feet by reason of a variance or other approval granted by the city, the allowed eave encroachment can in no event cross the property line. An overhanging eave may encroach up to six feet into a required front or rear setback when placed over steps, stoops or an exterior landing providing that the encroachment does not exceed eight feet in width along the wall plane. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(F) Underground garages, in accordance with § 21.301.06(h), may encroach into any required front, side or rear setback, provided that a front setback of not less than 15 feet and side and rear setbacks of not less than five feet is maintained. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(G) Antennas and supporting structures, including satellite receiving antennas greater than one meter in diameter in residential districts and greater than two meters in diameter in nonresidential districts, cannot be located within a front yard and will be located only to the side or rear of the principal structure where side and rear setbacks of no less than ten feet are maintained. All antennas and supporting structures, including satellite receiving antennas, must meet the applicable requirements of §§ 15.14, 21.302.37 and 21.301.10 [~~of the city code~~]. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(H) Ramps and other devices for access to buildings and sites by disabled persons in compliance with the American Disabilities Act may encroach into any required front, side or rear setback, provided that a front setback of not less than 20 feet and side and rear setbacks of not less than two feet are maintained. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(I) Fences are permitted to encroach into front, side and rear yard setbacks when specifically permitted by the city code.

(J) Open air dog runs may encroach into any required front, side or rear setback, provided that a front setback of not less than 15 feet and side and rear setbacks of not less than five feet must be maintained. Structures as part of the dog run must meet the required setback. Fencing must comply with city code requirements. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(4) In residential zoning districts (R-1A, R-1, RS-1, R-4, RM-12, RM-24, RM-50, and RM-100).

(A) Patios and terraces may encroach ten feet into a required front setback, five feet into a required side setback and 20 feet into a required rear setback, provided that a front setback of not less than 20 feet, a side setback of not less than five feet and a rear setback of not less than ten feet must be maintained. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(B) Open decks and balconies not greater than five feet above grade at any point may encroach ten feet into a required front setback, five feet into a required side setback and 20 feet into a required rear setback, provided that a front setback of not less than 20 feet, a side setback of not less than five feet and a rear setback of not less than ten feet must be maintained. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(C) Open decks and balconies greater than five feet in height above grade at any point may encroach five feet into a required front setback and ten feet into a required rear setback, provided that a front setback of not less than 25 feet, a rear setback of not less than 20 feet and a side setback of not less than ten feet must be maintained. Such features are permitted in a side yard provided that a side setback of no less than ten feet must be maintained. There will be no encroachment into public easements of record without the written approval of the issuing authority.

(D) Chimneys may encroach three feet into a required front, side or rear setback, provided that front and rear setbacks of not less than 27 feet and a side setback of not less than seven feet must be maintained. Chimneys cannot encroach into public easements of record without the written approval of the issuing authority.

(E) Awnings may encroach three feet into a required front, side or rear setback, provided that front and rear setbacks of not less than 27 feet and a side setback of not less than seven feet must be maintained. An awning may encroach up to six feet into a required front or rear setback and up to five feet into a required side setback when placed over steps, stoops or an exterior landing, provided that the encroachment will not exceed eight feet in width along the wall plane and that front and rear setbacks of not less than 24 feet and a side setback of not less than five feet must be maintained. Awnings will not encroach into public easements of record without the written approval of the issuing authority.

(F) Clothes lines and laundry drying equipment are not permitted within the front yard and will be located only in side and rear yards where side and rear setbacks of not less than five feet must be maintained. In instances where the side or rear yard abuts a public street, the required setback will be no less than the required setback for a principal building in the zoning district. These features must not encroach into public easements of record without the written approval of the issuing authority.

(G) Arbors and trellises may encroach ten feet into a required front setback, five feet into a required side setback and 20 feet into a required rear setback, provided that a front setback of not less than 20 feet, a side setback of not less than five feet and a rear setback of not less than ten feet must be maintained. A setback of not less than 20 feet must be maintained from any public street. These features will not encroach into public easements of record without the written approval of the issuing authority.

(H) Permanently installed outdoor fireplaces and barbecues are not permitted within the front yard and will be located only in side and rear yards. Such features shall not encroach into the required side setbacks and may encroach up to 15 feet into the required rear setback provided that a rear setback of not less than 15 feet must be maintained. In instances where the side or rear yard abuts a public street, a setback of not less than the required front setback must be maintained. Such features will not encroach into public easements of record without the written approval of the issuing authority.

(I) Basketball backboards, rims and support structures may encroach 15 feet into required front and rear setbacks and five feet into a required side setback in the front yard, provided that front and rear setbacks of not less than 15 feet and a side setback in the front yard of not less than five feet must be maintained. In side and rear yards, side setbacks of not less than 15 feet must be maintained. Such features may encroach on public easements of record with the written approval of the issuing authority.

(J) Other recreational equipment, such as, but not limited to, play apparatus over four feet in height, ice rinks, skateboard ramps over two feet in height, trampolines, and children's swimming pools over two feet in height are not permitted within the front yard. Such features are permitted in side and rear yards provided that side and rear setbacks of not less than 15 feet must be maintained, including those instances where the side or rear yard abuts a public street. Such features may encroach on public easements of record with the written approval of the issuing authority.

(K) Air conditioning equipment may encroach five feet into any required front, side and rear setback, provided that front and rear setbacks of not less than 25 feet and side setbacks of not less than five feet must be maintained. Air conditioning equipment will not encroach into public easements of record without written approval of the issuing authority.

(L) Bay and bow windows may encroach two feet into any required front, side and rear setback, provided that front and rear setbacks of not less than 28 feet and a side setback of not less than eight feet must be maintained. Such features will not encroach into public easements of record without written approval of the issuing authority.

(M) Entry vestibules ten feet or less in width may encroach six feet into any required front and rear setback, provided that front and rear setbacks of not less than 24

feet must be maintained. The overhanging eaves of the entry vestibule may encroach up to an additional three feet into the required front, side or rear setback provided that the entry vestibule eaves do not exceed the prevailing dimension of overhanging eaves on the elevation of the house to which the entry vestibule is attached. No encroachment will be allowed into a required side setback, except for an overhanging eave as described above. Such features must not encroach into public easements of record.

(N) Covered but open porches without windows or screens may encroach eight feet into any required front setback and ten feet into any required rear setback, provided that a front setback of not less than 22 feet and a rear setback of 20 feet is maintained. No encroachment will be allowed into a required side setback. Such features must not encroach into public easements of record.

(5) *In nonresidential zoning districts.*

(A) Telephone booths are permitted in any front, side or rear yard, provided that a front setback of not less than 15 feet, a side setback of not less than five feet and a rear setback of not less than that required for the principal building in the zoning district must be maintained. Telephone booths cannot encroach into public easements of record without written approval of the issuing authority.

(B) Newspaper boxes are permitted in the front, side and rear yards when the property is occupied by a principal building, provided that a front setback of not less than 15 feet and side, and rear setbacks of not less than five feet must be maintained. In instances where the side or rear yard abuts a public street, a setback of not less than the required front setback must be maintained. Such features will not encroach into public easements of record without the written approval of the issuing authority.

(C) Awnings and canopies may encroach six feet into required front and rear setbacks and four feet into required side setbacks provided that a front setback of not less than ten feet, and side and rear setbacks of not less than five feet must be maintained. Such features will not encroach into public easements of record without the written approval of the issuing authority.

(D) Underground storage tanks for any purpose (but not above-ground appurtenant equipment) are permitted in any front, side or rear yard, provided that front, side and rear setbacks of not less than ten feet must be maintained. Such features will not encroach into public easements of record.

(E) Above-ground equipment appurtenant to underground storage tanks (except fuel dispensing equipment and stations as per § 21.302.15 is not permitted within a front yard and must be located only in side and rear yards. The side setback for such equipment not over five feet in height above grade must be not less than ten feet and the equipment must be screened from public streets and adjacent properties in accordance with the requirements of § 21.302.15(d). The side setback for such equipment over five feet in height above grade must be not less than the required side

setback of the principal building in the zoning district or ten feet, whichever is greater. The rear setback for all such equipment must be not less than ten feet. Such equipment must not encroach into public easements of record.

(F) Refuse and recyclable material storage rooms may encroach eight feet into a required side setback and 12 feet into a required rear setback, provided that a side setback of not less than five feet and a rear setback of not less than 15 feet must be maintained. Such features are not permitted within the yard area between a building and the public right-of-way. Such features will not encroach into public easements of record without written approval from the issuing authority.

(h) *Proposed buildings on street sites.* A building permit will not be issued for any building in unplatted areas that would obstruct a future street planned by the city.

(i) *Buildings to abut street.* No building permit will be granted on any site which does not abut upon a public right-of-way unless a variance or planned development flexibility is approved. This limitation does not apply to planned developments approved by the City Council pursuant to the zoning ordinance.

§ 21.301.03 STRUCTURE DESIGN.

(b) *Additional structure design standards for Mixed Use Districts.* To provide an attractive street-level environment that promotes pedestrian activity, comfort and public safety in the B-4, C-5 and LX zoning districts, buildings fronting on a public or private street must meet additional design standards as described below. The highest design standards must be provided on the street front intended for the highest pedestrian-orientation; this is the primary façade. The Issuing Authority will determine which elevation is considered to be the primary façade. All other street frontages are considered to be secondary facades.

(3) *Structure height.* To promote intensity in the mixed use districts (C-5, LX), at least 60% of the building footprint area on a site must rise to at least two stories or 25 feet in height. Structures in the mixed use districts must meet the height limitations of § 21.301.10. Additionally, structures in the LX District must meet the height limitations of the Airport Runway Overlay Districts in § 21.208.04~~[19.38.03]~~.

(4) *Exterior materials.* The exterior materials and finish of all buildings and structures must comply with the applicable requirements of § 21.301.24~~[19.63.08 of this code]~~.

(6) *Canopies and awnings.* First floor canopies and awnings are encouraged in order to promote a pedestrian oriented environment and add visual interest to a building elevation. Canopies and awnings must meet the requirements of § 21.301.24~~[19.63.08]~~.

§ 21.301.06 PARKING AND LOADING.

(m) *Parking and storage of vehicles and trailers in residential zones.*

(5) *Variances.* Variances from the dimensional limitations of this section may be granted in accordance with § 21.501.10~~[2.85.04 and 2.10 of this code]~~.

§ 21.301.08 FENCES.

(g) *Where fences are required.* At times this code requires fences to protect the public health, safety and welfare.

(4) *Screening.* See §§ 8.16, 10.05, 10.29.05, 10.38, 10.57, 21.205.06 ~~[19.31.01]~~, 21.301.24(i)~~[19.49]~~, ~~[19.62.01]~~, 21.302.36~~[19.63]~~, 21.302.38~~[19.63.07]~~, 21.206.04, 21.301.05, 21.301.06, 21.301.13, 21.301.15, 21.301.16, 21.301.17, 21.302.01, 21.302.02, 21.302.13, 21.302.16, and 21.302.31 for specifications on required screening standards, to include fences as a method of screening.

(j) *Permit.* Fence installations, alterations or repairs do not require a permit, with the following exceptions.

(3) The installation of a fence within a shore area as specified in § 21.303.01(d)~~[19.87.04]~~ requires a shore area permit from the City Building and Inspection Division prior to installation.

(m) *Other constructed features.* The following constructed features are differentiated from fences.

(1) *Arbors and trellises.*

(B) Arbors and trellises are permitted encroachments within required setback areas as provided in § 21.302.02(g)~~[19.08]~~.

§ 21.301.10 HEIGHT.

(g) *Exceptions.* The following exceptions to the standards of this section apply:

(3) Places of assembly for worship and their related sanctuaries, steeples, spires, bell towers and similar structures are required to meet airport related height limits but are not required to comply with the other height limits of this section. ~~[Instead their h]Height for these structures~~ is regulated by ~~[city code-]~~§ 21.302.36~~[19.63]~~;

(h) *Flexibility.* Flexibility to the requirements of this section may be granted by the City Council through the planned development approval process discussed in § 21.208.03~~[19.38.04]~~ and through the variance process in § 21.501.10~~[2.85.04]~~.

§ 21.301.11 SOLAR POWER.

(b) *Roof-mounted solar power panels.* Roof-mounted solar power panels are permitted on residential and nonresidential buildings subject to:

(2) If over 15 feet above the roof level, roof-mounted solar panels fall under the definition of a “tower” and would be subject to conditional use permit requirements and the tower standards in § 21.302.37~~[19.63.05]~~; and

(c) *Ground-mounted solar power panels.* Ground-mounted solar power panels are permitted subject to:

(3) If over 15 feet in height, ground-mounted solar panels fall under the definition of a “tower” and would be subject to conditional use permit requirements and the tower standards in § 21.302.37~~[19.63.05]~~;

§ 21.301.14 TREE PRESERVATION.

(c) *Definitions.* The following definitions supplement those in § ~~[19.03]~~21.601 and apply only to this section of this code.

~~(l) *Reserved.* [Violations. Violation of any provision of this section is a misdemeanor. Provisions of this section may be enforced by injunction or other appropriate civil remedy. In the case of a violation of the provisions of this section, additional permits or certificates of occupancy must not be issued for the lot or lots that have violations until the violation is mitigated through reforestation or other appropriate measures.]~~

§ 21.301.21 TENTS AND CANOPIES.

(a) *Intent.* The purpose of this section is to establish standards for tents and canopies for special events. The use of tents and canopies for the purpose of housing motor or recreational vehicles or storage is prohibited.

(b) *Where allowed.* Tents and canopies are permitted in all zoning districts with the following exceptions.

(1) Outdoor tents and canopies are allowed within the CX-2 Zoning District only when:

(A) A determination has been made by the City Engineer or designee that the tent or canopy will not adversely interfere with parking needs or traffic flow.

(c) *Permit required.* Permits are required for tents and for canopies having an area in excess of 400 square feet. When an interim use permit is issued for an event that includes a tent or canopy, Fire Marshal review of the proposed tent or canopy is required but a separate tent or canopy permit is not required. Tent and canopy permits are issued by the Community Development Department.

(d) *Performance standards.* Tents and canopies must comply with the following performance standards.

(1) Tents and canopies must conform with the provisions of the Fire Prevention Code, Chapter 6, Article II of this code.

(2) Tents and canopies must be set back at least ten feet from any property line. The issuing authority may require tents and canopies to be set back an additional distance from property lines when adjacent to an incompatible land use.

(3) Unless entirely surrounded by buildings, tents and canopies must not be erected for more than 25 days per year per site. The Planning Commission may extend

the allowed time period after holding a public hearing and finding that the proposed tent or canopy will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(4) Adequate parking and traffic circulation must be preserved and the health, safety and welfare of the community must not be adversely impacted by the proposed tent or canopy.

(e) Conditions of approval. Conditions of approval may be attached to a tent or canopy permit by the issuing authority or the Planning Commission to ensure adequate parking and traffic circulation, to minimize impacts on adjacent property, to ensure adequate setbacks from property lines, and to otherwise protect the health, safety and welfare of the community.

(f) Findings. Tent and canopy permits will be issued only when the issuing authority or the City Council finds the following:

(1) The tent or canopy will not adversely impact adjacent property;

(2) The tent or canopy will not disrupt traffic circulation or otherwise create a safety hazard;

(3) Adequate parking levels will be preserved when the tent or canopy is on-site; and

(4) The tent or canopy will not adversely impact the health, safety and welfare of the community.

(g) Appeal. An applicant may appeal a tent or canopy permit denial, any conditions of approval for a tent or canopy permit, or a time extension request denial to the City Council within 30 days of the denial or approval with conditions. The appeal must be submitted in writing to the Director of Community Development and must specify the issue or condition being appealed and the basis of appeal. The appeal must be filed at least ten days prior to the meeting of the City Council.

§ 21.301.24 EXTERIOR MATERIALS AND FINISH.

(a) Purpose. The City Council finds that it is necessary to regulate the exterior finish and appearance of all primary and accessory buildings and structures that are erected in all of the primary nonresidential zoning districts in the city in order to ensure the consistency in quality, compatibility and character of buildings within comparable zoning districts. The regulation of exterior materials and building construction assures consistent provision of both a high level of structural durability relative to impacts from natural and human-made forces over time and a safe environment for those occupants, equipment and goods within the structure. The provision of a quality exterior finish compliments the building construction by reducing maintenance needs, providing a

surface more resistant to damage, assisting in maintaining structure and property value over a longer period, contributing substantially to the compatibility and character of its neighborhood. A quality exterior finish also provides for improved health, safety and welfare of occupants and enclosed goods or equipment by providing increased protection through durability, strength, security, damage resistance and stability.

(b) The following regulations apply to all nonresidential primary and accessory buildings and their additions in the following zoning districts:

Single-Family Residential R-1 Districts

Single-Family Residential R-1A Districts

Large Lot Single-Family Residential RS-1 Districts

Townhouse Residential R-3 Districts

Multiple-Family Residential R-4 Districts

Multiple-Family Residential RM-12 Districts

Multiple-Family Residential RM-24 Districts

Conservation SC District

(1) *Coating of exterior walls.* No existing uncoated exterior wall finish material approved by the City Council as part of a development approval process will be coated after the effective date of this section except for the following:

(A) As approved in subsections (f), (g), and (h) below;

(B) Those portions of foundation walls above finished grade may be coated or sealed;

(C) Secondary materials may be coated or sealed; and

(D) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include, sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority.

(c) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:

Multiple-Family Residential RM-50 Districts

Multiple-Family Residential RM-100 Districts

Neighborhood Office B-1 District

- General Commercial B-2 District
- Neighborhood Commercial Center B-4 District
- Freeway Office and Service C-1 District
- Freeway Commercial C-2 District
- Freeway Commercial Center C-3 District
- Freeway Office C-4 District
- Freeway Mixed Use C-5 District
- Regional Commercial CR-1 District
- Freeway Development FD-2 District
- Commercial Service CS-0.5 and CS-1 Districts
- Commercial Office CO-1 District
- Residential Office RO-24 District
- High Intensity Mixed Use with Residential HX-R District
- Lindau Mixed Use LX District
- Innovation and Technology IT District
- Transitional Industrial TI District

(1) *Exterior wall finish.* Exterior wall surfaces of all buildings, excluding those portions of foundation walls extending normally above finished grade, must be faced with glass, exterior cement plaster (stucco), natural stone, brick, architectural concrete (excluding tilt-up panel construction unless faced with code compliant material), metal in accordance with adopted policies and procedures set forth in the adopted resolution, or an equivalent or better. Except for glass or metal, all color must be integral to the exterior wall finish material unless a colored and opaque coating for all or some part of the exterior wall finish material is specifically approved by the City Council as part of a development approval process and where the application has included:

(A) Certification by the coating manufacturer that the coating is appropriate for the intended purpose and will not damage the exterior wall finish material to which it is to be applied; and

(B) Certification by the exterior wall finish material manufacturer that the coating to be applied is one that is appropriate for the exterior wall finish material and that its use will not reduce or void the exterior wall finish material warranty.

(2) Coating of exterior walls. No existing uncoated exterior wall finish material regulated by this section will be coated after the effective date of this section except for the following:

(A) As approved in subsections (f), (g), and (h) below;

(B) Those portions of foundation walls above finished grade may be coated or sealed;

(C) Secondary materials as listed in subsection (c)(3) below may be coated or sealed;

(D) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority; and

(E) Murals are counted as a secondary material. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation.

(3) Secondary materials. Up to 15 percent of the exterior wall surface of a building elevation may be secondary materials, such as, wood, metal, exterior insulation finish system (EIFS) or other equivalent material as approved by the issuing authority.

(4) Canopies and awnings. Up to 15 percent of the exterior wall surface of a building elevation may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of this section and, depending on the wall surface material, count as secondary materials. Canopies and awnings must meet all applicable building code requirements to ensure proper installation.

(d) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:

Industrial Park I-1 District

Limited Industrial I-2 District

General Industrial I-3 District

Industrial Park IP District

(1) Exterior wall finish.

(A) Exterior wall surfaces of all buildings, excluding those portions of foundation walls extending normally above finished grade, must be faced with glass, exterior cement plaster (stucco), natural stone, brick, architectural concrete, architectural concrete masonry units, metal in accordance with adopted policies and procedures set forth in the adopted resolution, or an equivalent or better. Except for glass or metal, all color must be integral to the exterior wall finish material unless a colored and opaque coating for all or some part of the exterior wall finish material is specifically approved by the City Council as part of a development approval process and where the application has included:

(i) Certification by the coating manufacturer that the coating is appropriate for the intended purpose and will not damage the exterior wall finish material to which it is to be applied; and

(ii) Certification by the exterior wall finish material manufacturer that the coating to be applied is one that is appropriate for the exterior wall finish material and that its use will not reduce or void the exterior wall finish material warranty.

(B) Buildings which do not currently comply with the exterior wall finish materials regulated by this section may be expanded using identical exterior wall finish materials with the approval of the issuing authority, provided that:

(i) More than 50 percent of the total exterior wall surface area of the existing building, excluding secondary materials as listed in subsection (d)(3) below, does not comply with the exterior wall finish materials regulated by this section;

(ii) The noncomplying exterior wall finish materials are used in compliance with the State Building Code, current edition; and

(iii) The total floor area of the addition does not exceed 50 percent of the total floor area of the building existing on the effective date of this section.

(2) *Coating of exterior walls.* No existing uncoated exterior wall finish material regulated by this section will be coated after the effective date of this section, except for the following:

(A) The application of a clear, gas permeable coating on architectural concrete masonry units at the time of construction only upon certification of such recommendation or requirement by the manufacturer of the units when presented to and approved by the issuing authority. Maintenance will be allowed thereafter, consistent with the recommendations or requirements of the unit manufacturer;

(B) As approved in subsections (f), (g), and (h) below;

(C) Those portions of foundation walls above finished grade may be coated or sealed;

(D) Secondary materials as listed in subsection (d)(3) below may be coated or sealed;

(E) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority; and

(F) Murals are counted as a secondary material. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation.

(3) *Secondary materials.* Up to 15 percent of the exterior wall surface of a building elevation may be secondary materials, such as, wood, metal, exterior insulation finish system (EIFS), or other equivalent material as approved by the issuing authority.

(4) *Canopies and awnings.* Up to 15 percent of the exterior wall surface of a building elevation, not counting secondary materials, may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of this section and, depending on the wall surface material, count as secondary materials. Canopies and awnings must meet all applicable building code requirements to ensure proper installation.

(e) The following regulations apply to all primary and accessory buildings and additions in the following zoning districts:

Mixed Use CX-2 District.

(1) *Exterior wall finish.* Exterior wall surfaces of all buildings, excluding those portions of foundation walls extending normally above finished grade, must be faced with glass, exterior cement plaster (stucco), natural stone, brick, architectural concrete, metal in accordance with adopted policies and procedures set forth in the adopted resolution, or an equivalent or better. An exterior insulation finish system (EIFS) may also be used for exterior wall finish material provided that such system is utilized no lower than 18 feet above grade level. Except for glass or metal, all color must be integral to the exterior wall finish material unless a colored and opaque coating for all or some part of the exterior wall finish material is specifically approved by the City Council as part of a development approval process and where the application has included:

(A) Certification by the coating manufacturer that the coating is appropriate for the intended purpose and will not damage the exterior wall finish material to which it is to be applied; and

(B) Certification by the exterior wall finish material manufacturer that the coating to be applied is one that is appropriate for the exterior wall finish material and that its use will not reduce or void the exterior wall finish material warranty.

(2) Coating of exterior walls. No existing uncoated exterior wall surface material regulated by this section will be coated after the effective date of this section except for the following:

(A) As approved in subsections (f), (g), and (h) below;

(B) Those portions of foundation walls above finished grade may be coated or sealed;

(C) Secondary materials as listed in subsection (e)(3) below may be coated or sealed;

(D) All exterior wall surfaces and secondary materials that were coated prior to the effective date of this section or allowed to be coated after that date by reason of the granting of development approval, administrative approval or a variance may be maintained, to include sealing and recoating, in a manner appropriate to that wall finish material or trim and consistent with that existing surface treatment or any prior approval by the issuing authority; and

(E) Murals are counted as a secondary material. To protect the integrity and durability of exterior building materials, murals may not be applied directly to the surface of a building elevation. Murals may be applied to separate materials and attached to the building elevation.

(3) Secondary materials. Up to 15 percent of the exterior wall surface of a building elevation may be secondary materials, such as, wood, metal, exterior insulation finish system (EIFS) when less than 18 feet above grade level, or other equivalent material as approved by the issuing authority.

(4) Canopies and awnings. Up to 15 percent of the exterior wall surface of a building elevation, not counting secondary materials, may be covered by canopies and/or awnings intended to provide aesthetic embellishment, shade or weather protection. Exterior wall surface materials covered by canopies or awnings must meet the applicable requirements of this section and, depending on the wall surface material, count as secondary materials. Canopies and awnings must meet all applicable requirements to ensure proper installation.

(f) Administrative appeal.

(1) Relief from the coating restriction of this section can be sought through an application for administrative approval of revised plans unless such relief is contrary to the action of the City Council. The administrative process can only be used for the purpose of allowing the application of a coating to an existing uncoated exterior wall finish material regulated by this section for the following purposes:

(A) Application of a coating to address a building maintenance or exterior wall finish material condition; or

(B) Application of a graffiti-resistant coating.

(2) The application for administrative approval must be filed by the property owner and, in addition to the documentation normally required for such application, must include the following documentation as may be applicable to the purpose of the coating:

(A) For resolution of a building maintenance or exterior wall finish material condition:

(i) Certification by an architect, engineer or other qualified professional of the existence of a building maintenance or exterior wall finish material condition that requires the application of a coating to the exterior wall finish material; and

(ii) Certification by an architect, engineer or other qualified professional that the application of a coating to the exterior wall finish material is part of a comprehensive solution to correct the identified condition.

(B) For application of a graffiti-resistant coating:

(i) Certification that the coating is specifically designed for that purpose and is either sacrificial or permanent in nature; and

(ii) Certification that the coating is a clear coating which is resistant to weathering, is UV stable, does not change the appearance of the exterior wall finish material, must have no effect on the substrate, caulking or sealant material, and has a performance guarantee.

(C) General documentation:

(i) That the coating to be applied is specially formulated for the exterior wall finish material to which it is to be applied and is warranted to protect that surface;

(ii) That the coating to be applied does not reduce or void the exterior wall finish material warranty; and

(iii) That the coating must be applied strictly in accordance with the instructions of both the coating manufacturer and the exterior wall finish material manufacturer.

(g) *Variance to coating restriction.* Relief from the coating restriction of this section can be sought through the variance process as set forth in § 21.501.10[~~of this code~~], unless contrary to previous specific action by the City Council, in order to allow the application of a coating to an existing uncoated exterior wall finish material regulated by this section for any purpose. The application must be filed by the property owner and, in addition to the documentation normally required for such application, must include without limitation that of the following documentation as may be applicable:

(1) Certification by an architect, engineer or other qualified professional of the existence of a building maintenance or exterior wall finish material condition that requires the application of a coating to the exterior wall finish material;

(2) Certification by an architect, engineer or other qualified professional that the application of a coating to the exterior wall finish material is part of a comprehensive solution to correct the identified condition;

(3) Certification that a proposed graffiti-resistant coating is specifically designed for that purpose and is either sacrificial or permanent in nature;

(4) Certification that a graffiti-resistant coating is a clear coating which is resistant to weathering, is UV stable, does not change the appearance of the exterior wall finish material, must have no effect on the substrate, caulking or sealant material, and has a performance guarantee;

(5) That the coating to be applied is specially formulated for the surface material to which it is to be applied and is warranted to protect that surface;

(6) That the coating to be applied does not reduce or void the surface material warranty; and

(7) That the coating must be applied strictly in accordance with the applicable instructions of both the coating and the exterior wall surface manufacturers.

(h) *Acrylic finishes.* Acrylic finish coatings may be applied over portland cement plaster (stucco) when the following requirements are met:

(1) The applicator complete and submit the installation certification form.

(2) The surface must be smooth, flat and prepared in accordance with a manufacturer's specifications prior to applying the acrylic finish.

(3) Brush or roll-on application of the acrylic finish is not permitted.

(4) The acrylic finish must be comprised of sufficient acrylic solids and aggregate to be troweling consistency.

(5) The following minimum required surface related test criteria must be met in accordance with the testing standards in the exterior materials policy: Accelerated weathering, freeze thaw, salt spray resistance, tensile bond adhesion, water resistance, surface burning, water vapor permeability, mildew, abrasion resistance, and pull-off strength of coatings using portable adhesion testers.

(6) For newly applied stucco, the portland cement plaster basecoat must be allowed to cure for a minimum of seven days before the acrylic finish may be applied. The applicator or contractor must notify the issuing authority when the brown coat has been completed.

(7) Acrylic finish must not be applied to an exterior with existing acrylic finish until:

(A) An architect or engineer licensed by the State of Minnesota or certified applicator of the acrylic finish certifies that the application of additional acrylic finish on the existing acrylic finish will not compromise the structural integrity of the wall;

(B) Certification by an architect, engineer, or certified applicator of the acrylic finish that the acrylic finish will be applied strictly in accordance with the applicable manufacturer's and ASTM standards.

(i) *Exceptions to construction requirements.* When a building is sought to be erected in any zoning district by a governmental agency for the purpose of storage of chemical road materials, to protect against any adverse impact which might be caused by such outside storage, the construction requirements of the zoning district in which the building is to be located need not be complied with so long as the proposed building has been reviewed by the Planning Commission and has been approved by the City Council as:

(1) Necessary for environmental protection;

(2) Not contrary to the purposes of the zoning code and the purposes of the zoning district in which the building is to be erected;

(3) Not having an appearance which will adversely affect adjacent uses; and

(4) Having the building sufficiently separated by distance or screening from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and so that there will be no deterrence to development of vacant land.

§ 21.301.26 ZONING LOTS.

For zoning purposes including, but not limited to, determining structure setbacks, accessory building limitations and impervious surface coverage, a "lot" may be composed of multiple adjacent properties under common ownership or control that are used together as one site. To qualify as a zoning lot, all properties therein must have one common tax or property identification number, see § 22.11.1.

§ 21.301.27 EXPLOSIVES.

No activities involving the storage, use or manufacture of materials or products which could decompose by detonation are permitted except such as are specifically permitted by the Fire Prevention Code.

DIVISION B: USE STANDARDS

§ 21.302.09 MULTIPLE-FAMILY DWELLING DESIGN AND PERFORMANCE STANDARDS.

(d) *Performance standards.*

(1) *Site size.* Multiple-family development sites must meet the minimum land area requirements of city code § 21.301.01(c)(1) or § 21.207.03(h)~~[19.29(f) – 19.29(h)]~~, which vary by zoning district.

(2) *Building setbacks.* See city code § 21.301.02 or § 21.207.03(h)(1)~~[19.29(h)(1)]~~ for setback requirements, which vary by zoning district.

§ 21.302.12 TEMPORARY OUTDOOR SALES.

(b) Standards. Temporary outdoor sales must meet the following standards:

(6) Tents and canopies. Tents or canopies are subject to requirements outlined in § 21.301.21~~[19.63.06]~~.

§ 21.302.13 HOME BUSINESSES.

(f) *Reserved.* ~~[Penalty. Violation of the standards set forth in this section shall be enforceable in all of the following manners, without limitation: civil injunctive action; the assessment of civil administrative fines and penalties that are assessable against the property; as well as criminal misdemeanor prosecution.]~~

§ 21.302.16 SELF-STORAGE FACILITIES.

(f) *Additional requirements:*

(3) When located in the I-1 Industrial Park Zoning District, as part of a planned development pursuant to § 21.208.03~~[19.38.04]~~, self-storage facilities (including all

buildings, driveways, resident manager's quarters, screening walls, and all other associated features) must not:

§ 21.302.31 SOLID WASTE TRANSFER STATIONS, SOLID WASTE WEIGH STATIONS, HOUSEHOLD HAZARDOUS WASTE AND PERMANENT RECYCLING COLLECTION FACILITIES, TEMPORARY RECYCLING EVENTS, AND JUNK CAR DISPOSAL BUSINESSES.

(e) *Household hazardous waste and permanent recycling collection facilities.*

(4) Reserved.~~[Penalty.]~~

(A) Reserved.~~[A violation of any provision of this section is a misdemeanor.]~~

§ 21.302.36 PLACES OF ASSEMBLY.

(a) Standards. Freestanding place of assembly uses and sites must comply with the following standards.

(1) Minimum site area of two acres;

(2) Reserved;

(3) Maximum building coverage is 12 percent;

(4) Minimum building setback from all public streets is 60 feet;

(5) Minimum building setback from property lines other than public street rights-of-way is 60 feet except a 25 foot side or rear yard setback will be permitted where such side or rear yard is adjacent to nonresidentially used property;

(6) Notwithstanding the provisions of § 21.301.10, an additional one-foot setback is required for each foot of height of the place of assembly in excess of 35 feet;

(7) Canopies and similar auxiliary structures may extend into the required side and rear setback areas, but in no event closer than 25 feet to a side or rear property line. When attached to and architecturally integrated with the principal structure, bell towers, canopies and similar auxiliary structures may extend ten feet into the required front setback area, but in no event may be closer than 50 feet to a front property line;

(8) Parking lot must cover no more than 50 percent of the site;

(9) No parking is permitted on the site in front of the place of assembly except where a parking lot exists on a site under the provisions of a previously approved

conditional use permit. No exterior storage, motor vehicle parking or motor vehicle storage is permitted on the site except when incidental to allowed uses in place on the site. Exterior storage must meet the standards of § 21.301.16; and

(10) Bell towers, steeples, spires and similar structures must meet the following standards.

(A) Height. The height of bell towers, steeples, spires and similar structures must not exceed 65 feet.

(B) Location. Bell towers, steeples, spires and similar structures must be located at least 25 feet from a side or rear property line and at least 50 feet from a front property line or property line abutting a public street.

(C) Antenna mounting. When antennas are mounted on bell towers, steeples, spires or similar structures, the following standards apply.

(i) Design. The structure must be designed to visually appear as a bell tower, steeple, spire or similar structure and not be identifiable as an antenna tower. To ensure that a bell tower, steeple, spire or similar structure that supports antennas is fully camouflaged and appears to be a planned architectural element rather than an antenna tower, the design of the bell tower, steeple, spire or similar structure must replicate the unique design features of the place of assembly principal building structure, must be constructed of materials and use colors that complement and effectively integrate it with the principal structure and must not be a replication of a similar structure that supports antennas at another site within the city. The number of bell towers, steeples, spires or similar structures on an individual site must be compatible with the design of the principal structure. If more than one bell tower, steeple, spire or similar structure is present on a site, each must be architecturally coordinated with the other and they must appear as planned design elements.

(ii) Antenna visibility. The antennas, cables and associated mounting devices must be screened or otherwise concealed from view.

(iii) Equipment. The associated ground equipment must meet the setback requirements of the structure and must be fully screened by a wall or fence that is architecturally compatible with the principal structure.

(b) Screening. Where a place of assembly is adjacent to a residential use screening must be provided along the boundary adjacent to any property used for residential purposes. Such screening must consist of a solid fence or wall not less than five feet high, but may not extend within 15 feet of any street or driveway. Such screening will not be required along a public street. The provisions of § 21.301.15(d)(1) apply to place of assembly sites. This provision may be waived by the City Council at the time of approval of site plans if the Council finds that no adverse impact on adjacent properties will be created by such waiver, or if the Council finds that requiring such screening would have an adverse impact on adjacent residential properties.

(c) Expansion, alteration or addition. If a conditional use permit is granted for an expansion, addition or alteration to an existing place of assembly, the combination of the existing place of assembly and proposed development must not exceed the following.

(1) The combined total building coverage will not exceed 15 percent of the place of assembly site.

(2) The required parking for the combined total building will not cover more than 70 percent of the place of assembly site.

(d) Columbaria. Columbaria are permitted as accessory uses to any freestanding place of assembly for worship subject to the following standards.

(1) Location. If located exterior to the principal structure, columbaria must satisfy the minimum setback requirements of the principal structure.

(2) Size. Columbaria, not counting landscaping, plazas or screening, may not exceed 600 square feet.

(3) Height. Columbaria may not exceed seven feet in height.

(4) Screening. If not themselves designed as a screen wall, columbaria must be fully screened from all adjacent residential properties during the entire year. If designed as a screen wall and not otherwise screened from adjacent residential properties, columbaria openings must not be visible from adjacent residential properties.

(5) Preserving redevelopment potential. Given that places of assembly for worship are sometimes redeveloped as other uses, given that such redevelopment is in the public interest when a place of assembly for worship site becomes vacant, and given that columbaria can create an impediment for redevelopment, the following additional standards apply.

(A) Columbaria must be removed from the site upon vacancy.

(B) Any agreement or lease signed with the legal representatives of columbaria occupants must specify that the remains be removed from the columbaria upon site vacancy, specify what will happen to the remains at that time and specify that the place of assembly for worship has authority to remove and dispose of the remains upon site vacancy if the legal representatives do not.

(C) Model agreements or leases must be submitted for city review in conjunction with the columbaria application.

(6) Approval process. Columbaria must receive final site and building plan approval prior to construction.

21.302.37 TOWERS AND ANTENNAS.

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

(1) Facilitate the provision of wireless telecommunication services to the residents and businesses of the city;

(2) Minimize adverse visual effects of towers through careful design and siting standards;

(3) Avoid potential damage to adjacent properties from tower failure through structural standards and setback requirements; and

(4) Maximize the use of existing and approved towers and buildings to accommodate new wireless telecommunication antennas in order to reduce the number of towers needed to serve the community.

(b) Area specific requirements for towers and antennas.

(1) Towers outside the right-of-way in residential zoning districts. Towers are allowed only in the following residentially zoned areas:

(A) Towers supporting amateur radio antennas and conforming to all applicable provisions of this code are allowed only in the rear yard of residentially zoned parcels.

(B) Towers supporting commercial antennas and conforming to all applicable provisions of this code are allowed only in the following residentially zoned locations:

(i) Church sites, when the antenna support structure is fully camouflaged as a bell tower, steeple or similar structure;

(ii) Park sites, when compatible with the nature of the park; and

(iii) Government, school, utility and institutional sites.

(2) Antennas and towers in the public right-of-way. Wireless telecommunication facilities, towers and antennas in the city, county or state right-of-way are also subject to the requirements in Chapter 17, Article IV of this code.

(c) Co-location requirements. All commercial wireless telecommunication towers erected, constructed or located within the city must comply with the following requirements.

(1) A proposal for a new commercial wireless telecommunication service tower will not be approved unless the approving body finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a one-mile search radius (one-half mile search radius for towers under 120 feet in height, one-quarter mile search radius for towers under 80 feet in height) of the proposed tower due to one or more of the following reasons:

(A) The planned equipment would exceed the structural capacity of the existing or approved tower or building, as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost;

(B) The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost;

(C) Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer; and/or

(D) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(2) Any proposed commercial wireless telecommunication service tower must be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 100 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(d) *Tower construction requirements.* All towers erected, constructed, or located within the city, and all wiring therefor, must comply with the requirements set forth of § 15.14.

(e) *Tower and antenna design requirements.* Proposed or modified towers and antennas must meet the following design requirements.

(1) Towers and antennas must be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration. The use of color or design features to attract attention to the tower is prohibited.

(2) Commercial wireless telecommunication service towers must be of a monopole design unless the approving body determines that an alternative design would better blend into the surrounding environment.

(f) *Tower setbacks.* Towers must conform with each of the following minimum setback requirements.

(1) Towers must meet the setbacks of the underlying zoning district with the exception of industrial zoning districts, where towers may encroach into the rear setback area, provided that the rear property line abuts another industrially zoned property and the tower does not encroach upon any easements.

(2) Towers must be set back from the planned public rights-of-way as shown on the most recently adopted Master Street Plan of the city by a minimum distance equal to one-half of the height of the tower including all antennas and attachments.

(3) Towers must not be located between a principal structure and a public street, with the following exceptions:

(A) In industrial zoning districts, towers may be placed within a side yard abutting an internal industrial street;

(B) On sites adjacent to public streets on all sides, towers may be placed within a side yard abutting a local street; and

(C) Temporary towers erected to support special events and news truck towers may be placed between a principal structure and a public street subject to the time limits of subsection (r) below.

(4) A tower's setback may be reduced or its location in relation to a public street varied, at the sole discretion of the approving body, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light standard, power line support device or similar structure.

(5) Towers erected on protected residential property as defined in § 21.601 are also subject to the setback provisions of § 15.14(d)(8).

(g) *Tower height.* All proposed towers must meet the height restrictions set forth in § 21.301.10.

(h) *Tower lighting.* Towers must not be illuminated by artificial means and must not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower, light fixtures used to illuminate ball fields, parking lots or similar areas may be attached to the tower.

(i) *Signs and advertising.* The use of any portion of a tower for signs other than warning or equipment information signs is prohibited. Towers must not be colored or designed in a manner meant to draw attention.

(j) *Associated equipment.* Ground equipment associated with a tower or wireless telecommunications facility must be screened by vegetative or other screening compatible with the surrounding environment if deemed necessary by the Planning Manager or designee. When associated ground equipment is housed in a building or structure, that building or structure must be architecturally designed to blend in with the surrounding environment and must meet the minimum tower setback requirements of § 21.302.37(f). Ground equipment associated with a wireless telecommunications facility may be located on residentially used property only within a utility easement adjacent to the public right-of-way and in conformance with the limitations of § 17.70(d)(3), except in the multi-family zoning districts (R-4, RM-12, RM-24 and RM-50) where ground

equipment associated with a wireless telecommunications facility may also be located within a code complying building or structure after receiving the approvals required by this code.

(k) *Discontinued or unused towers or portions of towers.* Discontinued or unused towers or portions of towers must be removed as follows.

(1) All discontinued or unused towers and associated facilities must be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the Planning Manager. A copy of the relevant portions of a signed lease which requires the applicant to remove the tower and associated facilities upon cessation of operations at the site must be submitted at the time of application. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property.

(2) Unused portions of towers above a manufactured connection must be removed within six months of the time of antenna relocation. The replacement of portions of a tower previously removed requires the issuance of a new conditional use permit.

(l) *Antennas mounted on roofs, walls and existing towers.* The placement of wireless telecommunication antennas on roofs, walls and existing towers may be approved by the Planning Manager, provided the antennas meet the requirements of this code, after submittal of: 1) a final site and building plan as specified by § 21.501.01; and 2) a report prepared by a qualified and licensed professional engineer indicating the existing structure or tower's suitability to accept the antenna, and the proposed method of affixing the antenna to the structure. Complete details of all fixtures and couplings, and the precise point of attachment must be indicated. Antennas must be mounted on the facade of the building or penthouse structure unless the Planning Manager or designee determines that another antenna mounting location decreases the visual impact of the antennas. All roof mounted equipment must be screened from view in accordance with § 21.301.18.

(m) *Reserved.*

(n) *Additional submittal requirements.* In addition to the information required elsewhere in this code, development applications for towers must include the following supplemental information:

(1) A report from a qualified and licensed professional engineer which:

(A) Describes the tower height and design including a cross section and elevation;

(B) Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas ;

_____ (C) Describes the tower's capacity, including the number and type of antennas that it can accommodate;

_____ (D) Documents what steps the applicant will take to avoid interference with established public safety telecommunications;

_____ (E) Includes an engineer's stamp and registration number; and

_____ (F) Includes other information necessary to evaluate the request.

____ (2) For all commercial wireless telecommunication service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use; and

____ (3) Before the issuance of a building permit, the following supplemental information must be submitted:

_____ (A) Proof that the proposed tower complies with regulations administered by Federal Aviation Administration; and

_____ (B) A report from a qualified and licensed professional engineer which demonstrates the tower's compliance with the aforementioned structural and electrical standards.

____ (4) A design plan and/or route for backhaul facilities, signed by a qualified and licensed professional engineer.

____ (o) *Reserved.*

____ (p) *Maintenance.* Tower and antenna finish and paint must be maintained in good condition, free from rust, graffiti, peeling paint or other blemish.

____ (q) *Antenna design and mounts.* Applicants must use antenna designs and mounts that minimize visual impact.

____ (r) *Variances.* The following standards apply to variance requests for towers, antennas or wireless telecommunication facilities.

____ (1) The approving body must consider the following issues in addition to the variance findings required in § 21.501.10.

_____ (A) The viability of code complying alternative locations for the proposed tower, antenna or wireless telecommunication facility;

_____ (B) The impacts of the tower, antenna or wireless telecommunication facility at the proposed site relative to the impacts of the tower, antenna or wireless telecommunication facility at a code complying alternative location;

(C) The extent to which there is a significant gap in coverage surrounding the proposed tower, antenna or wireless telecommunication facility or other evidence of inadequate service due to antenna location;

(D) The extent to which the proposed tower, antenna or wireless telecommunication facility is the least intrusive, lowest impact design available;

(E) The extent to which the height of the proposed tower, antenna or wireless telecommunication facility could be reduced and still provide adequate coverage;

(F) The extent to which the size of the proposed accessory equipment could be reduced; and

(G) The feasibility of placing the proposed accessory equipment underground.

(2) The applicant must pay the reasonable cost of the city retaining a qualified, independent radio frequency engineer to provide a professional opinion to the approving body if the Planning Manager or designee determines that an independent radio frequency engineer is needed to assist in consideration of subsections (q)(1)(A) through (q)(1)(G) above.

(s) *Temporary towers.* The following standards apply to structures that meet the definition of "tower" that are not intended to be permanent structures.

(1) *Emergencies.* Temporary towers erected in response to emergencies may be approved for up to three months by the Planning Manager. Emergency temporary towers must meet all city code requirements applicable to permanent towers.

(2) *News truck towers.* Towers temporarily erected from vehicles for no more than 24 hours do not require prior approval. News truck towers must meet parking requirements.

(3) *Special events.* Temporary towers erected to support special events may be approved for up to seven days by the Planning Manager. Temporary towers erected to support special events must meet all city code requirements applicable to permanent towers.

(4) *Other temporary towers.* All other temporary towers must meet all city code requirements and follow the approval process applicable to permanent towers.

(t) *Conflict with state statutes.* To the extent that standards in this section are in conflict with applicable provisions in state statutes, the applicable state statute provisions supersede the standards in this section.

§ 21.302.38 AUTOMOBILE RENTAL AGENCY PERFORMANCE STANDARDS.

(a) *Intent.* The purpose of this section is to establish standards for businesses providing short-term rental of automobiles to the general public. These regulations apply to businesses operating as permitted, conditional or interim uses in zoning districts

where they are allowed. It is the intent of these regulations to restrict such businesses to neighborhood and community service. It is not the intent to allow such businesses to service metropolitan, regional or interstate clients.

(b) *Scope of operations.* Automobile rental agencies allowed under this code are restricted to these activities:

(i) Office uses;

(ii) Storage of rental vehicles; and

(iii) One interior space for the cleaning and normal maintenance of rental vehicles.

(c) *Site and building standards.*

(i) The automobile rental agency must be located in an office of at least 1,000 square feet, excluding vehicle service areas. In the Regional Commercial (CR-1) District, the agency must be located in a multiple tenant building containing at least 20,000 square feet of floor area.

(ii) The site and building must comply with the screening and landscaping requirements of this code.

(iii) Vehicle access to the interior vehicle cleaning area must be limited to the side or rear of the building. The car service space must be located at the side or rear of the building, must not front on any arterial or collector street, nor can it face a residential zone or use.

(iv) Parking spaces allocated for rental vehicle storage must be located in a contiguous area not used by other businesses. They must be designated and identified in a manner approved by the issuing authority.

(v) The number of parking spaces used for storage of rental vehicles must be in excess of the number of spaces required for all other uses on the site.

(d) *Operational requirements.*

(1) Vehicle cleaning and maintenance:

(i) Only automobiles continuously owned by the automobile rental agency will be stored or cleaned on the property;

(ii) All cleaning and maintenance must occur inside and completely enclosed within the building in which the rental agency is located, or off-site; and

(iii) Cleaning and maintenance must be limited to washing, vacuuming and fluid changes and refills. No mechanical repair, body repair or painting is permitted.

(2) Vehicles used and stored at the automobile rental agency must not be older than two model years.

(3) Vehicles used and stored at the automobile rental agency must not be towed to and from the site nor can they be transported by truck or trailer. No towing vehicles can be parked at the site.

(4) No vehicles can be displayed or located above the elevation of the parking lot area, or on a display raised platform, a berm, planting island or any landscaped portion of the property.

(5) No vehicles can be displayed or stored in the public right-of-way of any city, county or state highway, nor can they be displayed or stored in any location not designated for such storage as approved by the issuing authority.

(6) No trucks, trailers or commercial vehicles, other than rental automobiles can be rented by the automobile rental agency or stored on the property.

(7) The vehicles stored on the property cannot be utilized for display purposes, nor can such vehicles have rental information displayed on the windows or any other part of the vehicles.

(8) No flags, balloons, banners, signs, pennants, ribbons, streamers or whirling devices can be attached to vehicles.

(9) Notwithstanding other provisions of this code, no vehicle sales can be permitted in conjunction with the automobile rental agency. The city cannot approve an application for a license for sale of vehicles issued by the state.

(e) *Motor vehicle rental accessory to Class I motor vehicle sales.* The following standards apply to motor vehicle rental uses accessory to Class I motor vehicle sales uses.

(1) The rental of the vehicles must be clearly incidental and accessory to the primary use of the property as a Class I motor vehicle sales dealership.

(2) Only those makes and models of vehicles that the Class I dealership sells as new may be rented.

(3) The rental operation must be owned and operated by the Class I dealership or a unit of the parent company of which the dealership is part.

(4) No exterior signage for the vehicle rental business is allowed.

(5) The rental vehicles must not be parked or stored in parking spaces required by this code to serve the customers and employees of the dealership. Rental vehicles must be parked in approved and designated on-site spaces.

(6) Rental vehicles must not be used for display purposes, must not have any rental information displayed on them, nor have any type of banners, flags, pennants, streamers or other attention-getting devices attached to them.

§ 21.302.39 ANTI-BLIGHT REGULATIONS.

(a) Purpose. The purpose of this section is to control, through zoning regulations, certain land uses that have a direct and detrimental effect on the character of the city's residential and commercial neighborhoods.

(b) Findings of the City Council. The City Council makes the following findings regarding the effect sexually-oriented businesses have on the character of the city's neighborhoods. In making the findings, the City Council accepts the recommendations of a staff committee that has studied the experiences of other urban areas in the nation where sexually-oriented businesses have located.

(1) Sexually-oriented businesses can exert a dehumanizing influence on persons attending places of assembly for worship; children attending state-licensed family day care homes, state-licensed group family day care homes and state-licensed child care centers; students attending schools; and people using public parks and libraries.

(2) Sexually-oriented businesses can contribute to an increase in criminal activity in the area in which such businesses are located, taxing city crime-prevention programs and law-enforcement services.

(3) Sexually-oriented businesses can significantly contribute to the deterioration of residential neighborhoods and can impair the character and quality of the residential housing in the area in which such businesses are located, thereby exacerbating the shortage of affordable and habitable housing for city residents.

(4) The concentration of sexually-oriented businesses in one area can have a substantially detrimental effect on the area in which such businesses are concentrated and on the overall quality of urban life. A cycle of decay can result from the influx and concentration of sexually-oriented businesses. The presence of such businesses is perceived by others as an indication that the area is deteriorating and the result can be devastating. Other businesses move out of the vicinity and residents flee from the area. Declining real estate values, which can result from the concentration of such businesses, erode the city's tax base and contribute to overall urban blight.

(c) *Conclusions of the City Council.* In order to minimize the detrimental effect sexually-oriented businesses have on adjacent land uses, the City Council adopts the following land-use regulations, recognizing that it has a great interest in the present and future character of the city's residential and commercial neighborhoods.

(d) *Definitions.* The following words and terms, when used in this § 21.302.39 have the following meanings unless the context clearly indicates otherwise.

ADULT BODY PAINTING STUDIO. An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the body of a patron when such body is wholly or partially nude in terms of specified anatomical areas as defined herein.

ADULT BOOK STORE. An establishment that has 40 percent or greater of its current store stock in merchandise, videos, books, magazines and/or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined.

ADULT CAR WASH. A wash facility for any type of motor vehicle that allows employees, agents, independent contractors or persons to appear in a state of partial or total nudity in terms of specified anatomical areas as defined herein.

ADULT COMPANIONSHIP ESTABLISHMENT. A companionship establishment which excludes minors by reason of age, or which provides the service for a fee of engaging in or listening to conversation, talk or discussion between an employee of the establishment and a customer, if such service is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

ADULT ENTERTAINMENT FACILITY. A building or space wherein an admission is charged for entrance, or food or nonalcoholic beverages are sold or intended for consumption, and wherein may be observed live presentation of entertainment distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as defined herein.

ADULT MINI-MOTION PICTURE THEATER. A building or space with a capacity for fewer than 50 persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas herein defined, for observation by patrons therein. The phrase **USED FOR** in this definition will mean a regular and substantial course of conduct and not a one-time presentation of such material.

ADULT MODELING STUDIO. An establishment whose major business is the provision to customers of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in specified sexual activities as defined herein or display specified anatomical areas as defined herein while being observed, painted, painted upon, sketched, drawn, sculptured, photographed or otherwise depicted by such customers.

ADULT MOTION PICTURE THEATER. A building or space with a capacity of 50 or more persons used for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas as herein defined, for observation by patrons therein. The phrase **USED FOR** in this definition will mean a regular and substantial course of conduct and not a one-time presentation of such material.

ADULT SAUNA. A sauna which excludes minors by reason of age, or which provides a steam bath or heat bathing room used for the purpose of bathing, relaxation or reducing, utilizing steam or hot air as a cleaning, relaxing or reducing agent, if the service provided by the sauna is distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas as defined herein.

MINOR. Any natural person under the age of 18 years.

NUDITY. The showing of the human male or female genitals or pubic area with less than a fully opaque covering; the showing of the female breast with less than a fully opaque covering of any portion thereof below a point immediately above the top of the areola; or the depiction or showing of the covered male genitals in a discernibly turgid state.

SCHOOL. A building or space that is principally used as a place where 25 or more persons receive a full course of educational instruction. Any post-secondary or post-high school educational building, including any college or any vocational-technical college, is not deemed a school for purposes of this Article VIII.

STATE-LICENSED FAMILY DAY CARE HOME, STATE-LICENSED GROUP FAMILY DAY CARE HOME, STATE-LICENSED CHILD CARE CENTER. A facility holding a

license from the state pursuant to M.S. Chapter 245A, as it may be amended from time to time, and/or Minnesota Rules Chapter 9502 or Chapter 9503, as amended.

SPECIFIED ANATOMICAL AREAS.

- (a) Less than completely and opaquely covered:
 - (1) Human genitals, pubic region or pubic hair;
 - (2) Buttock;
 - (3) Female breast or breasts below a point immediately above the top of the areola; or
 - (4) Any combination of the foregoing.
- (b) Human male genitals in a discernibly turgid state even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Include the following:

- (1) Human genitals in a discernible state of sexual stimulation or arousal;
- (2) Acts of human masturbation, sexual intercourse, or sodomy;
- (3) Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock, or female breast or breasts; or
- (4) Any combination of the foregoing.

(e) Zoning Regulations. Sexually-oriented businesses are prohibited in all zoning districts, except those listed in § 21.209(e).

(1) In zoning districts in which sexually-oriented businesses are permitted uses, the following conditions must be met prior to a sexually-oriented business being allowed.

(A) No sexually-oriented business can be located closer than 500 feet from any other sexually-oriented business. Measurements will be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the actual business premises of any other sexually-oriented business.

(B) No sexually-oriented business can be located closer than 500 feet from any single-family dwelling, place of assembly for worship, school, public park, state-licensed family day care home, state-licensed group family day care home, public library or state-licensed child care center. Measurements will be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest point of the actual premises used as a single-family dwelling, place of assembly for worship, school, park or state-licensed family day care home, state-licensed group family day care home or state-licensed child care center.

(C) No sexually-oriented business can be located closer than 500 feet from any of the following residential zoning districts. Measurements will be made in a straight line, without regard to intervening structures or objects, from the nearest point of the actual business premises of the sexually-oriented business to the nearest boundary of the residential zoning district:

Single-Family Residential R-1 District;

Large Lot Single-Family Residential RS-1 District;

Restricted Large Lot Single-Family Residential R-1A District;

Townhouse Residential R-3 District;

Multiple-Family Residential R-4 District;

Multiple-Family Residential RM-12 District;

Multiple-Family Residential RM-24 District;

Multiple-Family Residential RM-50 District; and

Multiple-Family Residential RM-100 District.

(D) A sexually-oriented business must comply with the licensing requirements of Chapter 14 of this code.

(E) The operation or maintenance of more than one of the following uses in the same building or structure is prohibited:

Adult body painting studio;

Adult book store;

Adult car wash;

Adult companionship establishment;

Adult entertainment facility;

Adult modeling studio;

Adult sauna;

Adult motion picture theater; and

Adult mini-motion picture theater.

(f) *Sign restrictions.* In order to protect children from exposure to lurid signs and materials and in order to preserve the value of property surrounding sexually-oriented businesses, the following sign regulations apply to all sexually-oriented businesses in the city notwithstanding any other provision of this code.

(1) All signs must be flat wall signs. No signs can be located on the roof or contain any flashing lights, moving elements, or electronically or mechanically changing messages.

(2) The amount of allowable building sign area is the lessor of one square foot of sign area per foot of lot frontage on a street not to exceed 80 square feet or the sign area allowance in § 21.304.17.

(3) No merchandise, photos or pictures of the products or entertainment on the premises can be displayed in window areas or any area where they can be viewed from the sidewalk or public right-of-way adjoining the building or structure in which the sexually-oriented business is located.

(4) No signs can be placed in any window. A one square foot sign may be placed on the door to state hours of operation and admittance to adults only.

§ 21.302.40 AGRICULTURAL STANDS.

Nothing in this chapter is deemed to prohibit the construction or maintenance of any stand or shelter for the sale of agricultural products produced on the premises; provided that if the structure is within ten feet of the front lot line, it is used only during the season when the products sold are in season and at all other times is removed from said location.

DIVISION C: ENVIRONMENTAL STANDARDS[RESERVED]

§ 21.303.01 SHORE AREA REGULATIONS.

(a) *Purpose.* The purpose of this section is to implement regulations concerning the use, development and alteration of certain shore areas in the city in compliance with the directives and requirements of M.S. § 103F.221, subd. 1, as it may be amended from time to time, and regulations adopted pursuant thereto. These regulations are adopted in order to protect the natural characteristics of such shore areas and adjacent water

areas, to prevent the pollution of surface and ground waters, to minimize flood damage, to manage the effects of shore area crowding and development and to maintain shore area property values.

(b) *Applicability; relationship to other regulations.*

(1) The provisions of this § 21.303.01 apply to all “shore areas” of the city, as defined in § 21.303.01(c).

(2) Unless specifically stated to the contrary, the provisions of this § 21.303.01 are in addition to, and not in derogation of, other statutes, regulations or ordinances, affecting shore areas. If both these regulations and other regulations impose similar restrictions upon shore areas, the more restrictive regulation applies.

(c) *Definitions.* The following words and terms, when used in this § 21.303.01, shall have the ascribed meanings unless the context clearly indicates otherwise.

BACKYARD APPURTENANT STRUCTURE. Children’s recreational equipment (such as a swing set or sandbox); clotheslines; arbors and trellises; outdoor fireplaces or grills; permanent benches; utility wires or poles; other public sewer, water and gas utility appurtenances; flag poles; walls and fences less than six feet in height; landscaping retaining walls; or dog enclosures.

BEST MANAGEMENT PRACTICES. The methods and practices described in the State Pollution Control Agency’s *Protecting Water Quality in Urban Areas*, commonly known as *Best Management Practices In Minnesota* (October 1989).

DECK. A horizontal, unenclosed platform with or without attached railings, seats, trellises or other features, attached or functionally related to the principal use of the site.

DNR. Minnesota Department of Natural Resources.

EXOTIC SPECIES. Flora and fauna that are not indigenous to the state, as determined by the DNR, the city or other public agency.

FLOODWAY. The channel of the watercourse of a creek or river and those portions of the adjoining floodplains (as that term is defined in § 21.601) which are reasonably required to carry and discharge the regional flood (as that term is defined in § 21.601).

GARDEN. An area used for the noncommercial growing of vegetables, flowers or other plants.

NOXIOUS WEED. Those weeds so defined in M.S. § 18.77, subd. 8, as it may be amended from time to time, or any plant which is identified and placed by the county on its noxious weed list.

ORDINARY HIGH WATER LEVEL (OHWL). The boundary of public waters, which is the elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial. The OHWL's for those public waterbodies under this § 21.303.01 which are lakes, are as shown in Table 1 at the end of this section. For watercourses, the **OHWL** is the elevation of the top of the bank of the channel.

PAVED AREA. Any impervious ground surface area created by means of concrete, asphalt, brick, mortar or other materials.

PUBLIC WATERBODY. Each of the wetlands, lakes, creeks or rivers listed in Table 1 at the end of this section.

SHORE AREA. All land in the city lying within the distances described in Table 1 at the end of this section, from the given public waterbody, as measured from the ordinary high water level (OHWL).

SHORE AREA IMPACT ZONE. All land in the city lying within the distances described in Table 1 at the end of this section, from the given public waterbody, as measured from the ordinary high water level (OHWL).

<u>Public Waterbody</u>	<u>Public Waterbody ID Number or Section/Tow nship /Range Description</u>	<u>Public Waterbody Ordinary High Water Level (OHWL)</u>	<u>"Shore Area" - Distance from OHWL of Public Waterbody</u>	<u>"Shore Area Impact Zone" - Distance from OHWL of Public Waterbody</u>
1. <u>Oxboro Lake</u>	<u>27-11P</u>	<u>803.7 feet</u>	<u>75 feet</u>	<u>37-1/2 feet</u>
2. <u>Upper Penn Lake</u>	<u>27-4P</u>	<u>811.5 feet</u>	<u>75 feet</u>	<u>37-1/2 feet</u>
3. <u>Lower Penn Lake</u>	<u>27-4P</u>	<u>807.0 feet</u>	<u>75 feet</u>	<u>37-1/2 feet</u>
4. <u>Bush Lake</u>	<u>27-47P</u>	<u>833.2 feet</u>	<u>75 feet</u>	<u>37-1/2 feet</u>

5. <u>Anderson Lake</u>	<u>27-62P</u>	<u>839.0 feet</u>	<u>75 feet</u>	<u>37-1/2 feet</u>
6. <u>Hyland Lake</u>	<u>27-48P</u>	<u>817.9 feet</u>	<u>150 feet</u>	<u>75 feet</u>
7. <u>Nine Mile (Coleman) Lake</u>	<u>27-13P</u>	<u>700.0 feet</u>	<u>150 feet</u>	<u>75 feet</u>
8. <u>Long Meadow Lake</u>	<u>27-2P</u>	<u>695.5 feet</u>	<u>150 feet</u>	<u>75 feet</u>
9. <u>Nine Mile Creek</u>	<u>From § 16-116-21 to § 28-27-24</u>	<u>Top of bank of channel</u>	<u>50 feet</u>	<u>25 feet</u>
10. <u>Nine Mile Creek - South Fork</u>	<u>From § 18-116-21 to § 17-116-21</u>	<u>Top of bank of channel</u>	<u>50 feet</u>	<u>25 feet</u>
11. <u>Minnesota River - I-494 to I-35W</u>	<u>From § 28-27-24 to § 5-27-23</u>	<u>Top of bank of channel</u>	<u>100 feet</u>	<u>50 feet</u>
12. <u>Minnesota River - I-35W to western city boundary</u>	<u>From § 6-115-21 to § 28-27-24</u>	<u>Top of bank of channel</u>	<u>150 feet</u>	<u>75 feet</u>

UTILITY SHED. An enclosed accessory building no larger than 120 square feet in area or 12 feet in height which is used for the storage of equipment and materials which are not water-oriented in nature.

VEGETATION. Flora of any variety, including trees, shrubs, plants and grass.

WATERCRAFT LANDING FACILITY. A dock, ramp or other structure used to land watercraft.

WATERCRAFT LIFT OR STORAGE FACILITY. An unenclosed structure designed and used solely to raise watercraft out of the water or for the storage of watercraft and related equipment.

WATER-ORIENTED ACCESSORY BUILDING. An accessory building which, because of its relationship to the public waterbody, reasonably needs to be located within the shore area. Excluded from the definition of a water-oriented accessory building are stairways, stairway landings, pedestrian lifts, watercraft landing facilities, watercraft lift or storage facilities, backyard appurtenant structures and utility sheds.

(d) **Use, development and alteration of shore areas, generally.** The use, development and alteration of shore areas are subject to the regulations and permitting requirements of this section. The use, development and alteration of the lands lying between the

shore areas and the existing waterline are subject to the regulation and control of the DNR.

(1) Shore area alteration.

(A) Removal or alteration of vegetation.

(i) No removal or alteration of vegetation within the shore areas can occur without a shore area permit, except that no permit is required:

(aa) For the removal of dead, diseased, hazardous or storm-damaged vegetation, or for the mowing of turf;

(bb) For the periodic pruning of woody vegetation up to four inches in diameter (as measured at the base) of the cut provided the roots are left intact;

(cc) For removal of exotic species, noxious weeds or other public nuisances;

(dd) For the creation of a garden located outside of the shore area impact zone;

(ee) For the creation of a garden located within the shore area impact zone and more than ten feet inland from the OHWL, provided that the only vegetation which will be removed for the garden is lawn turf;

(ff) For removals or alterations for purposes of the construction of backyard appurtenant structures located more than ten feet inland from the OHWL; or

(gg) For the maintenance of existing gardens.

(ii) A shore area permit for the removal or alteration of vegetation may be granted only for the following purposes:

(aa) To construct the improvements permitted pursuant to subsections (2)(B)(iii)(gg); (3); (4); (5); or (6) below; or

(bb) To create a garden located within the shore area impact zone and more than ten feet inland from the OHWL, to create an access path to the water, to create a watercraft access area, to create public park, beach and marina facilities or to provide a view to the water from the principal dwelling site.

(iii) No shore area permit for the removal or alteration of vegetation will be issued unless:

_____ (aa) The removal or alteration is the minimum reasonably required for the permitted activity;

_____ (bb) The existing vegetative screening of structures , vehicles or other facilities as viewed from the water, assuming summer, leaf-on conditions, is substantially maintained; and

_____ (cc) Along rivers, existing shading of water surfaces is substantially preserved, assuming summer, leaf-on conditions.

_____ (vi) Use of fertilizers in a shore area is prohibited.

_____ (v) No gardens can be created within ten feet of the OHWL.

_____ (B) *Grading and filling.*

_____ (i) No grading or filling within the shore areas can occur without issuance of a shore area permit by the city.

_____ (ii) Before any permit may be issued to grade or fill, the applicant must provide evidence that all provisions of federal, state and local law pertaining to wetlands and shore area (including, but not limited to, the Wetland Conservation Act, Watershed District regulations, United States Corps of Engineers regulations, DNR protected waters regulations and city floodplain, steep slope and bluff regulations) have been satisfied.

_____ (iii) All shore area permits for grading are subject to the following conditions:

_____ (aa) Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed and is exposed for the shortest time possible;

_____ (bb) Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;

_____ (cc) Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;

_____ (dd) Altered areas must be stabilized to acceptable erosion control standards consistent with best management practices;

(ee) Fill or excavated material must not be placed in a manner that creates an unstable slope;

(ff) Alterations of topography may be allowed only if accessory to uses allowed by this section and does not adversely affect adjacent or nearby properties;

(gg) Placement of natural rock rip rap, including associated grading and placement of a filter blanket, is permitted only if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the rip rap is within ten feet of the OHWL (as measured along the ground surface), and the height of the rip rap above the OHWL does not exceed three feet; and

(hh) Such other conditions as are reasonable and necessary under the circumstances.

(iv) Excavations where the intended purpose is connection to a public waterbody (such as boat slips, canals, lagoons and harbors) cannot be allowed without the approval of the DNR .

(3) Structures.

(i) Permits. No structures will be constructed within the shore areas without a shore area permit, except that no permit is required for the construction of backyard appurtenant structures located more than ten feet inland from the OHWL.

(B) Types of structures permitted.

(i) Only the following types of structures may be constructed in shore areas:

(aa) Stairways, stairway landings and pedestrian lifts;

(bb) Watercraft landing facilities;

(cc) Watercraft lift or storage facilities;

(dd) Water-oriented accessory buildings;

(ee) Utility sheds;

(ff) Decks, but only to the extent that the deck is a detached, water-oriented accessory building, or, is attached to a principal structure that exists on the effective date of this section and the following criteria are met:

(AA) No reasonable location exists for the deck outside of the shore area;

(BB) The deck encroachment toward the OHWL does not exceed 15 percent of the existing setback of the principal structure from the OHWL or does not encroach into the shore area impact zone, whichever is more restrictive; and

(CC) The deck is constructed primarily of wood, and is not enclosed, roofed or screened, and does not result in the creation of an impervious surface.

(gg) Backyard appurtenant structures; and

(hh) Public park, beach and marina facilities and other public improvements.

(ii) Nothing herein is intended to permit private watercraft landing facilities or other private water access where such rights have been acquired by the public.

(C) *Limits on number of structures.*

(i) The shore area lying within any given parcel of land may contain no more than one watercraft landing facility, one watercraft lift or storage facility, and either one water-oriented accessory building or one utility shed.

(ii) Such shore area may also contain any stairways, stairway landings and pedestrian lifts reasonable and necessary for pedestrian access to the water, backyard appurtenant structures, and any decking which is a permitted addition to a structure pursuant to subsection (c)(2)(A)(vi) above.

(iii) Nothing herein will be interpreted to allow more than the one accessory building per residential lot otherwise permitted under the City Zoning Code.

(D) *Location of structures.*

(i) All water-oriented accessory buildings and backyard appurtenant structures must be located at least ten feet inland from the OHWL of the public waterbody, must be located so as to minimize the impact upon existing vegetation, and must be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.

(ii) Utility sheds must only be located outside of the shore area impact zone; must be located as to minimize the impact upon existing vegetation, and must be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.

(iii) Stairways, stairway landings, pedestrian lifts, watercraft landing facilities and watercraft lifts or storage facilities must be located whenever reasonable in the most visually inconspicuous portions of lots, as viewed from the surface of the public waterbody, assuming summer, leaf-on conditions.

(iv) Fencing and walls may not be located within a floodway.

(F) Construction and design.

(i) Stairways, stairway landings and pedestrian lifts.

(aa) Stairways and pedestrian lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties and planned developments where more than one lot or more than four dwelling units are served.

(bb) Landings for stairways and pedestrian lifts on residential lots must not exceed 32 square feet in area. Landings not exceeding 60 square feet may be used for commercial properties, public open-space recreational properties and planned developments where more than one lot is served.

(cc) Canopies or roofs are not allowed on stairways, stairway landings or pedestrian lifts.

(dd) Stairways, stairway landings and pedestrian lifts may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion.

(ii) Water-oriented accessory buildings, utility sheds, backyard appurtenant structures or other permitted facilities.

(aa) The structure or facility must not exceed 12 feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet; provided that utility sheds do not exceed 120 square feet in area. Detached decks must not exceed eight feet above grade at any point.

(bb) The structure or facility must be treated to reduce visibility as viewed from the public waterbodies and adjacent shore areas by vegetation, topography, increased setbacks, color or other approved means, assuming summer, leaf-on conditions.

(cc) A roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area.

(dd) The structure or facility must not be designed or used for human habitation, must not contain water or sewer facilities, and must not be located within a floodway.

(ee) Decks must be constructed primarily of wood and must not be constructed so as to create an impervious surface.

(4) *Roads, driveways and parking areas.*

(A) No roads, driveways, parking areas or other paved areas can be constructed within shore areas without a shore area permit.

(B) No shore area permit for the construction of such surface improvements will be issued unless:

(i) No reasonable alternative outside of the shore area exists for location of the surface improvement, and

(ii) The surface improvement design takes advantage of natural vegetation and topography to achieve maximum screening of view from the public waterbody, limitations on the removal or alteration of vegetation are met, the improvement is designed so as to minimize and control erosion to the public waterbody consistent with best management practices, and it is designed so as to minimize adverse impacts to the shore area.

(5) *Water and sewage facilities.*

(A) No new water wells or on-site sewage treatment systems may be constructed within shore areas without a shore area permit.

(B) No shore area permit for the construction of water wells or on-site sewage treatment systems will be issued unless:

(i) There is no city water or sewer utility (as applicable) available to the property;

(ii) There is no reasonable alternative location outside of the shore area of the property for the well or sewage treatment system (as applicable);

(iii) The well or sewage treatment system (as applicable) meets all state and local standards; and

(iv) The well or sewage treatment system (as applicable) is separated from the public waterbody and from sources of contamination by the distances required by Minnesota Rules parts 4725.4350 and 4725.4450.

(C) All lots containing shore areas must be connected to the public water and sanitary sewer systems in accordance with the provisions of §§ 11.03 and 11.26(c), and old sewer and water systems must be abandoned in conformance with state law and city ordinances.

(6) Storm water.

(A) Impervious surface coverage of the shore area of lots must not exceed ten percent of said area.

(B) When possible, existing natural drainageways, wetlands and vegetated soil surfaces must be used to convey, store, filter and detain storm water runoff before discharge to public waters.

(C) Development and construction must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected using methods and facilities designed and installed consistent with best management practices.

(D) When development density, topographic features and soil and vegetation conditions are not sufficient to adequately handle storm water runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways and ponds may be used. Preference must be given to designs using surface drainage, vegetation and infiltration rather than buried pipes and human-made materials and facilities.

(E) When constructed facilities are used for storm water management, they must be designed and installed consistent with best management practices.

(F) New constructed storm water outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

(7) Agricultural use standards.

(A) If otherwise allowed under the Zoning Code, general cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming and wild crop harvesting are permitted in the shore area of a property if it is maintained in permanent vegetation or

operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts of the United States Soil Conservation Service.

(B) Use of fertilizers in the shore area is prohibited.

(e) Existing uses. Except for wells and on-site sewage treatment systems whose use must be discontinued pursuant to § 21.303.01(d)(5), existing uses and improvements within shore area may be maintained in accordance with the provisions and limitations of § 21.504.

(f) Variances. Variances from the provisions of this § 21.303.01 may be permitted in accordance with § 21.501.10.

(g) Notification of DNR. The DNR must be notified by the city at least ten days in advance of any public hearing involving the proposed use, development, subdivision, or rezoning of a shore area within the city or the amendment of this § 21.303.01.

§ 21.303.04 SLOPES PROTECTION.

(a) Purpose. The purpose of this section is to protect areas with slopes from erosion caused by surface runoff due to development. These provisions apply to all properties in Single-Family R-1 and R-1A, and Large Lot Single-Family Residential RS-1 Zoning Districts with 12 percent or greater slope shown in a final plat or otherwise approved by the City Council after May 1, 1993. Additional provisions for the Bluff Protection (BP) Overlay District are in § 21.208.02.

(b) Lots with an average slope of 12 percent or greater. For lots with an average slope of 12 percent or greater impervious surface coverage is limited according to the following table:

<u>Average Slope</u>	<u>Maximum Coverage</u>	<u>Average Slope</u>	<u>Maximum Coverage</u>
<u>12%</u>	<u>34%</u>	<u>22%</u>	<u>24%</u>
<u>13%</u>	<u>33%</u>	<u>23%</u>	<u>23%</u>
<u>14%</u>	<u>32%</u>	<u>24%</u>	<u>22%</u>
<u>15%</u>	<u>31%</u>	<u>25%</u>	<u>21%</u>
<u>16%</u>	<u>30%</u>	<u>26%</u>	<u>20%</u>
<u>17%</u>	<u>29%</u>	<u>27%</u>	<u>19%</u>
<u>18%</u>	<u>28%</u>	<u>28%</u>	<u>18%</u>
<u>19%</u>	<u>27%</u>	<u>29%</u>	<u>17%</u>
<u>20%</u>	<u>26%</u>	<u>30%</u>	<u>16%</u>
<u>21%</u>	<u>25%</u>		

Impervious surface coverage for properties with average slopes greater than 30 percent must be decreased by 1 percent for each percent of slope greater than 30 percent.

(c) Average percentage slope. Average percentage slope is calculated according to one of the following methods, based on existing conditions prior to the proposed development:

(1) In those instances where the lot is rectangular or regularly shaped, and the contour lines are generally parallel throughout the property, the average percentage slope must be calculated by determining the slope of a line drawn from the highest point on the property to the lowest point on the property, according to the following formula:

$$S = (VH - VL)/H$$

S = Average percentage slope

VH = Elevation of the highest point of the line above mean sea level

VL = Elevation of the lowest point of the line above mean sea level. In no event can the lowest point used in this calculation have an elevation lower than 722 feet above mean sea level.

H = The horizontal distance separating the highest point from the lowest point

(2) In those instances where the lot is rectangular or regularly shaped, and the contour lines are not generally parallel through the property, the average percentage slope may be calculated by determining the average of the slopes of several lines, evenly spaced across the property, drawn from the highest points on the property to the lowest points on the property. The slope of each line must be calculated in the manner specified in subsection (c)(1) above;

(3) In those instances where the lot is irregularly shaped, the following formula may be used:

$$S = (0.00229 \times L \times F)/A$$

S = Average percentage slope

L = Length of all contours (above 722 feet above mean sea level) in feet

F = Contour interval in feet

A = Area of the lot (above 722 feet above mean sea level) in acres

(4) Any other methodology commonly recognized in the field of civil engineering and which is approved by the issuing authority. In no instance will the calculation incorporate elevations below the 722 foot contour elevation above mean sea level.

(d) *Best management practices.* The following best management practices (BMPs) are encouraged to filter, slow, and disperse surface water runoff:

(1) Minimize stormwater runoff over slopes;

(2) Limit or reduce impervious surfaces;

(3) Direct runoff from impervious surfaces into a storm sewer system or well vegetated area;

(4) Manage soil erosion;

(5) Plant bare areas with native seedlings or seeds of native species and mulch; and

(6) Cover bare soils with biodegradable erosion control blankets and/or logs while vegetation becomes established.

(e) *Special provisions.*

(1) *Surface runoff redirected away from slopes.* In those instances where surface water runoff from impervious surface is directed away from steep slopes and into a public storm sewer or public or approved private BMP, such areas shall not be considered as impervious surface for the maximum coverage limitations identified in subsections § 21.303.04(b)(c). However, in no instance can the total impervious surface, including those areas affected by this provision, exceed the maximum impervious allowed in the zoning district as shown in § 21.301.01(c).

(2) *Development occurring on areas with less than 12 percent slopes.* In those instances where all impervious surfaces on lots with steep slopes are located in an area of the lot with slopes of less than 12 percent, and surface water runoff from impervious surface is directed away from steep slopes and into a public storm sewer or public or approved BMP, the restrictions of this section 21.303.04 do not apply.

(3) *Mitigation.* When the City Council grants relief from the requirements of this section by granting of a variance, approval of a Planned Development (PD) Overlay District, approval of a conditional use permit for a Neighborhood Unit Development or other action, the City Council may require mitigation of the effects of surface runoff on steep slopes by any reasonable method, including but not limited to:

(i) *Trees.* The City Council may require applicants to plant additional trees to intercept rainwater on open portions of the lot. Any overstory tree of two and one-half

caliper inches or greater or any evergreen tree of six feet or more feet in height at the time of planting qualify as meeting this requirement. This provision is not required for any lot which has more than one tree of qualifying size (but not species) for each 3,000 square feet of lot area;

(ii) *Redirection of surface water.* The City Council may require applicants to redirect surface water runoff away from steep slopes by the provision of gutters and downspouts, reorientation of roof slopes, regrading and/or installation of an approved private storm sewer system; and

(iii) *Removal of existing impervious surfaces.* The City Council may require the removal of certain existing impervious surfaces which will reduce surface water runoff. This requirement may include replacement of impervious plastic sheeting under landscaping materials with permeable landscaping membrane, replacement of parking areas (other than in driveways) with permeable surfaces, or removal of any impermeable surface which is in violation of any of the provisions of this code.

DIVISION D: SIGN REGULATIONS

§ 21.304.05 SEVERABILITY.

(b) If one or more required findings for the approval of sign variance applications under § 21.304.24(h) is for any reason held invalid, or if one or more required findings for the approval of variance applications in § ~~21.501.10~~~~[2-85-04]~~ is for any reason held invalid, then notwithstanding subsection (a) above, such invalidation shall cause § 21.304.24(h) as a whole to be invalid until amended, but shall not affect the validity of the remaining portions of the sign code. The City Council declares that, if one or more of its variance criteria are invalid, it would have adopted the standard or requirement from which a variance was sought without causing variances to become easier to obtain.

§ 21.304.07 DEFINITIONS.

When used in this sign code, the following words and terms shall have the following meaning, unless the context clearly indicates otherwise. Other words and terms not defined in this section may be defined in § ~~[19-03]~~21.601.

§ 21.304.11 PROHIBITED SIGNS.

(b) *Prohibited signs.* The following signs are prohibited in all sign districts:

(6) Signs or sign structures greater than three feet in height and located in the clear view triangle area, as defined ~~[by]~~in § ~~[19.03]~~21.601, or otherwise located in such a manner as to materially impede the view of any street or highway intersection or in such a manner as to materially impede the view of the intersection of a street or highway with a railroad crossing.

§ 21.304.16 FREESTANDING SIGNS.

(a) *Applicability.* Regulations for freestanding permanent signs are applicable to monument, pylon, incidental, and directional signs as defined in § 21.304.07.

(b) *General freestanding sign standards.*

(1) *Prohibitions.*

(A) *Clear view triangle.* No sign or sign structure taller than three feet in height may be located within a clear view triangle area as defined in § ~~[19.03]~~21.601.

(4) *Planned developments.* When there are multiple contiguous properties within an approved planned development of record, the properties are considered one property for the purposes of freestanding signage allowances. Additional signs may be approved through planned development flexibility as specified in § 21.208.03~~[19.38.04]~~.

§ 21.304.24 SIGN VARIANCES.

(j) *Expiration.* Expiration of sign variances is governed by § 21.501.10(n)~~[19.23.04]~~.

(l) *Content.* Sign variance applications must include all information required in § 21.501.10(l)~~[2.85.04(k)]~~.

ARTICLE V: ADMINISTRATION AND NONCONFORMITY

DIVISION A: APPROVALS AND PERMITS

§ 21.501.04 CONDITIONAL USE PERMITS.

(k) Certificates of occupancy. In the case of conditional use permits, certificates of occupancy will not be issued until all conditions imposed by the Planning Commission or City Council have been met unless otherwise specified by the Planning Commission or City Council.

[§ 21.501.07 RESERVED.]

§ 21.501.07 REZONING.

(a) Initiating rezoning. The Planning Commission or City Council may initiate a proposed rezoning. A property owner or representative of the property owner may request such rezoning if it applies to his or her property. In such case the property owner or his or her representative must fill out a zoning application form, copies of which are available in the Department of Community Development. No application for a rezoning of a particular piece of property will be accepted more than once in any 12-month period except as follows.

(1) Rezoning: applications which are withdrawn prior to action taken by the City Council.

(b) Filing application. Rezoning: the application must be filed with the Department of Community Development and must be referred to the Planning Commission for consideration.

(c) Planning Commission consideration. The Planning Commission will consider the application within the timeline required by M.S. § 15.99.

(d) Report to City Council. The Planning Commission will make its report to the City Council as soon as practical. The Planning Commission report will not be delayed at the request of either the applicants or of persons objecting to the request of the applicant. The timeline for the application will be as required in M.S. § 15.99.

(e) City Council action. The Council must take action on the application within the requirements of M.S. § 15.99.

21.501.08 RESERVED.

[§ 21.501.09 RESERVED]

§ 21.501.09 SHORE AREA PERMITS.

(a) Whenever a given activity within the shore area requires more than one shore area permit pursuant to this section, only a single shore area permit fee is to be required to be paid.

(b) The fee for a shore area permit must be as set forth in City Code Appendix A, except that a double fee may be required by the city in instances where work or an activity has been initiated without the required permit.

(c) The obtaining of a shore area permit for a given activity will not abrogate the need to obtain any other permits required for the activity under the city code or other federal, state or local laws.

(d) Applications for a shore area permit must be filed with the Building and Inspection Division of the city and must contain information necessary and relevant to the review and analysis of the application, as determined by the city. Such information may include a scaled plan showing some or all of the following:

(1) Existing and proposed contour lines with two-foot intervals and ground elevations;

(2) The OHWL;

(3) Existing vegetation and proposed removals;

(4) Existing and proposed improvements and utilities;

(5) Location of wells and private septic systems;

(6) Easements;

(7) Wetlands;

(8) Lot lines;

(9) Adjacent streets and right-of-way;

(10) Shore area and shore area impact zone; and

(11) Other information relevant to the application, as determined by the city.

(e) Whenever another development application (e.g. final site and building plans, planned developments) on the same project is required, both the shore area permit and development application may occur concurrently through their respective review process.

[§ 21.501.10 RESERVED]

§ 21.501.10 ZONING VARIANCES.

(a) Purpose. Zoning variances provide a means to approve deviation from zoning requirements where practical difficulties exist because of conditions or circumstances unique to an individual property. The purpose of this section is to establish the procedures for requesting and the requirements for issuing a zoning variance.

(b) Authority. The Planning Commission will serve as the board of appeals and adjustments pursuant to the provisions of M.S. §§ 462.354, subd. 2; 462.357, subd. 6; and 462.359, subd. 4, as they may be amended from time to time.

(c) Where required. Prior to any City approval of an application that does not meet the standards of Chapter 21 of the city code, the Planning Commission, or the City Council in the case of an appeal, must approve a zoning variance unless the city code provides an alternative means of deviation.

(d) Initiation. A variance application must be initiated by the owner of land upon which a variance is proposed. If originally denied, a variance application for the same item may not be resubmitted until one (1) year after the original denial.

(e) Review, approval, and appeal of Planning Commission decision. Zoning variances must be acted upon by the Planning Commission. If the Planning Commission action results in a tie vote, or if the approval or denial action is not consistent with the staff recommendation, the variance application is automatically sent to the City Council for final action. The Planning Commission must hold a public hearing. The applicant or a member of the public may appeal the decision of the Planning Commission to the City Council by submitting an appeal request with supporting materials within three business days of the Planning commission decision. The appellant will be given the opportunity to present their case in front of the City Council. If the variance application is related to an associated rezoning, Comprehensive Plan amendment, or other application that requires City Council action, the City Council must act on the variance application. When the City Council must act on a variance application, the Planning Commission must make a recommendation.

(f) Conditions of approval. The entity empowered to take action on a given variance application may impose conditions in the granting of a variance. A condition must be related to and must bear a rough proportionality to the impact created by the variance.

(g) Findings.

(1) Zoning variances may only be approved when:

(A) The variance is in harmony with the general purposes and intent of the ordinance;

(B) The variance is consistent with the Comprehensive Plan;

(C) The applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Economic considerations alone do not constitute practical difficulties;

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

(E) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

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

(h) If one or more required findings for the approval of variance applications under subsection (g) is for any reason held invalid, such invalidation will cause § 21.501.10(g) as a whole to be invalid until amended. The Planning Commission and City Council declare that, if one or more variance criteria are found to be invalid, it would have adopted the standard or requirement from which a variance was sought without causing variances to become easier to obtain.

(i) *Recording.* A certified copy of the resolution approving a zoning variance must be recorded with the county.

(j) *Expiration.* See § 21.501.10(n).

(k) *Use variance prohibited.* No variance may be granted that would allow any use that is not allowed in the zoning district in which the subject property is located.

(l) *Content.* Zoning variance applications must include the following information, unless exempted by the Planning Manager:

(1) An application form and the signed consent of the property owner(s) or authorized representative.

(2) The required application fee as set forth in City Code Appendix A.

(3) Written documentation that includes:

(A) A complete project description;

(B) Specific provisions of the Zoning Code involved and the variance request details; and

(C) Why and how the request meets each of the variance findings in subsection (g) above.

(4) Scaled floor plan, site plan, and building elevations (where applicable).

(5) Certified survey showing the existing conditions on the property (if setback related).

(m) Notice. In addition to the notice requirements of § 21.502.01, if the application pertains to a variance within the Floodplain District, notice must also be given to the Minnesota Department of Natural Resources at least ten days prior to the date of the hearing.

(n) Expiration.

(1) Unless otherwise specified by the City Council at the time it is authorized, a variance will expire if the variance or conditional use permit is not utilized through obtaining a building permit or otherwise, one year from the date of its authorization.

(2) In the event that building plans or site plans are required to be approved by the Planning Commission or City Council before a building permit can be issued, such approval will have the effect of extending the term of the variance for a period of one year beyond the date of approval of such building or site plans.

(3) In the event that a change in use or a change in the application of the variance to the use or property occurs as a result of action by the occupant or owner or the application of the variance ceases for a continuous period of one year, the variance is considered expired and any subsequent use of the premises must be in conformance with the use regulations for the zoning district in which the property is located.

(4) A variance granted for a nonconformity expires when the nonconformity is discontinued as described in the definition in § 21.504(b).

21.501.11 RESERVED.

21.501.12 RESERVED.

DIVISION B: APPLICATION PROCESSES

§ 21.502.01 APPLICATION PROCESSES.

(g) *Radio frequency engineer review.* To cover the reasonable cost of the city retaining a qualified, independent radio frequency engineer in accordance with § 21.302.37(r)(2)~~[19.63.05(r)(2) of this code]~~, all variance applications for towers, antennas or wireless communication facilities shall include an additional fee as set forth in City Code Appendix A. In the event that the actual costs exceed the fee as set forth in City Code Appendix A, the applicant shall be required to pay half the additional cost. In the event that the actual costs are less than the fee as set forth in City Code Appendix A, the unused portion of the fee shall be returned to the applicant.

DIVISION D: NONCONFORMITY

§ 21.504 NONCONFORMITY.

(c) *Standards.*

(3) *Termination of rights.*

(C) Where nonconforming uses are removed or otherwise discontinued, requirements providing for expiration of variances, interim use permits and conditional use permits are set forth in § 21.501.04(g), 21.501.05(f), and 21.501.10(n)~~[19.23.04]~~.

DIVISION G: ~~[RESERVED]~~ENFORCEMENT

§ 21.506.50 ENFORCEMENT AND VIOLATIONS.

(a) Administered and enforced. The Zoning Code will be administered and enforced by the issuing authority. The issuing authority may institute in the name of the city any appropriate actions or proceedings against a violator as provided by statute or this code. Each day that a violation is permitted to exist shall constitute a separate offense.

(b) Conditions of approval.

(1) Conditions of approval attached to any decision of the City Council, Planning Commission, or issuing authority concerning the use of land or buildings or the development or alteration of any site or building will be binding on all owners, proprietors, tenants, occupants, inhabitants or residents, whether the original applicant or subsequent users of the property.

(2) The issuing authority may institute any appropriate action, including available civil legal remedies, to ensure compliance with the conditions of approval.

ARTICLE VI: DEFINITIONS

§ 21.601 DEFINITIONS.

The following words and terms when used in Chapter 21 will have the following meanings unless the context clearly indicates otherwise.

2004 MSP ZONING ORDINANCE. The restated and amended Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) zoning ordinance adopted by the Wold-Chamberlain Field Joint Airport Zoning Board effective on April 29, 2004.

ABOVE-GROUND FUEL TANK. A container, vessel or other enclosure designed to contain or dispense fuel that is located above the ground surface, that is not contained within a building or structure, and that is not part of or connected to a boat, motor vehicle or rail car.

ACCESSIBILITY HOUSING. Housing designed for occupancy by physically disabled or handicapped persons or physically disabled or handicapped families, in accordance with any of the following:

(A) Disabled by any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following bodily systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin and endocrine;

(B) Handicapped or disabled within the meaning of Title 12 U.S.C. § 1701q(d)(4) as one who has a physical impairment which:

(i) Is expected to be of long, continued, and indefinite duration;

(ii) Substantially impedes his or her ability to live independently; and

(iii) Is of such a nature that the ability to live independently could be improved by more suitable housing conditions.

(C) Disabled within the meaning of Title 42 U.S.C. § 423(d)(1)(A), which provides that a disabled person is one who has an inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which

can be expected to result in death or which can be expected to last for a continuous period of not less than 12 months.

ACCESSORY BUILDING. A subordinate building the use of which is incidental and customary to that of the principal building, and which may include, but is not limited to, detached garages, detached carports, storage buildings, gazebos, screen houses, playhouses, guard houses, dispatch houses, security houses, gate houses and similar structures.

ACCESSORY DWELLING UNIT. See **DWELLING, ACCESSORY.**

ACCESSORY USE. A subordinate use that is clearly and customarily incidental to the principal use of a building or premises; is operated for the benefit and convenience of the owner, customers, employees or visitors; that does not constitute more than 10 percent of the principal use floor area; that does not attract customers independently of the principal use; and that is located on the same lot as the principal building or use.

ACRYLIC FINISH. A texturable product with high yield acrylic solids and aggregate that provides a protective and decorative final top coat over portland cement plaster applied by spray or trowel.

ACRYLIC LATEX PAINT. A decorative product with low yield acrylic solids and no aggregate applied by spray, brush, or roller that results in minimal protective qualities.

AGRICULTURE, INDOOR. The growing of plants in a soil, nutrient, or water based solution, including hydroponics and accessory aquaculture, within an enclosed facility. This use type includes the incidental and accessory sale of goods produced on site.

AGRICULTURE, LIMITED. Raising chickens, farm poultry or farm animals subject to the limits of city code Chapter 12, Article IV. **LIMITED AGRICULTURE** does not include more intensive agricultural activities such as commercial farming, feedlots, fur farms, slaughtering or manure storage. Growing and harvesting plants for food or enjoyment within individual or community gardens is considered to be customarily incidental to other land uses and is permitted in all zoning districts.

AIRPORT HAZARD. Any structure, tree or use of land that obstructs the airspace required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the Airport; and any use of land that is hazardous to persons or property because of its proximity to the Airport.

AIRSPACE SURFACES. The surfaces established in § IV.A of the 2004 MSP zoning ordinance.

AIRSPACE ZONES. The land use zones established in § IV.A of the 2004 MSP zoning ordinance.

ANTENNA. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including, but not limited to, directional antennas, such as

panels, microwave dishes and satellite dishes, and omni-directional antennas, such as whip antennas.

APIARY. The assembly of one or more colonies of bees at a single location.

ARBOR. An open shelter typically constructed of latticework or exposed boards and often meant to provide partial shade or support climbing plants.

ARCADE. A roofed passageway supported by columns and attached to a building. **ARCADES** are typically open on at least one side and intended to provide weather protection to pedestrians and ground level tenant space entrances.

ARCHITECTURAL CONCRETE. Any cast-in-place concrete or pre-cast concrete where the exposed exterior concrete surface has been shaped, ground, scored, split or otherwise altered to produce a specific aesthetic texture or shadow and in which any color is integral to the concrete.

ARCHITECTURAL CONCRETE MASONRY UNITS. A concrete masonry unit on which the face has been shaped, ground, glazed, scored, split or otherwise processed to produce a unit with specific aesthetic texture or shadow and, when used as an external building surface in certain residential and all nonresidential zoning districts, all color is integral to the unit.

ARTIFICIAL ILLUMINATION. Any light which is produced by a mechanical means.

ARTISAN SHOP. A retail store selling art works and other handcrafted items where the facility includes an area, not to exceed 25 percent of the total shop floor area, for the crafting of the items being sold.

ARTS AND CRAFTS FESTIVAL. An association of two or more handcraft vendors who assemble at a defined location primarily for the purposes of selling directly to the consumer their arts of crafts.

AUAR or ALTERNATIVE URBAN AREAWIDE REVIEW. An alternative form of environmental review to determine impacts within a defined area as detailed in Minnesota Rules 4410.3610. The content and format of an AUAR is similar to that of an EAW, but provides for a level of analysis comparable to that of an EIS.

AUTO BODY SHOP. A shop that provides substantial motor vehicle body repair, painting or undercoating services, including collision repair services such as body part replacement, frame or fender straightening and repair.

AUTOMOTIVE SERVICE FACILITIES. Facilities which usually provide motor vehicle fuel and lubricants and/or which may provide tires, mufflers and other readily replaceable automotive parts. Repair services such as tune-ups and replacement of parts sold on premises are included, however, body work, painting, and machining of parts are not included.

AWNING. A roof-like cover, often of fabric, metal or glass designed and intended for protection from the weather or as a decorative embellishment, and which projects from a wall or roof of a structure over a window, walk, door or the like.

BANK or FINANCIAL INSTITUTION. An establishment with the primary purpose of deposit banking, including, but not limited to, commercial banks, savings institutions and credit unions.

BASEMENT. The portion of the building between the floor and the ceiling, which is partly below and partly above grade (as defined in the Building Code, Chapter 15), but so located that the vertical distance from the grade to the floor below is less than vertical distance from grade to ceiling.

BED AND BREAKFAST. Lodging establishments providing furnished sleeping accommodations along with a morning meal of food and beverages to the public for periods of less than one week. Also see **TRANSIENT LODGING FACILITY.**

BEEHIVE. A receptacle inhabited by a colony that is manufactured for the purpose of housing bees.

BEEKEEPER. A person who owns or has charge of one or more colonies of bees.

BEEKEEPING. The occupation of owning and breeding bees for their honey or beeswax subject to the limits of City Code Chapter 12, Article IV.

BERM. An earthen mound designed to provide visual interest, screen undesirable view and/or decrease noise.

BILLBOARD. An outdoor, off-site advertising sign with a sign area greater than 150 square feet.

BLUFF FACE. The finished grade surface of the Minnesota River Bluff.

BOARD OF ADJUSTMENT. The body established in § XII.A of the 2004 MSP zoning ordinance.

BOARDING HOUSE. A dwelling unit where lodging with or without meals is provided for compensation and occupied by five or more adult individuals. (See **FAMILY.**)

BODY ART ESTABLISHMENT. A place or premises, whether public or private, temporary or permanent in nature or location, where the practice of body art, whether or not for profit, is performed according to the provisions of § 14.376.

BREWERY, CRAFT/MICRO. A facility that produces for sale, distribution, and consumption beer, ale, malt liquor, or other beverages made from malt by fermentation and containing not less than .5 percent alcohol by volume, and which possesses the appropriate federal, state, and municipal licenses and which produces not more than 3,500 barrels of malt liquor in a calendar year.

BREWERY, REGIONAL/NATIONAL. A facility that produces for sale, distribution, and consumption beer, ale, malt liquor, or other beverages made from malt by fermentation and containing not less than .5 percent alcohol by volume, and which possesses the appropriate federal, state, and municipal licenses and which produces more than 3,500 barrels of malt liquor in a calendar year.

BREW PUB. A brewer who conducts retail on-sale intoxicating liquor or 3.2 percent malt liquor transactions at a restaurant operated in the place where the brewer manufactures fewer than 3,500 barrels of malt liquor in a year, the entire production of which is solely for consumption on tap on the licensed premises or for off-sale from that licensed premises in 64-ounce containers commonly known as “growlers.”

BRICK. A unit of building material that is made of clay or shale and subjected to heat treatment at elevated temperatures through a firing process. **BRICK** used as an exterior wall surface finish must meet all of the requirements for anchored veneer as proscribed by the Uniform Building Code, current edition.

BUILDING. Any structure built for the support, shelter or enclosure of persons, animals, chattels or property of any kind. **BUILDING** when used in this chapter includes “structure.”

BUILDING OFFICIAL. Includes the head of the Building and Inspections Division and his or her duly authorized agents and representatives in the Building and Inspections Division of the city.

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

BUSINESS DEVELOPMENT. A tract of land which is developed as a unit under single or unified ownership or control, which generally includes two or more principal buildings or uses but may consist of one building, and which contains a minimum of 5,000 square feet and has a combination of principal and supportive uses:

(A) Which contains a number of retail and service businesses serving the general public; and

(B) Which is open to occupancy by competitive uses.

CALIPER. The diameter of a tree measured six inches above the ground for trees four inches in diameter or less and measured 12 inches above the ground for trees greater than four inches in diameter.

CALIPER MEASURE. Tree diameter measure made one inch above the root flare.

CANOPY. A roof-like cover, often of fabric, plastic, metal or glass on a support, which provides shelter over a doorway. For purposes of §§ 21.301.21 and 21.502.01, the

definition of **CANOPY** must be an open tent, without sidewalls or drops on 75 percent or more of its perimeter.

CAR CARE CENTER. A grouping of automotive service-related uses which have a common architectural theme and shared access and circulation. The center must consist of three or more of the following: gasoline sales, lubricant sales and installation, car wash, sale of auto parts, installation of parts sold on the premises, minor automotive services such as tune-ups and repair and auto body estimating and repair (including painting) provided there be no exterior storage of damaged or inoperable vehicles or parts, or vehicles in the process of repair or painting and there be no discernible odors at the property line. However, machining of parts is not included.

CAR WASH. An establishment primarily engaged in cleaning or detailing of motor vehicles, whether self-service, automatic or by hand.

CARGO TRUCK. A truck whose design characteristics include a storage area in the form of an open, walled, or fenced bed, or of an enclosed box-like storage compartment, designed for the carrying of equipment or materials. The term is intended to include vehicles commonly referred to as flatbed trucks, stake trucks, box trucks, and straight trucks, but is not intended to include pickup trucks or vans.

CARPORT. A permanent covered structure, open on at least two sides, that provides shelter for one or more motor vehicles, trailers, recreational vehicles, storage or other personal property. **CARPORTS** are considered to be garages for the purpose of zoning regulations except that they do not satisfy single family and two family home enclosed parking space requirements. Lightweight, temporary, impermanent structures covered with metal, fabric, canvas, fiberglass or plastic and with metal, wood or plastic frames and poles, not designed to withstand significant wind or snow load, sometimes without footing or other approved anchoring systems, are considered to be tents or canopies rather than **CARPORTS**.

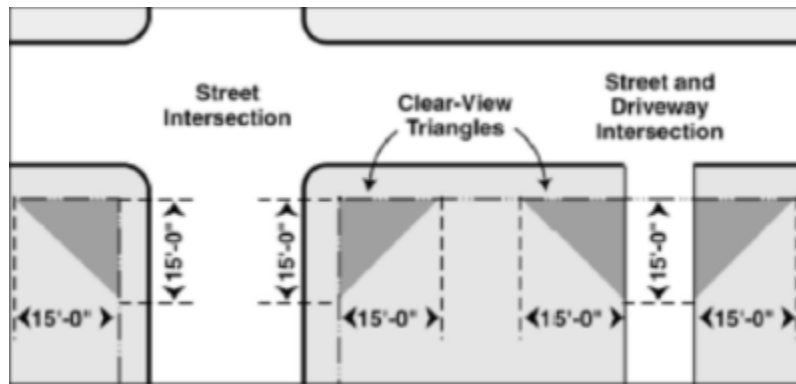
CATERING BUSINESS, MAJOR. A business that prepares food and/or beverages to be delivered off site for consumption with no on site retail sales other than operation of an affiliated mobile food unit. Incidental delivery of prepared individual meals in conjunction with on site food service is not considered a catering function.

CATERING BUSINESS, MINOR. A business that prepares food and/or beverages to be delivered off site for consumption in a manner that is secondary to and directly related to a permitted principal use, that does not exceed 25 percent of the total floor area of the related principal use, and that has no on site retail sales other than operation of an affiliated mobile food unit.

CEMETERY. An area used for the burial or entombment of one or more deceased persons, including graveyards, mausoleums and columbaria.

CLEAR VIEW TRIANGLE AREA. The triangular area to provide an unobstructed clear view to a height greater than three feet above the level of the center of the

adjacent intersection or driveway within the triangle of land formed on the corner of the lot by measuring a distance of 15 feet along each lot line from the street - property line intersection or lot line and driveway.



COATING. Sealing, painting or staining with any liquid or viscous material in any manner of application that includes, but is not limited to, brushing, spraying or trowling, but does not include a fired glaze on a clay product or concrete masonry unit.

COCKTAIL ROOM. An area for the on-sale consumption of distilled spirits on the premises of or adjacent to the distillery where distilled liquor is produced. A **COCKTAIL ROOM** may also include sale for off-premises consumption of distilled spirits produced at the distillery, subject to M.S. § 340A.22, subd. 4 or its successor.

COIN SALES. Sales of stamped metal issued by a governmental authority as money, whether or not currently serving as legal tender. Coins may have a numismatic value or intrinsic value greater than their denominational value and may be made of precious metals, gold, silver or platinum. **COIN SALES** is considered a retail sales use unless the sales are taking place through the mail, telephone or similar method that does not involve over the counter sales, in which case it is considered an office use.

COLLEGE or UNIVERSITY. A college, community college or other post secondary educational facility primarily engaged in the education of students, which may include one or more of the following components: teaching and research facilities; educational classroom space; public assembly; child care facilities, student center; food service facilities; laundry services; library; administrative offices; and recreation facilities.

COLLEGE/UNIVERSITY COMPLEMENTARY MEDICAL OFFICE. Complementary medical office uses, affiliated with a college or university and its teaching mission, that do not exceed 20 percent of the total floor area of the building in which they are located.

COLLEGE/UNIVERSITY COMPLEMENTARY RETAIL. Complementary retail sales uses, affiliated with a college or university, that do not exceed five percent of the total floor area of the building in which they are located, or 5,000 square feet in floor area, whichever is less.

COLONY. An aggregate of bees consisting principally of workers, but typically having one queen and at times drones, brood, combs, and honey.

COLUMBARIUM (PLURAL COLUMBARIA OR COLUMBARIUMS). A place such as a vault for the respectful and usually public storage of cremated human remains within cinerary urns. **COLUMBARIA** are accessory to places of assembly for worship, cemeteries or mausoleums.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

COMMUNITY EDUCATION OR ARTS CENTER. An establishment operated by a non-profit organization or government agency primarily devoted to educational, recreational and cultural facilities, displays, meeting rooms, social service facilities and public health facilities, or any combination thereof.

COMMUNITY GARDEN. A garden intended to be used and maintained by neighborhood residents for the purpose of growing produce, plants and flowers and for the general aesthetic benefit to a community.

COMPREHENSIVE PLAN. The adopted citywide plan to guide development and infrastructure, set city policy and meet the requirements of the State Metropolitan Land Planning Act.

CONGREGATE LIVING FACILITY. A type of housing in which occupants share a common dining room, recreational room, food service or other facilities, including but not limited to boarding houses, lodging houses, assisted living facilities, shelters and convents. A **CONGREGATE LIVING FACILITY** does not include bed and breakfasts, resorts, vacation homes, crash pads, hostels, multiple-family dwellings, temporary pandemic response housing or other uses separately defined.

CONSERVATORY. A green house or other glazed structure or building containing an array of native and/or exotic species of plants, flowers and vegetation.

CONTOUR. Synonymous with elevation and does not imply either existing or proposed circumstances unless specified.

CONVENIENCE FACILITY WITH FUEL SALES. An establishment where the principal uses are: a) the sale of automobile engine fuel including gasoline, hydrogen, propane, natural gas, biodiesel, ethanol, electric charging, or any other automobile engine fuel stored only in underground tanks directly to the public on the premises; and b) the sale of household and convenience items, food or other miscellaneous retail goods. Accessory uses may include but are not limited to a car wash, air dispensing, minor vehicle repair, and similar services.

CONVENTION CENTER. A structure used or intended to be used primarily for entertainment events, expositions, meetings, conferences, seminars, and other gatherings. Typical components include convention and exhibit halls. **CONVENTION CENTER** may include accessory uses, including but not limited to meeting rooms, auditoriums, cafeterias, dining rooms, recreational uses, and support services designed to accommodate planned entertainment events, expositions, meetings, conferences, and seminars.

COTTAGE FOOD OPERATION. An individual person who prepares, at the person's residence, non-potentially hazardous food subject to requirements in M.S. § 28A.152, as it may be amended from time to time.

CULTURAL CAMPUS. An interrelated collection of at least three of the following uses on one site that assist in cultural development with no one use occupying more than 50 percent of the floor area within the cultural campus use: community center, arts center, office, place of assembly, event center, indoor recreation and entertainment, university, makerspace, business incubator with shops and production space, restaurant, library, museum, and social service distribution facility. A cultural campus use may cross property lines and include multiple buildings provided the properties are contiguous.

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

CUSTOMARILY INCIDENTAL FEATURE. A subordinate feature that clearly and customarily accompanies the principal building and is located on the same lot as the principal building including, but not limited to accessory buildings, swimming pools, off-street parking, gardens, clothes lines, tree houses and similar features.

DATA CENTER. A building or portion thereof where digital information is processed, transferred or stored, occupying 10,000 square feet or more, where the space is primarily occupied by computers, servers, telecommunications, and related equipment, including supporting equipment.

DAY CARE FACILITY. A facility primarily engaged in the temporary care of children or adults, usually while their primary caregivers are at work, including but not limited to day care centers, preschools, early childhood learning centers and related uses.

DEALER IN MOTOR VEHICLES. Any person engaged in the business of buying, selling, wholesaling, leasing, brokering, auctioning or displaying motor vehicles, new or used, as a principal business or occupation, or as an adjunct to any other business, occupation, profession, enterprise or employment.

DENSITY. The number of dwelling units on a site divided by the gross site area, including, at the option of the landowner, land donated for public right-of-way purposes.

DESIGNATED RESIDENTIAL PROPERTY. Any property within the city that is:

- (A) Used residentially or subdivided for residential use;
- (B) Zoned residentially; and
- (C) Guided residentially by the Comprehensive Plan.

DEVELOPMENT POTENTIAL. The theoretical maximum dwelling unit density or maximum floor area which would be permitted in a zoning district without bonus provisions or planned development incentives.

DEVELOPMENT REVIEW COMMITTEE. Those persons designated by the City Manager whose work on a day-to-day basis involves processing or review of development projects.

DISCOUNT STORES. Retail stores selling goods and services across the counter under the concept of discounting, usually well-known brands of merchandise at substantial discounts from customary or list prices.

DISPLAY BOX. A shallow, framed box structure containing a glass or glazed windowpane that is built into or attached to a building wall and intended to be used for visual displays.

DISTILLERY, MICRO. A facility that produces ethyl alcohol, hydrated oxide or ethyl, spirits of wine, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for non- industrial use in total quantity not to exceed 40,000 gallons in a calendar year. A **DISTILLERY** may include a cocktail room.

DISTRICT. Includes both primary and secondary zoning districts.

DISTRICT PLAN. An adopted plan focused on one or more sites within an area that is intended to guide development, land use, transportation, preservation and other factors over a number of years or in several phases for a specific area or district.

DORMITORY. A building providing sleeping and residential quarters for individuals or groups associated with a college, university, institution, or boarding school.

DRIVE THROUGH. An accessory feature of a facility designed to enable the occupants of motor vehicles to make purchases or transact business from their vehicle, including the stacking spaces in which vehicles wait. Examples include, but are not limited to, restaurant drive throughs, bank drive throughs, pharmacy drive throughs, film drops and related facilities.

DRIVE-IN RESTAURANT. Any establishment where food, frozen dessert or beverage is sold to the consumer and where motor vehicle parking space is provided and where

such food, frozen dessert or beverage is intended to be consumed in the motor vehicle parked upon the premises or anywhere on the premises outside of the building.

DRIVEWAY. A private drive to an off-street destination such as a garage or parking lot providing access for motor vehicles from a public way or driveway approach. A DRIVEWAY does not include off-drive parking or turnaround area.

DRIVEWAY APPROACH. An area between the curb or pavement edge of a public street and the private property line intended to provide access for vehicles from a roadway or a public street to a driveway on private property.

DWELLING. One or more rooms designed for residential use by a single family that contain cooking, living, sanitary and sleeping facilities and that are physically separated from any other dwelling units in the same structure. Types of DWELLINGS are as follows.

(A) **DWELLING, SINGLE-FAMILY.** A building designed or used for residential occupancy by one family with or without an approved accessory dwelling unit.

(B) **DWELLING, ACCESSORY.** A secondary dwelling unit, but not a manufactured home built on a permanent chassis, located on the same lot as a single-family dwelling unit, either physically attached to, within, or detached from the single-family dwelling unit. Accessory dwelling units must be developed in accordance with the standards set forth in § 21.302.03.

(C) **DWELLING, TWO-FAMILY.** A building designed or used for residential occupancy by two families in separate dwelling units fully separated by an unpierced wall extending from ground to roof for a minimum of 10 feet, or an unpierced ceiling and floor extending from exterior wall to exterior wall, except for a common stairwell exterior to both units, including both duplexes and double bungalows but not including accessory dwelling units.

(D) **DWELLING, MULTIPLE-FAMILY.** A building that includes three or more dwelling units where dwelling units are configured in part vertically above and below other dwelling units.

(E) **TOWNHOUSE/ROWHOUSE.** A building or group of buildings that include three or more dwelling units on a site where the dwelling units are configured in a side by side fashion and share at least one common wall but are not vertically stacked.

DWELLING FOR WATCHMAN. One or more rooms, designed, occupied or intended for occupancy by one or two employees as a separate living quarter, and is intended to be accessory to an approved primary use.

DWELLING UNIT. One or more rooms designed for residential use by a single family that contain cooking, living, sanitary and sleeping facilities and that are physically separated from any other dwelling units in the same structure.

EAW or ENVIRONMENTAL ASSESSMENT WORKSHEET. A brief document designed to assess the environmental effects and set out the basic facts necessary to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.

EIS or ENVIRONMENTAL IMPACT STATEMENT. A detailed written statement as required by M.S. § 116D.04, subd. 2a used to evaluate proposed projects which have the potential for significant environmental effects.

ELECTRIC VEHICLE. Any vehicle that operates either partially or exclusively on electrical energy from an off-board source that is stored on board.

ELECTRIC VEHICLE CHARGER. Battery charging equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

ELECTRIC VEHICLE CHARGER - PRIVATE USE. An electric vehicle charger that is privately owned with restricted access to the public (single family homes, fleet parking, and assigned parking at multi-family residential buildings).

ELECTRIC VEHICLE CHARGER - PUBLIC USE. An electric vehicle charger that is publicly owned and publicly available or privately owned and available to visitors of the use.

ELECTRIC VEHICLE CHARGING LEVEL. The standardized indicators of electrical force, or voltage, at which an electric vehicle's battery is recharged as follows:

(A) Level 1 is considered slow charging with 120v outlets.

(B) Level 2 is considered medium charging with 240v outlets, charging head and cord hard-wired to the circuit.

(C) Level 3 is considered fast or rapid charging. Voltage is greater than 240v outlets.

ELECTRIC VEHICLE SUPPLY EQUIPMENT. Any equipment or electric component used in charging electric vehicles at a specific location.

ELEVATION. Has the meaning of height above mean sea level.

ENTERTAINMENT AND RECREATION SPECIAL EVENTS. Public or private events for promotional, charitable or entertainment purposes, including, but not limited to: circuses, fairs, rodeos, marathons, bike races and athletic events including those that utilize public property, public streets or public right-of-way; performers, entertainers, religious workers and the like who perform shows or hold gatherings. Events may require use of an indoor or outdoor area such as an arena, amphitheater, convention center or recreation field and may include temporary structures such as tents, stages, fencing and signs.

EQB or ENVIRONMENTAL QUALITY BOARD. Formed by M.S. Chapter 116C, the Minnesota Environmental Quality Board (EQB), is composed of state agency leaders and citizens from around the state for the purpose of providing leadership and coordination on environmental issues. The EQB functions as the coordinating body for Minnesota's Environmental Review Program.

EQUIVALENT. For the purpose of § 21.301.24, an equivalent exterior wall finish material will mean comparable to the listed materials in terms of strength, durability, quality of finish, structure integrity and safety, level of required maintenance and longevity.

ESTABLISHED RESIDENTIAL NEIGHBORHOOD. The areas identified in the 2004 MSP zoning ordinance as **ESTABLISHED RESIDENTIAL NEIGHBORHOODS** in built-up urban areas and listed in Exhibit B-Legal Description of Established Residential Neighborhoods and shown on Exhibit C-Map of Established Residential Neighborhoods in Built-up Urban Areas and pursuant to the criteria noted in the 2004 MSP zoning ordinance.

EXPANSION OF CONFORMING USES. Includes:

(A) An increase in structure dimension(s), size, area, volume, height, width, number of units and/or the land area of use;

(B) Placement of a structure or part thereof where none existed before; or

(C) An increase in intensity of use as compared to the original nature, function or purpose of the conformity.

EXTERIOR INSULATION FINISH SYSTEM (EIFS). A nonbearing exterior wall cladding system which is applied to a solid substrate or framing and includes a fastening system, insulation board, base coat, nonmetallic reinforcing fabric and a finish coat. The fastening system may be an adhesive, a mechanical fastener or a combination thereof. The system may also include primers, sealers and accessories such as trim, corner beads, stops or metal lath.

EXTERMINATING SHOP. A retail enterprise primarily engaged in the disposal of unwanted pests such as mice, cockroaches and other insects from homes and other places of business for compensation. Such a business may include incidental storage and handling of toxic and noxious materials, but is not a warehouse enterprise.

FAMILY. One or more persons related by blood, marriage or adoption, including foster children and domestic partners and civil unions recognized under Minnesota law, or a group of not more than four persons (excluding personal care attendants, in accordance with Minnesota Rules Rule 9505.0335), occupying a dwelling unit. This definition of family includes a functional household as defined in § 14.568, as well as those persons renting rooms. (See **BOARDING HOUSE.**)

FAMILY DAY SHELTER, UNLICENSED. A facility operated on property owned by a place of assembly for worship which provides temporary shelter for a family or families who are being assisted in finding permanent housing and/or employment and is not licensed by a federal, state or local governmental entity.

FARMERS MARKET. An association of two or more market vendors along with other vendors allowed by the City Code who assemble at a defined location primarily for the purpose of selling directly to the consumer the products of a farm or garden occupied and cultivated or raised by the person selling the product.

FENCE. An artificially constructed barrier enclosing, separating or screening areas of land, serving as a boundary, a means of protection, a buffer, a decorative element, a means of visually modifying the view, and/or for confinement. Except where otherwise required in this code, regulations governing the height, location and opacity of fences apply to walls used in lieu of a **FENCE** or in combination with a **FENCE**.

FINANCIAL INSTITUTIONS, LIMITED. Accessory retail financial institutions not to exceed 10 percent of the total related non-retail financial institution office space within the structure and without drive-through facilities, exterior banking services (ATM), and not to exceed two teller stations.

FIREARM. A device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion or force of combustion, as defined in M.S. § 609.666.

FIREARM MANUFACTURING, WAREHOUSING, OR DISTRIBUTION. An establishment engaged in the manufacture, warehousing, or distribution of firearm(s) or ammunition with no on-site retail sales, display, lease, trade, or other transfer of firearm(s) or ammunition.

FIREARM OFFICE. A temporary or permanent establishment facilitating the sale, lease, trade, or transfer of firearm(s) services with no on-site retail sales, display or inventory.

FIRING RANGE. A specialized facility designed for firearm(s) shooting practice with no retail sales, display, lease, trade, service, or other transfer of firearm(s), ammunition, or firearm(s) accessories.

FIREARM SALES, INCIDENTAL. A permanent establishment where the primary use is the retail sale of non-firearm items and where no more than 15 percent of the tenant's gross floor area is devoted to display and storage of firearm(s) and ammunition.

FIREARM SALES, PRIMARY. A temporary or permanent establishment for the retail sale, lease, trade, service, or other transfer of firearm(s), ammunition, or firearm(s) accessories where more than 15 percent of the tenant's gross floor area is devoted to display and storage of firearm(s) and ammunition for permanent establishments or any floor area is devoted to display or storage of firearms for temporary establishments.

FISH HOUSE. A detached, portable accessory building which is used for the purpose of shelter while fishing during the winter months, and which is not used or designed for use as an accessory building or storage shed.

FLOOR AREA. The floor area of a building or buildings is the sum of the gross horizontal areas of the several floors of such building or buildings exclusive of cellars or basements, except as to single-family residences as provided in subsection(E) below of this definition, measured from the exterior faces of exterior walls or from the centerline of party walls separating two buildings. In particular, **FLOOR AREA** will include:

(A) Elevator shafts and stairwells at each floor;

(B) Floor space used for mechanical equipment where the structural headroom exceeds seven and one-half feet, except equipment, open or enclosed located on the roof, i.e., bulk heads, water tanks and cooling towers;

(C) Interior balconies and mezzanines;

(D) Forty percent of porch or breezeway when the porch or breezeway is completely enclosed; and

(E) For single-family residences, the **FLOOR AREA** is the sum of the enclosed, finished horizontal areas which are at or above grade. In addition, the **FLOOR AREA** may include 50 percent of all other enclosed areas, including that portion of the building below grade, which are capable of being finished in accordance with the requirements of Chapter 15 of this code at the time of the issuance of the original building permit; however, garages, porches or breezeways may not be included in calculating required **FLOOR AREA.**

FLOOR AREA RATIO. The floor area of a building or buildings on a site, exclusive of parking structures, divided by the gross site area, including, at the option of the land owner, land donated for public right-of-way purposes.

FOOD SERVICE, PRIVATE. A facility not commonly used by the general public and accessory to office buildings, schools, manufacturing plants, charitable organizations and the like, containing a common dining area, equipment and supplies for the commercial preparation and serving of food.

FOOT CANDLE. The international unit of illumination produced on a surface.

FUEL PUMP, PRIVATE. A device used for the dispensing of fuel for motor vehicles that is not open to the public.

FUNERAL HOMES, MORTUARIES AND CREMATORIES. An establishment engaged in undertaking services such as preparing the human deceased for burial and arranging and managing funerals, including mortuaries and crematoria.

GARAGE, PRIVATE. A building or portion of a building used by the tenants of the building or buildings on the premises which is designed primarily for the storage of

motor vehicles including, but not limited to, automobiles, trucks, motorcycles and mopeds and has a finished opening greater than six feet in width. A carport is considered to be a garage for the purpose of zoning regulations.

GARAGE WIDTH. The linear width of the garage along the widest facade that includes garage doors measured from the outer edge of the garage wall to the outer edge of the opposite garage wall. For the purposes of determining driveway width in § 21.301.06, GARAGE WIDTH may not exceed the cumulative width of the garage doors on the measured facade plus ten feet.

GAZEBO. A detached accessory building which is used for the social or recreational shelter of persons and is not used as living quarters.

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

GLAZE.

(a) A finish for clay products made by firing a coating compound that consists of clay, silica, barium carbonate, calcium carbonate and zinc, or from premixed ceramic frit which are blended in a flux to promote fusion and may include other ingredients for color and texture. The resulting finish may be matte or glossy, textured or smooth, clear or opaque, or colored and is an integral part of the clay unit.

(b) A thermosetting glazing compound consisting basically of a silica and bonding resin slurry, to which other ingredients may be added for color, that is permanently molded to one or more faces of a concrete masonry unit on an individual unit basis by curing and heat treatment in a gas-fired tunnel kiln or comparable method to become an integral part of the unit.

GOVERNMENT FACILITIES, GENERAL. A building or site occupied by a public agency or agencies that provides non-residential services to the general public, with the exception of limited government facilities that are defined separately in the city code.

GOVERNMENT FACILITIES, LIMITED. Government facilities that involve activities of an industrial nature including, but not limited to, warehousing, open storage, recycling and manufacturing.

GRAFFITI-RESISTANT COATING. May be either permanent or sacrificial and must be restricted to a clear coating certified for that purpose which is resistant to weathering, is UV stable, does not change the appearance of the exterior wall finish material, must have no effect on the substrate, caulking or sealant material, and has a performance guarantee.

GROCERY STORE. A retail establishment that offers for sale food products, beverages, household items and may include pharmacy, and prepared food items.

GROSS SITE AREA. The land area of a site, including land donated for public right-of-way purposes.

GROUP FAMILY DAY CARE. Care for no more than 14 children at any one time, in the residence of the caregiver. The total number of children includes all children of any caregiver when the children are present in the dwelling unit.

GROUP HOME. A residential treatment facility for six or fewer persons that is licensed by the state as residential facility or registered with the state as a housing with services establishment and permitted as a single-family use pursuant to M.S. § 462.357, as it may be amended or recodified from time to time.

GROWING SEASON EXTENDER. Temporary devices such as hoop houses, cold frames, and the like, that are intended to extend a garden's growing season.

HEALTH CLUB. A facility, for profit or nonprofit, where members or nonmembers pay a fee to use equipment or space for the purpose of physical exercise, including, but not limited to, swimming, court games, martial arts, aerobics, jogging and muscular exercise programs which may or may not include accessory components such as therapeutic massage, tanning, saunas, whirlpools, locker rooms and related activities.

HELISTOP. An identifiable landing area for discharging and picking up passengers and goods by helicopter or similar vertical lift aircraft. A **HELISTOP** does not include refueling or servicing of aircraft, or permanent facilities such as terminals, hangars, warehousing or storage.

HOME BUSINESS. Any gainful occupation or profession compensated in monetary payment or in kind, conducted within a dwelling unit on the premises by an occupant of the dwelling unit as a use that is clearly incidental to the use of the primary dwelling unit for residential purposes.

HOSPITAL. An institution that offers health care services facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment or care for illness, injury, deformity, infirmity, abnormality, disease or pregnancy. **HOSPITALS** may include offices for medical and dental personnel, central facilities such as pharmacies, medical laboratories and other related uses.

HOTEL AIRPORT PARKING. Parking accessory to a hotel for the use of hotel guests to park or store motor vehicles for up to seven days while out of town provided such parking is in addition to the parking spaces required by this code for the hotel and its accessory uses and provided the parking does not exceed one space per ten hotel rooms.

HOTEL MANAGER DWELLING UNIT. A room within a hotel designed for residential use by the manager of the same hotel that contains cooking, living, sanitary, and sleeping facilities.

HOTEL OR MOTEL. Any building or combination of buildings containing six or more rooms used for sleeping purposes by guests in which a person or persons pay for occupancy, possession or tenancy of the property and where the actual term of occupancy, possession or tenancy of the property pursuant to that lease, license or other agreement is less than 30 consecutive calendar days. A **HOTEL OR MOTEL** does not include bed and breakfasts, resorts, vacation homes, crash pads, hostels, congregate living facilities, multiple-family dwellings, shelters, temporary pandemic response housing or other uses separately defined.

HOUSEHOLD HAZARDOUS WASTE. Waste generated from household activity that exhibits the characteristics of or that is listed as hazardous waste under Minnesota Rules Chapter 7045, but does not include waste from commercial activities that is generated, stored or present in a household. **HOUSEHOLD HAZARDOUS WASTE MATERIALS** include, but are not limited to, caustics, flammables, oxidizers, poisons, irritants and corrosives.

ILLUMINANCE. The amount of light energy reaching a given point on a defined surface. Common units of measurement for **ILLUMINANCE** are lux or foot candles.

ILLUMINATION. A deliberate use of light to achieve a practical or aesthetic effect on a surface or object.

IMPERVIOUS SURFACE. Any material which prevents absorption of storm water into the soil.

INITIAL LIGHT OUTPUT (OF A DISCHARGE LAMP). The total luminous flux emitted by a lamp after 100 hours of operation.

INSTITUTIONAL USES. Land uses that serve a community's social, educational, health, cultural and recreational needs. Uses include, but are not limited to schools, colleges, day care facilities, libraries, places of assembly, switching stations, funeral homes, nursing homes, monasteries, fire stations, assisted living facilities and community centers.

INSTRUCTIONAL CENTER. An educational oriented establishment offering scheduled instruction or tutoring in academic, professional, technical, commercial or trade skills, including, but not limited to, business, real estate, building and construction, electronics, computer programming and technology, automotive and aircraft mechanics and technology, and similar types of instruction.

INTEGRAL COLOR. Color that is intended to be of uniform composition throughout the entire depth of the material or is a fired glaze on a clay product or a cement masonry unit and is not a surface skin application of a liquid or viscous material coating.

INTEGRATED FUEL SALES AND CAR WASH. Fuel sales (including the sale of gasoline, hydrogen, propane, natural gas, biodiesel, ethanol, electric charging, or any other automobile engine fuel) and/or car wash physically integrated with and fully within a structured parking facility.

INTEGRATED ROADSIDE DEVELOPMENT. A planned development including at least two of the following primary uses: restaurant, motel and convenience facility with fuel sales, and located within a reasonable distance of a freeway.

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

ISSUING AUTHORITY. The City Manager or designated representative.

JUNK YARD. An open area where waste, used or secondhand materials are bought, sold, exchanged, stored, baled, parked, disassembled or handled including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles.

LABORATORY, MEDICAL OR DENTAL. An establishment primarily engaged in providing professional analytic or diagnostic services to the medical profession, or to the patient, on direction of a physician; or an establishment primarily engaged in making dentures, artificial teeth and orthodontic appliances to order for the dental profession.

LAKESCAPING. An unmowed strip of vegetation, emphasizing native wildflowers, grasses, sedges, shrubs and trees, extending inland from the shoreline of a pond, stream, wetland or lake for at least ten feet, maintained in a natural state for the purpose of minimizing shoreline erosion, improving water quality and promoting wildlife habitats.

LANDSCAPE EDGING. A material, typically set flush with the ground, used to differentiate a planting bed from turf or adjacent planting beds.

LANDSCAPE PLAN. An integrated set of documents that may consist of both drawn and written materials whose purpose is to identify, for a proposed development, the means of compliance with the landscaping, screening and site stabilization standards of the city code.

LANDSCAPING. Trees, lawns, plants and other natural and decorative site features including earth contouring, mounding and berms.

LIBRARY. A facility housing a collection of books, magazines or other material, that are generally loaned to the general public.

LIMITED USE. A subordinate use that does not constitute more than 25 percent of the total floor area in a building.

LOADING SPACE. A space accessible from a street, alley or way, in a building or in a lot, for the use of trucks while loading or unloading merchandise or materials.

LONG GRASS. Any grass that can reach a blade, stem or seed head height or length of at least one foot as part of its intended normal growth and use and is not developed, sold or intended to be used as a grain or as a manicured or semi-manicured lawn grass or ground cover that is normally intended to be maintained at a lower height by regular cutting.

LOT. A tract, plot or portion of a subdivision or other parcel of land intended as an individual unit for the purpose, either immediate or future, of transfer of ownership, or possession or for development.

LOT AREA. The area of a horizontal plane bounded by the front, side and rear lot lines measured within the lot boundaries.

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

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

LOT INTERIOR. A lot other than a corner lot.

LOT LINE. A property boundary line of any lot held in single or separate ownership, except that, where any portion of the lot extends into the abutting street or alley, the lot line will be deemed to be the street or alley line.

LOT LINE, FRONT. That boundary of a lot which is along an existing or dedicated street. The owner of a corner lot may select either street lot line as the **FRONT LOT LINE.**

LOT LINE, REAR. That boundary of a lot which is most distant from and is or is approximately parallel to the front lot line. If the **REAR LOT LINE** is less than ten feet in length or if the lot forms a point at the rear, the **REAR LOT LINE** will be deemed to be a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

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

LOT, PLATTED. A parcel of land described in whole by a numbered lot and block of a plat, tract of a registered land survey (RLS) or lot of an Auditor's subdivision. The term **PLATTED LOT** does not include outlots of a plat or portions of a numbered lot and block of a plat, tract of an RLS or lot of an Auditor's subdivision. Examples of a **PLATTED LOT** are: Lot 1 Block 1 ABC Addition, Tract A RLS No. 123 and Lot 12, Auditor's Subdivision No. 456. Examples of parcels that are not considered **PLATTED LOTS** are: the north half of Lot 1 Block 1 ABC Addition, east quarter of Tract A, RLS No. 123 and south half of Lot 12, Auditor's Subdivision No. 456.

LOT, THROUGH. A lot, other than a corner lot, having frontage on two public streets or highways.

LOT OR SITE WIDTH. The distance between the side lot or site lines of a lot or site measured, unless otherwise specified, along the shortest straight line that both: a) touches the minimum required front setback line; and b) at no point is closer to the front line than the minimum required front setback line.

LOW IMPACT, HIGH TECHNOLOGY MANUFACTURING. An establishment engaged in the manufacture or assembly of high value added technology products in a manner that does not create negative impacts on surrounding uses due to odors, smoke, dust, noise, vibration or other factors. Examples of high technology manufacturing that may also be low impact include, but are not limited to, the manufacture or assembly of computer components and medical devices.

LUMINANCE. A measure of light intensity per unit of area in a given direction. A description of the amount of light that passes through or is emitted from a particular area. Common units of measurement for luminance is a nit (candela per square meter).

MACHINERY AND EQUIPMENT REPAIR, HEAVY. The repair, servicing, maintenance, and reconstruction of machinery and equipment typically utilized by manufacturing and industrial establishments including: tool repair services, machine shops, welding shops, and other repair services similar in nature to those above.

MACHINERY AND EQUIPMENT REPAIR, LIGHT. The repair, servicing, maintenance, and reconstruction of equipment and appliances typically utilized by individuals and small businesses and offices including: furniture and upholstery repair, home appliances, electronics, precision equipment, jewelry and watches, shoes and other leather goods, lawn and garden equipment, and other repair services that are similar in nature to those above.

MAJOR COMMERCIAL GOLF FACILITY. A combined indoor and outdoor recreational golf driving range, not adjacent to a golf course, which may include associated uses such as a restaurant with or without entertainment, arcade, meeting facilities and ancillary sales of goods and services.

MAKERSPACE. A facility where shared manufacturing tools, such as 3-D printers, laser cutters, and hand tools and machines are used for the invention, fabrication, and storage of physical products, not for mass production. May include membership fees and be used incidentally as an instructional center.

MANDATORY ENVIRONMENTAL REVIEW. A formal review and assessment of the potential environmental impacts of a development project that meets mandatory thresholds for review pursuant to M.S. Chapter 116D and Minnesota Administrative Rules, Chapter 4410, Environmental Review. Mandatory environmental reviews are subject to the requirements in Chapter 21, Article V, Division F: Environmental Review.

MANUFACTURED HOME. Synonymous with mobile home, a structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on-site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein. This term also includes any transportable structure which meets all the requirements of state and federal law and with respect to which the manufacturer has filed a certification with

the state and has received the certification seal displayed on the structure. This may include transportable structures such as for an office or school space. It does not refer to recreational vehicles which are defined in § 21.301.13.

MANUFACTURED HOME PARK. Any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

MANUFACTURING/INDUSTRIAL, GENERAL. An establishment engaged in the manufacture of products or parts, predominately using previously prepared material, including processing, fabrication, assembly, treatments and packaging of such products, and the incidental storage, sales and distribution of such products.

MARINA. A place located on or immediately adjacent to a body of water where boats and other watercraft are kept, moored or stored for a consideration, and may include facilities for servicing, repairing, renting or selling watercraft and watercraft equipment or accessories.

MEDICAL MARIJUANA. Any species of the genus cannabis plant, or any mixture or preparation of them, including whole plant extracts and resins and is delivered in the form of (1) liquid, but not limited to oil; (2) pill; (3) vaporized delivery method with use of liquid or oil, but which does not require the use of dried leaves or plant form that has been approved the Commissioner of the Minnesota Department of Health under M.S. § 152.25, as it may be amended from time to time.

MEDICAL MARIJUANA DISTRIBUTION FACILITY. An establishment engaged in the sale of medical marijuana that is validly registered and approved by the State of Minnesota.

MENU BOARD. A sign installed at drive through facilities listing the products available for purchase by customers.

METAL. Any class of chemical elements, as gold, silver, copper, iron or aluminum, characterized by ductility, malleability, luster and conductivity of heat and electricity, or alloys of such elements, as brass or bronze.

MITIGATION. Mitigation includes:

(a) Avoiding impacts altogether by not undertaking a certain project or parts of a projects;

(b) Minimizing impacts by limiting the degree of magnitude of a project;

(c) Rectifying impacts by repairing, rehabilitating, or restoring the affected environment;

(d) Reducing or eliminating impacts over time by preservation and maintenance operations during the life of the project;

(e) Compensating for impacts by replacing or providing substitute resources or environments; or

(f) Reducing or avoiding impacts by implementation of pollution prevention measures.

MIXED MUNICIPAL SOLID WASTE. Garbage, refuse and other solid waste from residential, commercial, industrial and community activities which is generated and collected in aggregate, but does not include auto hulks, street sweepings, ash, construction debris, mining waste, sludges, tree and agricultural wastes, tires, lead acid batteries, used oil and other materials collected, processed and disposed of as separate waste streams.

MIXED-USE CENTER. A grouping of three or more different uses that have a commons as their central organizing feature and which may be developed in stages. The commons may be a combination of indoor and outdoor spaces on one or more levels which serve as a public access and plaza, restricted to pedestrian circulation, providing access to all uses in a mixed-use center.

MOBILE FOOD UNIT. A food establishment that is a vehicle mounted unit, either:

(1) Motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one site with the approval of the health authority; or

(2) Operated in conjunction with a permanent food establishment licensed under § 14.446 at the site of the permanent food establishment by the same individual or company, and readily movable, without disassembly, for transport to another location.

MOBILE HOMES. See **MANUFACTURED HOME.**

MOTOR VEHICLE. A machine propelled by power other than human power designed to travel along the ground by use of wheels, treads, runners or slides and transport persons or property or pull machinery and will include, without limitation, automobiles, trucks, trailers, motorcycles, tractors, wagons and snowmobiles.

MOTOR VEHICLE PARKING LOT. An approved off-street, ground level area, usually surfaced and improved, designed and intended for vehicular access to and from a parking area accessory and contiguous to adjacent uses, and for parking of motor vehicles limited to a maximum of 48 hours.

MOTOR VEHICLE SALES. Other than the occasional sale of motor vehicles by a private owner upon his or her own property in a residential district, **MOTOR VEHICLE SALES** consists of the buying, selling, leasing, wholesaling, brokering, auctioning or displaying any new, used, secondhand or junked motor vehicles, subject to the provisions of § 21.209(j)(1).

MOTOR VEHICLE SALES, CLASS I. The sale and service of new motor vehicles obtained directly from the manufacturer.

MOTOR VEHICLE SALES, CLASS II. The sale of used motor vehicles displayed on the premises, and taken in trade as part of the sale of a new or used motor vehicle or purchased or recovered from another dealer, leasing or rental business, or private individual, and where the primary purpose of the business is the sale of such used motor vehicles.

MOTOR VEHICLE SALES, CLASS III. The sale of used motor vehicles which are stored and displayed on the premises of a business whose primary activity is other than the acquisition of such vehicles for sale, resale, rental or leasing and in a location on the property which does not occupy parking spaces otherwise required to meet the requirements of this code.

MOTOR VEHICLE SALES, CLASS IV. The sale, brokering, lease or rental of new or used motor vehicles where no such vehicles for sale, resale, rental or leasing are stored or displayed on the premises of the business. **CLASS IV MOTOR VEHICLE SALES** will be considered permitted uses in all zoning districts where offices and office uses are permitted.

MOTOR VEHICLE SALES, ENCLOSED. The sale, brokering or lease of new or used motor vehicles where all vehicles for sale, resale or lease are stored and displayed entirely within a completely enclosed building on the premises of the business, including the storage and display of up to 30 motor vehicles within a parking structure and accessory to an enclosed motor vehicle sales facility. The use may also include minor vehicle repair in up to six service bays fully screened from view of any public street. All component uses require parking in accordance with § 21.301.06(d).

MOTOR VEHICLE SALES, HIGH DENSITY. The sale, brokering, or lease of new or used motor vehicles in a multi-level, fully enclosed structure(s) on a site with a floor area ratio of 0.6 or higher where vehicles for sale, resale, or lease are stored and displayed within a completely enclosed building on the premises of the business, except for up to 30 motor vehicles that may be stored or displayed outdoors. The use may also include minor vehicle repair limited to 25 percent of total floor area. No more than three overhead service doors may be visible from a public street, with no more than two overhead service doors within 50 feet of each other. All component uses require parking in accordance with § 21.301.06(d).

MOVED. The act of permanently establishing a structure upon a portion of land after removing same from another part of the same or a different lot, tract or parcel of land.

MULCH. A protective covering of materials placed around plants to control weeds and moderate evaporation of moisture or freezing. Examples of mulch include organic mulch such as wood chips, shredded hardwood and cocoa beans and inorganic mulch such as stones or rocks. Materials creating an impermeable cover will not be considered **MULCH.**

MURAL. A hand produced or machined visual graphic applied or affixed to the exterior surface of a building or structure through the application of paint, canvas, tile, metal panels, applied sheet graphic, or other medium. Any representation which identifies a business or building by logo, product, service, trademark, message, or slogan is considered a sign. Uniform painting or coating of an exterior building surface does not constitute a mural. A mural is separate and distinct from graffiti, which is defined in § 12.72.

MUSEUM. A museum or similar use which has as its primary purpose the collection, display or preservation of objects of community or cultural interest in one or more of the arts or sciences.

NATIVE PRAIRIE. An area of landscaping containing a diversity of native flora species in associations typical of presettlement ecosystems.

NIT. A unit brightness equal to one candle per square meter, measured perpendicular to the rays of the light source.

NURSING HOME/ADULT CARE HOME. A residential facility licensed by the State Department of Health (DOH) where individualized home care aide services or home management services are provided to residents either by the management or by providers under contract with the management; a facility for aged, chronically ill or incurable persons licensed by the State Department of Health providing nursing care and related medical services.

OFF-DRIVE PARKING AREA. An off-street area connected to a driveway intended for the parking of vehicles.

OFF-DRIVE TURNAROUND AREA (HAMMERHEAD). An off-street area connected to a driveway intended to allow vehicles to turn around on-site and exit on to roadways in a forward facing position.

OFFICE, GENERAL. An establishment providing executive, management, administrative or professional services, but not involving office/warehouse use, medical or dental services or the sale of merchandise, except as incidental to a permitted use. Typical uses include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, government, design, engineering, accounting and similar office uses.

OFFICE, HIGH INTENSITY/CALL CENTERS AND TELEMARKETING. An office use with a high level of employment per square foot of floor area, characterized by eight or more employees per 1,000 square feet of gross floor area.

OFFICE, MEDICAL OR DENTAL. An establishment principally engaged in providing therapeutic, preventative, corrective, healing and health-building treatment services on an outpatient basis by physicians, dentists and other practitioners. Typical uses include medical, chiropractic and dental offices and clinics.

OUTLOT. A parcel of land described by reference to a lettered outlot of a plat, which is intended for open space, right-of-way, drainage, holding or other purpose, for which no private development is presently intended.

OVERLAY ZONING DISTRICT. Established to additionally regulate uses and characteristics of uses permitted in primary zoning districts in order to protect the public health, safety and welfare from the improper use of land subject to flooding and other natural hazards or to provide for the most appropriate use of land by providing design flexibility to allow for the preservation of natural features, the efficient provision of streets and utilities and the sensitive blending of new development with existing uses.

OVER-THE-BLUFF STORM WATER DISCHARGE. Sheet surface drainage which flows on the surface of the Minnesota River Bluff, or Nine Mile Creek Bluff, but does not include storm sewers which do not discharge within the Bluff Protection Overlay District.

PAINTLESS DENT REPAIR/REMOVAL. A branch of auto body repair, dealing with the removal of minor pressure blemishes to metal, through a series of pushes to the backside of the damaged area, which may include the removal of interior panels to gain access to the damaged area, replacement of minor chrome molding or appliques, or paint application with use of a small brush or sponge tool.

PARCEL. A unit of land described by lot and block, by outlot designation, by tract designation in a registered land survey, or by other legal descriptions.

PARKED VEHICLE. Unattended vehicle stopped without its engine running not actively engaged in the receipt or discharge of passengers or goods.

PARKING ISLAND. Raised or depressed non-traffic areas in off-street parking lots, the placement of which is intended to improve safety and an orderly flow of traffic in the parking lot. **PARKING ISLANDS** in surface parking lots may often contain landscape plantings which also serve to visually break up large expanses of asphalt.

PARKING OF VEHICLES OFF-STREET. The temporary placement of motor vehicles for a period of less than 48 hours.

PARKING REDUCTION FLEXIBILITY MEASURES. Methods, agreements and strategies by which a property owner may achieve a reduction the required number of constructed parking spaces for off-street parking associated with a land use.

PARKING STRUCTURES. A structure or portion of a structure composed of one or more levels or floors used exclusively for the parking of vehicles and which may be totally below grade (as in an underground garage) or either partially or totally above grade with those levels being either open or enclosed. A **PARKING GARAGE STRUCTURE** is deemed an underground garage for the level(s) of parking which are fully below grade and are unexposed except for entrance and exit points.

PARKS, PRIVATE OR COMMERCIAL. An area with one or more elements of passive or active recreation such as sport courts and fields, indoor or outdoor golfing, children's play structures, walking or biking trails, natural features and the like, which are owned by or leased to private individuals or businesses, which are made available to groups beyond the private owners via rent or admission fees and which may be fee based. Privately owned property serving as public parkland via agreement does not qualify as a **PRIVATE OR COMMERCIAL PARK** when leased according to public park leasing policies.

PARKS, PUBLIC. An area with one or more elements of passive or active recreation such as court sports, children's play structures, walking or biking trails, natural features and the like which is open to the public.

PAWN SHOP. Any business establishment operated by a pawnbroker as defined in Chapter 14 of this code, in which pawn transactions take place.

PET SERVICES FACILITY. A business establishment that provides any of the following services or retail activity either individually or in combination, for pets and domestic animals as defined in § 12.91: animal sales, veterinary care, animal hospital, short-term daily care, training classes, boarding and grooming.

PLACE OF ASSEMBLY. A facility providing for the assembly of persons for interaction as a primary use, including community centers, and religious institutions, also referred to as **PLACE(S) OF ASSEMBLY FOR WORSHIP.** **PLACE(S) OF ASSEMBLY** do not include community education or art centers, schools, instructional centers, daycare facilities, family day shelters, conservatories, convention centers, libraries, museums, residential dwellings, recreational and entertainment facilities, theaters or social service distribution facilities which fall under separate definitions in this code.

PLANNED DEVELOPMENT. A development within the Planned Development Overlay Zoning District approved through the preliminary development plan and final development plan application processes.

PLANT NURSERIES AND GREENHOUSES. A place where plants are propagated and grown to usable size. They include retail nurseries that sell to the general public, wholesale nurseries that sell only to businesses such as other nurseries and to commercial gardeners, and private nurseries that supply the needs of institutions or private estates where they are located.

PLANTING BED. A designed area including, but not limited to, trees, shrubs, perennials and ground covers that is typically defined by landscape edging along turf boundaries and has a mulched surface.

PORTE COCHERE. A roofed structure extending from the entrance of a building over an adjacent driveway and sheltering those getting in or out of vehicles.

PRECIOUS GEM SALES. Sales of any gem that is valued for its character, rarity, beauty or quality, including diamonds, rubies, emeralds, sapphires or pearls, or any

other precious gems or stones, whether as a separate item or in combination as a piece of jewelry or other crafted item. **PRECIOUS GEM SALES** is considered a retail sales use unless the sales are taking place through the mail, telephone or similar method that does not involve over the counter sales, in which case it is considered an office use.

PRECIOUS METAL SALES. Sales of silver, gold, platinum and sterling silver, whether as a separate item or in combination, as a piece of jewelry or other crafted item, except items plated with precious metal or metals and the plating equals less than one percent of the item's total weight. **PRECIOUS METAL SALES** is considered a retail sales use unless the sales are taking place through the mail, telephone or similar method that does not involve over the counter sales, in which case it is considered an office use.

PRIMARY ZONING DISTRICT. Established to protect the public health, safety and welfare by designating specific areas for uses of similar characteristics and requirements. In these districts, further regulations are established which are designed to protect the public well-being by regulating the location and extent of land utilization.

PRINCIPAL BUILDING. A building, or combination of buildings, which contains the primary use of the site.

PRINTING and PUBLISHING. Establishments engaged in printing by letterpress, lithography, gravure, screen, offset or electrostatic (xerographic) copying, and other establishments serving the printing trade including bookbinding, typesetting, engraving, photoengraving and electrotyping. This use also includes establishments that publish newspapers, books and periodicals, and include "quick printing" services or desktop publishing.

PRODUCT DESIGN, DEVELOPMENT AND TESTING. The indoor design, development and/or testing of products in an office and/or laboratory environment without manufacturing.

PROPERTY OWNER. The legal owner of the property as officially recorded by the county.

PROTECTED RESIDENTIAL PROPERTY. Any property within the city that is:

(A) Used or subdivided for single-family, two-family, townhome or rowhome residential uses;

(B) Zoned residentially; and

(C) Guided residentially by the Comprehensive Plan.

PUBLIC ART. Any visual work of art, accessible to public view, including, but not limited to, sculptures, statues, murals, monuments, frescoes, fountains, paintings, stained glass or ceramics, and which does not contain advertising.

PUBLIC GOVERNMENT USE. A use approved by a local government council or board, which was elected by the citizens in and of which had local taxing authority.

PUBLIC RIGHT-OF-WAY. The planned right-of-way for a public street in accordance with the most recently adopted Master Street Plan of the city.

PUBLIC UTILITY. Persons, corporations or governments supplying gas, electric, transportation, water, sewer or land line telephone service to the general public. For the purpose of this chapter, commercial wireless telecommunication service facilities will not be considered public utility uses, and are defined separately.

PUBLIC UTILITY FACILITY, GENERAL. Facilities that support the provision of public utilities, including, but not limited to, water, sanitary sewer, storm sewer, telephone and electric facilities, with the exception of those utility facilities that are defined separately in this code.

PUBLIC UTILITY FACILITY, LIMITED. Electric generation plants, electric switching facilities and substations, electric transmission lines and above ground pipelines.

RAILROAD LINE. All railroad track, including, but not limited to, spur track, industrial track, team track, switching track and siding track.

RAIN GARDENS. Depressed areas in the landscape with perennial native plant materials designed to provide natural filtration of runoff.

RECREATION AND ENTERTAINMENT, INDOOR. An establishment that offers recreation and entertainment activities, for-profit or nonprofit, to the general public within an enclosed building. Typical uses include theaters, movie theaters, bowling alleys, skating rinks, game arcades, dance studios and the like.

RECREATION AND ENTERTAINMENT, OUTDOOR. An establishment offering recreation, entertainment or games of skill to the general public for a fee or charge wherein any portion of the activity takes place in the open. Typical uses include archery range, golf driving ranges and miniature golf course and other types of recreation and entertainment not otherwise defined.

RECREATION FACILITY. A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreation activities.

RECREATION FACILITY, COMMERCIAL. A recreation facility operated as a business and open to the public for a fee.

RECREATIONAL COURT (SPORTS COURT). Permanent or seasonal outdoor facility predominantly used for sports, including tennis and basketball courts.

RECYCLING COLLECTION FACILITY. A use performed in a fully enclosed building where scrap or salvage materials are shredded, milled, crushed, ground, bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, bottles, plastics and aluminum cans. A **RECYCLING FACILITY** may not include automobile wrecking or dismantling.

REMOTE AIRPORT PARKING. Off-site or remote parking and storage of motor vehicles for patrons of the Minneapolis/St. Paul International Airport, which may or may not include shuttles to relay passengers between the off-site parking and the airport terminals.

RESEARCH LABORATORY. An establishment in which scientific research, investigation, testing or experimentation is conducted, but not including facilities for the manufacture of products except as incidental to the research purpose of the laboratory.

RESIDENTIAL CARE FACILITY. A facility that provides custodial care to persons who, because of physical, mental, or emotional disorders, are not able to live independently.

RESTAURANT AND CLUB. An establishment engaged in the preparation and on-site retail sale of readily consumable food and beverages, and characterized by sit down table, counter or drive through service to customers. Establishments may include, but are not limited to, a coffee shop, cafeteria, fine dining, bar, fast food, take out, drive-in or sandwich stand serving food, licensed brewpub, and all other eating or drinking establishments.

REST HOME (NURSING HOME). A private home for the care of children or the aged or infirm or a place of rest for those suffering bodily disorders. Such home does not contain equipment for surgical care or for the treatment of disease or injury nor does it include maternity care or care of mental illnesses. Its minimum accommodation is six persons.

RETAIL, LARGE ITEM SALES. Facilities where large items are displayed and sold for later delivery, with minimal incidental over-the-counter sales. Examples include facilities that sell furniture, carpet, mattresses, large appliances, cabinets and other large items that are determined by the issuing authority to create similar parking demands per square foot, but specifically exclude motor vehicle sales, pawnshops and facilities with more than incidental over the counter sales. While classified separately for parking purposes, **LARGE ITEM RETAIL SALES** facilities are considered retail uses for determining use status in each zoning district.

RETAIL SALES AND SERVICES. An establishment primarily engaged in the sale or rental of goods and the provision of services directly to the consumer, excluding those uses defined more specifically in this code.

RETAINING WALL. A wall or terraced combination of walls used to provide barrier or restrain lateral forces of soil or other material and not used to support, provide a foundation for, or provide a wall for a building or structure.

REZONING. Actual changes in zoning or zoning boundaries.

RGU or RESPONSIBLE GOVERNMENT UNIT. The governmental organization that must oversee the preparation and analysis of environmental review documents. The

RGU can be any state agency or any local (county, city, township) or special purpose unit (watershed district, SWCD, etc.) of government in the state. The **RGU** is the governmental unit determined to have the greatest authority to approve or disapprove a project.

RUNWAY 4-22. The 11,006-foot precision instrument runway at the Airport, with a planned extension to 12,006 feet, whose 4-End is the end closest to the Cities of Bloomington and Richfield and who 22-End is the end closest to the Cities of Minneapolis and St. Paul.

RUNWAY 17-35. The 8,000-foot precision instrument runway at the Minneapolis-St. Paul International Airport (Wold-Chamberlain Field) whose 17-End is the end closest to the City of Minneapolis and whose 35-End is the end closest to the City of Bloomington.

RUNWAY PROTECTION ZONE. A zone mandated by FAA regulations that is longitudinally centered on the extended centerline of each end of Runways 4-22 and 17-35, whose in edge is at the same width and elevation as, and coincides with, the end of the primary surface, and that extends outward a horizontal distance of 2,500 feet expanding uniformly to a width of 1,750 feet.

SAFETY ZONES. The land use zones established in § V.A of the 2004 MSP zoning ordinance.

SALE. When applied to uses of land will be construed to include all transfers of title or possession of personal property whether or not absolute title passes and will include leases, rentals and loans.

SCENIC EASEMENT. Easements held by a governmental body in order to preserve the character of the existing landscape and topography.

SCHOOL (K-12). An establishment primarily engaged in providing instructional services to elementary students including associated early learning programs or secondary students with a curriculum that complies with state regulations.

SCREENING. A method of visually modifying the view of a structure, building, feature or use by methods such as fencing, walls, berms, densely planted vegetation or a combination of these methods.

SEASONAL SALES, OUTDOOR. Outdoor seasonal retail sales, where permitted, including, but not limited to, the seasonal sale of Christmas trees, plants, flowers, vegetables and related products available on a seasonal basis.

SECONDARY ZONING DISTRICTS. Established to additionally regulate uses and characteristics of uses permitted in primary zoning districts in order to protect the public health, safety and welfare from the improper use of land subject to flooding and other natural hazards or to provide for the most appropriate use of land by providing design

flexibility to allow for the preservation of natural features, the efficient provision of streets and utilities, and the sensitive blending of new development with existing uses.

SECONDHAND GOODS SALES. Sales of any tangible personal property, previously owned, used, rented or leased by a person other than the dealer offering it for sale, including without limitation: electronic audio or video equipment; firearms; musical instruments; sports equipment; photographic equipment; outboard motors, inboard drives; nautical sonar or radar devices; electric, pneumatic or hydraulic powered construction or mechanical equipment or tools; computers or computer-related equipment; cellular telephones or other communication devices; jewelry; coins, precious metals; artist signed or artist attributed original works of art and other secondhand goods or merchandise. **SECONDHAND GOODS SALES** are considered a retail sales use.

SELF-BREWING FACILITY. A facility that provides the ingredients and equipment for a customer to use to brew malt liquor or wine at the store.

SELF-STORAGE FACILITY. A building or group of buildings of one or more levels with, usually, but not limited to, the following characteristics: controlled access and secured areas which contain varying sizes of individual compartmentalized and controlled-access stalls or lockers for the dead storage of customer's goods or possessions.

SENIOR CITIZEN HOUSING. Housing designed and intended to be occupied principally by elderly persons or elderly families in accordance with any of the following:

(A) Eligible by age to receive an old-age benefit under Title II of the Social Security Act; or

(B) Eligible by age to receive housing assistance under housing programs financed by the city, the State Housing Finance Agency and the federal government.

SETBACK. The required minimum horizontal distance between a building or any other specified development feature and a street right-of-way line or any other lot line, disregarding encroachments permitted by § 21.301.02(g).

SEXUALLY-ORIENTED BUSINESS. An adult book store, adult body painting studio, adult companionship establishment, adult motion picture theater, adult entertainment facility, adult modeling studio, adult mini-motion picture theater, adult car wash or adult sauna as herein defined.

SHOPPING CENTER. A planned business development that:

(A) Contains a number of retail business uses, including at least a grocery store, a drug store and specialty stores;

(B) Contains a number of services, such as a barber shop, beauty shop, laundry and dry cleaning depots;

(C) Serves the day-to-day needs of the immediate neighborhood;

(D) Serves the general public; and

(E) Is open to occupancy by competitive uses.

SHOWROOM. The display only of merchandise and equipment samples where a sales agreement with a consumer is conducted and delivery of purchased merchandise is made from an off-site warehouse. Merchandise or equipment which is displayed is typically large bulky items and includes, but is not limited to, furniture, appliances, plumbing fixtures, lighting, and carpeting.

SHRUB. A low, usually several stemmed, woody plant.

SIGN. A display, illustration, structure, or device with a visual display designed to identify, announce, direct, or inform. The scope of the term “sign” does not depend on the content of the message, the ideas expressed, or the image being conveyed.

SIGNIFICANT NATURAL WOODED AREA. A grouping or cluster of evergreen and/or deciduous trees with a contiguous crown cover, occupying 5,000 or more square feet that are comprised primarily of deciduous trees no less than four caliper inches in diameter or evergreen trees no less than six feet in height, which are not listed on the city’s list of prohibited plants.

SITE. A lot, or group of adjacent lots intended, designated or approved to function as an integrated unit, that is proposed for development in accord with the provisions of this code and is in a single ownership or has multiple owners, all of whom execute a joint application for development.

SOCIAL SERVICE DISTRIBUTION FACILITY. An establishment primarily engaged in the temporary storage and distribution of donated food products, clothing, furniture, books and the like.

SOLAR POWER PANEL. A structure designed to collect solar energy. **SOLAR POWER PANELS** are subject to any code standards that apply uniformly to structures. **SOLAR POWER PANELS** are not subject to accessory building standards. When pole-mounted and over 15 feet in height, **SOLAR POWER PANELS** fall within the definition of a “tower” (except for small panels on public utility poles and for public utility purposes).

SPECIAL STUDIES IMPACT DETERMINATION. The requirement for an applicant to pay additional costs to the city for review of a land use application where special studies are needed, i.e., traffic, environmental, utility and the like, would be determined by a special studies impact determination prepared by the city.

SPORTS TRAINING FACILITY. A facility primarily designed to provide for sports training for athletes in a particular sport, including gymnasiums, multi-sports floors, training facilities, and flexible space for the purpose of sports practice and skills

enhancement. With sufficient parking, **SPORTS TRAINING FACILITIES** may include accessory large group classes and competition as subordinate activities. A **SPORTS TRAINING FACILITY** is considered to be distinct from commercial recreational services catering to the general public such as health and fitness clubs, shooting ranges, archery ranges, bowling alleys, arcades, driving ranges, miniature golf courses, skating rinks, racquet clubs, batting cages and the like.

STABLE, PRIVATE. A stable is any building located on a lot on which a residence is located, designed, arranged, used or intended to be used for not more than four horses for the private use of the residence, but must not exceed 600 square feet in area.

STABLE, PUBLIC. A stable where horses are kept for remuneration, hire or sale.

STAND, ROADSIDE. A structure for the display and sale of products with no space for customers within the structure itself.

STORAGE, EXTERIOR (INCIDENTAL). The outdoor storage of items directly related to the primary use of a site.

STORAGE, OUTSIDE (EXTERIOR). Exterior stockpiling or safekeeping of materials, machinery, equipment, tools, products, vehicles, shopping carts, snow and accessories. The parking of vehicles for a period of less than 48 consecutive hours does not constitute **OUTSIDE STORAGE.**

STORED VEHICLE. A parked vehicle that has remained in place at the same location for 48 consecutive hours or more.

STREET LINE. The dividing line between the lot and the street.

STRUCTURAL ALTERATIONS. Any change, other than incidental repairs, in the supporting members of a building or structure such as bearing walls or partitions, columns, beams or girders or any substantial change in the roof or exterior walls.

STRUCTURE. That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

STUDIO, AUDIO OR VIDEO. Facilities with studios for the creation and production of audio or video programming or recordings.

TAKE-OUT RESTAURANT. Any establishment which has as its principal business the preparation of food, frozen dessert or beverage for sale to be consumed away from the premises of the establishment. This does not apply to restaurants which occasionally sell such items for consumption away from the premises and does not apply to drugstores or grocery stores.

TAPROOM. An area for the on-sale consumption of malt liquor produced for consumption on the brewery premises or adjacent property in common ownership of the

brewer, which may include sales of malt liquor produced and packaged at the brewery for off-premises consumption as allowed by M.S. § 340A.285, or its successor.

TECHNOLOGY CAMPUS. A facility or group of facilities dedicated to development, manufacturing, and/or distribution of high-tech products and where a substantial proportion of the building floor area is dedicated to office uses as well as high-tech production and/or research and development.

TEMPORARY PANDEMIC, EPIDEMIC, OR EMERGENCY SERVICE FACILITY. A temporary facility that provides non-residential services in response to a pandemic, epidemic, or emergency.

TEMPORARY RECYCLING EVENT. An approved event on public or private property designed to collect recyclable materials for two days or less.

TEMPORARY STORAGE UNIT OR CONTAINERS. Transportable storage units designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis. **TEMPORARY STORAGE UNITS OR CONTAINERS** do not include dumpsters for construction debris or refuse, or self-propelled motor vehicles, and may not be used for habitation for humans or animals.

TENT. Any structure, including portable or temporary structures, consisting of a composite frame of stakes, beams, ropes, or cables, that is covered or enclosed or readily covered or enclosed with canvas or similar pliable materials and supported in any manner except by air or by the contents it protects.

THERAPEUTIC MASSAGE ENTERPRISE. Any business establishment providing therapeutic massage services to the public as defined in Chapter 14.

TINY HOUSE. A structure under 1,040 square feet, on wheels or sited on the ground (no trailer), and designed and intended for temporary or permanent residential use by a single family (excluding manufactured homes and recreational vehicles).

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

TOWER, MULTI-USER. A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

TOWER, SINGLE-USER. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this code.

TOWING SERVICE. An establishment engaged in the towing or storage of damaged, inoperable or impounded vehicles. Such use must not include the wrecking or dismantling of vehicles.

TOWNHOUSE/ROWHOUSE. A building or group of buildings that include three or more dwelling units on a site where the dwelling units are configured in a side by side fashion and share at least one common wall but are not vertically stacked.

TRAILER BED. That portion of a trailer that is designed to make contact with and bear the weight of the load to be carried.

TRANSIENT LODGING FACILITY. A dwelling of one or more units, or portion thereof, in which a person or persons pay rent for occupancy, possession or tenancy of the property and where the actual term of occupancy, possession or tenancy of the property pursuant to that lease, license or other agreement is less than 30 consecutive calendar days, including, but not limited to bed and breakfasts, resorts, vacation homes, crash pads, hostels and the like.

TRANSIENT MERCHANT SALES. Temporary sales of goods such as arts, crafts, cosmetics, personal apparel and household furnishings for not longer than three days in one week.

TRANSITWAY. High-demand travel corridors that offer improved transit service that includes bus rapid transit, light rail, or commuter rail.

TREE. A large woody perennial plant with normally one main trunk and many branches.

TREE, DECIDUOUS. A tree that loses its leaves in the winter.

TREE, EVERGREEN. A tree that retains its leaves in the winter. Generally, an evergreen tree's leaves are needles.

TREE, ORNAMENTAL. A deciduous tree that is anticipated to be 25 feet or less in height when mature.

TREE, OVERSTORY. A deciduous tree that is anticipated to be over 25 feet in height when mature.

TRELLIS. A frame of latticework used as a screen or as a support for climbing plants.

TRUCK AND/OR TRAILER RENTAL. A facility primarily engaged in the rental of commercial trucks and/or trailers that may include accessory rental of automobiles, with an automobile inventory no more than nine vehicles, consistent with any applicable performance standards.

UNIFORMITY RATIO. The point of greatest illumination divided by the point of least illumination.

USABLE OPEN SPACE. That part of a lot that is not covered by buildings, drives, and parking areas, is landscaped and developed for active or passive recreational and leisure use, is conveniently located and accessible to all the units and that is a minimum of fifteen feet in width and depth.

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

USE, PRINCIPAL. The main use of land, buildings or other structures as distinguished from a subordinate or accessory use.

USED CAR LOT. Any land used or occupied for the purpose of buying and selling secondhand passenger cars or trucks and the storing of same prior to sale.

VARIANCE. Approval of a deviation from a zoning ordinance, as authorized by M.S. 462.357, subd. 6, as it may be amended from time to time, where the landowner proposes a reasonable use of the property not permitted by the zoning ordinance, practical difficulties exist because of conditions or circumstances unique to an individual property and not created by the property owner, and such approval will not alter the essential character of the locality.

VEHICLE REBUILDING AND BODY WORK. The rebuilding or reconditioning of motor vehicles; body, frame or fender straightening; painting; rust-proofing; or other similar activity.

VEHICLE RENTAL FACILITY. A facility primarily engaged in the rental of automobiles or light trucks and vans that may include incidental parking and servicing.

VEHICLE REPAIR, MAJOR. An establishment engaged in performing major repairs and service to passenger automobiles, trucks, vans and motorcycles. **MAJOR REPAIR** may include all activities of repair or servicing allowed in a minor automobile repair establishment as well as major engine and transmission repair and replacement and paintless dent repair (pdr). The rebuilding or reconditioning of passenger automobiles, body, frame, painting, rust-proofing or other similar activity is not considered **MAJOR VEHICLE REPAIR** and is defined separately.

VEHICLE REPAIR, MINOR. An establishment engaged in performing minor repairs and service to passenger automobiles, trucks, vans and motorcycles. **MINOR REPAIR** may include muffler replacement, oil and fluid changing and lubrication, tire repair and replacement except tire recapping, wheel alignment, brake repair, suspension repair, minor engine and transmission repair, flushing of radiators, servicing of air conditioners, any minor maintenance, repair or replacement of motor vehicle components such as audio system installation, window tinting, wheel rim upgrades, engine tune-ups, vehicle diagnostic analysis and other vehicle inspections, lubrications, remote car starts, engine or exhaust add-ons and other after market parts, and similar minor repairs and service.

WAREHOUSING. The indoor storage of materials, equipment or products. **WAREHOUSING** does not include self-storage facilities, which are defined separately.

WAREHOUSING, LIMITED. The indoor storage of materials, equipment or products including such customary and incidental activities as approved with the conditional use permit. **WAREHOUSING, LIMITED** has infrequent truck traffic, no open storage of materials and does not involve manufacturing. **WAREHOUSING, LIMITED** does not include self-storage facilities, which are defined separately.

WHOLESALEING. An establishment primarily engaged in the sale of goods to retailers or other business users, or to other wholesalers and related subordinated services.

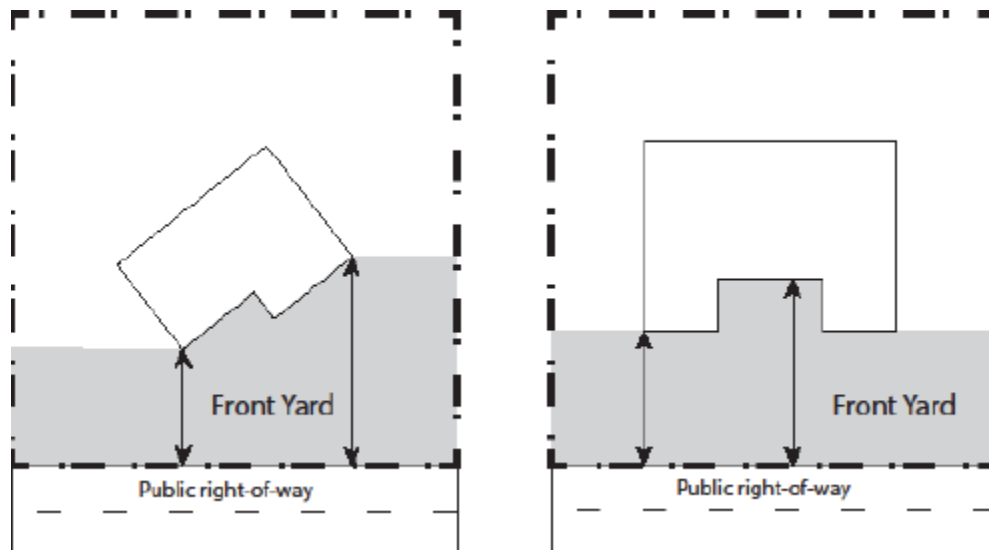
WINERY, CRAFT. A facility that manufactures wine, which includes vermouth, cider, sherry, and sake as defined by M.S. § 340A.301, with a capacity of 108,500 or fewer gallons a year.

WORK/LIVE UNIT. A built space used or designed to be used both as a workplace, where the primary work is performed on site, and as a residence by one family, and where the residential use is secondary to the primary use as a place of work.

XERISCAPING. Landscaping with slow-growing, drought tolerant vegetation or other decorative features for the purpose of conserving water and reducing yard waste.

YARD. An open unoccupied space other than a court, unobstructed from the ground to the sky, except where specifically provided by the Building Code, Chapter 15, on the lot on which a building is situated.

YARD, FRONT. The portion of the yard lying between a front lot line and the front line of the principal building, or if there is no principal building, the required front setback line across the full width of the lot between the side lot lines as represented below.



YARD, REAR. The portion of the yard lying between the rear lot line and the rear line of the principal building, or if there is no principal building, the required rear setback line across the full width of the lot between the side lot lines. In those locations where an

alley is platted in the rear of the lots, one-half of the width of the platted alley may be included as part of the rear yard area for required setback and encroachment purposes.

YARD, SIDE. The portion of the yard lying between a side lot line and the side line of the principal building, or if there is no principal building, the required side setback line between the front and rear yard.

Section 15. That Chapter 22 of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

CHAPTER 22: SUBDIVISION AND PLATTING

DIVISION B: REQUIREMENTS

§ 22.03 WHERE REQUIRED.

(a) Where platting is required.

(2) Permit issuance. Platting is required to obtain a footing and foundation permit or a building permit. Footing and foundation or building permits may not be granted upon land that is not described as a platted lot.

Exceptions: platting is not required for permit issuance in the circumstances noted below:

(D) The erection of, or additions to, garages and accessory buildings as defined in ~~[city code]~~ § ~~[19.03]~~21.601;

Section 16. That Appendix A of the City Code is hereby amended by deleting those words within brackets and ~~[stricken through]~~ and adding those words that are underlined, to read as follows:

APPENDIX A: ADMINISTRATIVE RELIEF AND FEE SCHEDULE

<i>[Chapter 19: Zoning]</i>			
<i>[CODE SECTION]</i>	<i>[CROSS-REF]</i>	<i>[DESCRIPTION]</i>	<i>[FEE]</i>

§19.87.04(h)		[Shore Area Permit]	
		[(A) For vegetation removal/alteration only]	[\$120]
		[(B) For grading/filling only]	[\$120]
		[(C) For all other permits]	[\$155]

CODE SECTION	CROSS-REF	DESCRIPTION	FEE
Chapter 21: Zoning and Land Development			
§ 21.501.06(l)(1)(F)		Master Sign Plan Violations-Administrative Citation	\$1,000 per violation
§ <u>21.501.09</u> [19.87.04(h)]		<u>Shore Area Permit</u>	
		<u>(A) For vegetation removal/alteration only</u>	<u>\$120</u>
		<u>(B) For grading/filling only</u>	<u>\$120</u>
		<u>(C) For all other permits</u>	<u>\$155</u>
Zoning and Development Application Fees			

Passed and adopted this 18th day of November, 2024.

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney