**Council Study Session**
City Hall Council Chambers
November 14, 2022

# AGENDA

1. **City Council Discussion of Agenda Items and Questions - 6 p.m.**
2. **Miscellaneous**
   a. Early Start for November 28 Work Session
3. **Discussion of Work Session Agenda Item as Time Permits**
4. **Adjourn**

**CITY COUNCIL MEETING**
City Hall Council Chambers
November 14, 2022

# AGENDA

## 1. Informal Open Forum with City Council - 6:45 p.m.

Provides an opportunity for the public to address the Council on items which are not on the agenda. Open Forum will be limited to 15 minutes, it is not televised, and it may not be used to make personal attacks, to air personality grievances, to make political endorsements, or for political campaign purposes. Council Members will not enter into a dialogue with presenter. Questions from the Council will be for clarification only. Open Forum will not be used as a time for problem solving or reacting to the comments made but, rather, for hearing the presenter for informational purposes only.

I will first call on those who notified the Clerk that they would like to speak during open forum, and then I will ask if anyone else connected to this meeting would like to speak. When I do, please indicate your name and then proceed when I call on you. Please be sure to state your name and address before speaking.

## 2. Invocation - Lawrence-Anderson - 7 p.m.

## 3. Call to Order Regular Business Meeting

The City Council requests that attendees turn off cell phones and pagers during the meeting. A copy of the full City Council packet is available to the public. The packet ring binder is located at the podium.

## 4. Roll Call

## 5. Pledge of Allegiance

## 6. Approval of Agenda and Consent Agenda

The following items are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event the item will be removed from the consent agenda and considered at the end of Council Consideration Items.

a. Approval of Minutes

*- Motion to approve the following minutes:*

- *Oct. 24 - Study Session*
- *Oct. 24 - Regular Session*

b. Approval of Licenses

*- Motion to approve the licenses as presented.*

c. Resolution Approving and Entering into a Joint Powers Agreement with the City of Brooklyn Park Regarding Workforce Development Initiatives

*- Motion to approve a resolution approving and Entering into a Joint Powers Agreement with the City of Brooklyn Park Regarding Workforce Development initiatives using ARPA Funds*

d. Resolution Declaring a Public Nuisance and Ordering the Removal of Diseased Trees at Certain Properties in Brooklyn Center, Minnesota

*- Motion to approve a resolution declaring a public nuisance and ordering the removal of diseased trees at certain properties as listed in the resolution.*

e. Resolution Declaring a Public Nuisance and Ordering the Removal of Dead Trees at Certain Properties in Brooklyn Center, Minnesota

*- Motion to approve a resolution declaring a public nuisance and ordering the removal of dead trees at certain properties as listed in the resolution.*

f. Resolution Establishing Interest Rate for 2023 Special Assessments

*- Motion to approve a resolution establishing interest rate for 2023 special assessments.*

g. Resolution Establishing 2023 Street and Storm Drainage Special Assessment Rates

*- Motion to approve a resolution establishing the 2023 street and storm drainage special assessment rates for street and utility improvement projects.*

h. Resolution Authorizing Execution of Professional Service Agreements with Qualifying Consulting Firms

Motion to approve a resolution authorizing execution of professional service agreements with qualifying consultant firms.

i. Resolution Awarding Audit Engagement Letter

*- Motion to approve a Resolution Awarding an Audit Engagement Letter*

j. Resolution Approving A Ten Year Commitment for LOGIS ERP and Utility Billing Software Applications

*-Motion to Approve a Ten-Year Commitment for LOGIS ERP and Utility Billing Software Applications*

## 7. Presentations/Proclamations/Recognitions/Donations

a. Fourth Judicial District Judge Barnette

*- Motion to accept the presentation*

b. Random Acts of Kindness Proclamation

*- motion to adopt the Proclamation for Random Acts of Kindness and declare November 17, 2022 as Random Acts of Kindness Day*

## 8. Public Hearings

a. An Ordinance Amending the Mayor and Council Salaries for 2023 and 2024 (Second Reading)

*-Motion to:*

- *Open the public hearing;*
- *Take public input; and*
- *Close the public hearings.*

*-Motion to adopt an ordinance amending the salaries for Mayor and Council for 2023 and 2024*

b. An Ordinance Adopting a Unified Development Code and Amending the City Code of Ordinances by Repealing Chapters 15 and 34 and Repealing and Replacing Chapter 35 (Public Hearing and First Reading)

(1) Motion to:

- Open the public hearing;
- Take public input; and
- Close the public hearing.

(2) Motion to approve a first reading regarding the adoption of the Unified Development Code and an amendment of the City Code of Ordinances by repealing Chapters 15 and 34 and repealing and replacing Chapter 35, and set the second reading for December 12, 2022.

**9. Planning Commission Items**

**10. Council Consideration Items**

a. Resolution Awarding the Sale of $4,670,000 General Obligation Improvement and Utility Revenue Bonds, Series 2022A Fixing Their Form and Specifications; Directing Their Execution and Delivery; and Providing for Their Payment

*-Motion to approve a resolution awarding the sale of $4,670,000 General Obligation and Utility Revenue Bonds, Series 2022A fixing their form and specifications; directing their execution and deliver; and providing for their payment.*

**11. Council Report**

**12. Adjournment**

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Barb Suciu, City Clerk/Interim Assistant City Manager

SUBJECT: Approval of Minutes

**Requested Council Action:**

*- Motion to approve the following minutes:*

- *Oct. 24 - Study Session*
- *Oct. 24 - Regular Session*

**Background:**

In accordance with Minnesota State Statute 15.17, the official records of all meetings must be documented and approved by the governing body.

**Budget Issues:**

None

**Inclusive Community Engagement:**

None

**Antiracist/Equity Policy Effect:**

None

**Strategic Priorities and Values:**

Operational Excellence

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| 10.24 Study Session | 11/8/2022 | Backup Material |
| 10.24 Regular Session | 11/8/2022 | Backup Material |

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

STUDY SESSION
OCTOBER 24, 2022
CITY HALL – COUNCIL CHAMBERS

## CALL TO ORDER

The Brooklyn Center City Council met in Study Session called to order by Mayor Mike Elliott at 6:07 p.m.

## ROLL CALL

Mayor Mike Elliott and Councilmembers Kris Lawrence-Anderson and Dan Ryan. Councilmembers Marquita Butler and April Graves were absent and excused. Also present were City Manager Reggie Edwards, City Clerk/Interim Assistant City Manager Barb Suciu, Communications & Community Engagement Manager Angel Smith, and City Attorney Jason Hill.

## CITY COUNCIL DISCUSSION OF AGENDA ITEMS AND QUESTIONS

None at that time.

## MISCELLANEOUS

Councilmember Lawrence-Anderson asked for an update from Staff regarding Random Acts of Kindness. City Manager Reggie Edwards explained there will be a proclamation soon and staff has been planning some more events to better celebrate Random Acts of Kindness. There will be food, media, and other activities.

Mayor Elliott asked for a copy of the proclamation in advance so he could edit it.

Councilmember Ryan noted a couple of homes in Brooklyn Center have been damaged due to a storm earlier that year. Neighbors have raised issues with the house as the repairs have not been made. He explained he would forward the information along to Dr. Edwards to follow up with the concerned neighbors.

Councilmember Lawrence-Anderson asked when the meeting will be to allow for feedback from the public regarding recommendations from the Implementation Committee. Office of Community Prevention, Health, and Safety Interim Manager LaToya Turk stated Staff is still waiting to hear back from venues regarding availability.

## DISCUSSION OF WORK SESSION AGENDA ITEMS AS TIME PERMITS

## PURCHASING POLICY

Councilmember Lawrence-Anderson stated there are a few things in the policy that the Council should consider. Also, it should be reviewed by the Finance Commission. Mayor Elliott stated he would agree to the review by the Finance Commission.

Councilmember Ryan noted his agreement and added he had some points to discuss regarding the Purchasing Policy. Mayor Elliott stated it is Councilmember Lawrence-Anderson's turn to speak.

Councilmember Lawrence-Anderson added she would like input from the current Staff that does data entry and other financial tasks. Feedback from Staff should be shared with the Council and the Finance Commission.

City Manager Dr. Edwards stated he would gather feedback from Staff to share with Council and the Commission regarding the current policy.

Mayor Elliott asked when the current policy was updated. Dr. Edwards stated it was updated in 2019 most recently.

Mayor Elliott asked for the audience to abstain from yelling out comments.

Mayor Elliott asked if the revisions in 2019 were just the increase for the financial limit in accordance with the new statute. Dr. Edwards stated he would have to look into the details more to see what specific changes were made. He added there were updates in 2016, 2017, 2018, and 2019.

Councilmember Lawrence-Anderson pointed out the maximum purchasing power increased significantly in 2019, and she would like more details about that change. She explained she understands the change applies to the City as a whole. However, she would like to know if a purchasing maximum of $50,000 would create difficulties for Staff. Ultimately, the Council should avoid implementing an arbitrary number.

Mayor Elliott added it would be beneficial for the Finance Commission to review purchasing policies of other cities.

Councilmember Ryan explained the City should review its process of selecting and reviewing vendors. A vendor provided false information on an application recently. That could result in poor quality work or no work would be completed after payment. He noted his agreement with the ideas expressed by Councilmember Lawrence-Anderson.

Councilmember Lawrence-Anderson noted she would like the City to consider an official grant policy. The Finance Commission could provide feedback. The Council has received concerns

from the community regarding certain grants the City has accepted. They could set a policy that requires the Council to review grants of a certain amount of money or City obligations. The Council needs to be aware of large grants and their implications.

Dr. Edwards confirmed there is no grant policy similar to the purchasing policy. The staff has been working on a grant policy, but it has taken a backseat to budget efforts.

Councilmember Lawrence-Anderson noted the Finance Commission can do a little bit of legwork to support Staff and streamline the process. It might be a few months before the Finance Commission could consider a grant policy as it is nearing the end of the year.

Councilmember Lawrence-Anderson added it is difficult to review certain projects while the budget hasn't been set and the purchasing policy is up in the air. She asked what the Council wants to see completed in the next six weeks. She asked if contracts should still be signed through the end of 2022 without review by the Council.

Mayor Elliott stated it would make sense to pause signing off on contracts until the purchasing policy is updated. Dr. Edwards explained there need to be some contracts signed and executed such as for roads or other infrastructure updates needed. It would pose several challenges if the signing of contracts were to be completely paused.

Councilmember Lawrence-Anderson stated she would like to be aware of the contracts and which ones will impact the 2023 budget. Mayor Elliott agreed he would like to see the contracts that have been executed, the term of the contracts, and an overview of what the contract entails. The draft policy allows for a limit of $175,000. He suggested the amount be lowered temporarily until the policy can be more thoroughly reviewed.

Councilmember Ryan noted some contracts entail a new initiative. Road construction, however, has been ongoing for countless years and has set up the City well in terms of infrastructure. Some projects need to be completed while some contracts, such as those that arose from the civil unrest, may require more contemplation.

Mayor Elliott explained there may be an issue without applying a policy consistently across projects. Road construction has certain requirements and standards set by the State and at a local level. Those projects are considered by the Council for approval anyways. He suggested any upcoming projects and contracts be shared with the Council. The Council could be informed without hindering Staff's execution.

Councilmember Ryan noted certain responsibilities of the City Manager should not be taken over by the Council. There is an important distinction between the two roles.

Mayor Elliott stated the Council would receive information from Staff regarding upcoming projects and contracts, information on the amount and length of the contract, and a summary of the contract for review. The Council should review information about contracts for $10,000 or

more.

Councilmember Lawrence-Anderson pointed out that the Council hasn't reviewed the entire purchasing policy. It is not their role to be involved in the minutia and every responsibility of Staff, but the Council is charged with setting parameters and being aware of the happenings in the City. Once the purchasing policy is reviewed and updated, then the Council can take a step back from considering every detail of every contract.

Councilmember Ryan agreed the policy should be reviewed while not interfering with Staff's ability to do their jobs. He added $10,000 is too low of a threshold and suggested the Council review contracts of $100,000 or greater instead. The State itself increased the purchasing power for a City Manager to $175,000.

Dr. Edwards explained the previous policy required a different number of quotes for different ranges of money. The legislature raised the threshold from $100,000 to $175,000 for the City Manager to handle seeking bids for projects. It is a local policy for the Council to review any purchases of over $175,000.

Mayor Elliott stated he would like to be informed of upcoming purchases or contracts under $175,000.

Dr. Edwards noted the weekly update could include upcoming contracts over $10,000 with a quick description and the amount. He asked if that would suffice for the needs of the Council.

Councilmember Lawrence-Anderson stated if they are considering the money that has already been budgeted and approved, she will defer to the Mayor. The difference is that the 2023 budget has not been set. The City needs to consider purchases going into 2023 as the budget hasn't been set yet.

Mayor Elliott stated the Council could be informed of purchases in the amount of $10,000 for 2022 items. If there are contracts to be signed based on the preliminary 2023 budget, they will be paused until the budget is adopted.

Dr. Edwards stated the City sets a budget without knowing what contracts will come up. The Departments will conduct contracts or find internal service providers within their allotted budget and budget category. Staff does not have a list of upcoming contracts to be completed throughout 2023. Mayor Elliott stated the known contracts can be made available to the Council.

Dr. Edwards stated the budget for the new year is based on previous expenditures and contracts, but the same vendor may not be used in the new year. Some contracts are not annual or based on calendar dates but instead on a project timeline. Some could be for three months and some for years.

Mayor Elliott stated all lengths of contracts should be shared with the Council to allow them to be

more informed. Dr. Edwards explained Staff may not be able to do that within the time frame the Council is asking as it is a significant amount of work.

Mayor Elliott suggested Staff begin the work. Any items based on the 2023 budget would be paused. Dr. Edwards stated some contracts have certain payment terms or schedules. A project budgeted for and mostly completed in 2022 may have some required payments in 2023.

Mayor Elliott stated the Council wants to know what the contracts are and to weigh in on what the City is spending money on in 2023. He asked how that goal could be achieved. Dr. Edwards stated Staff will make a list of all contracts and note which ones will bleed into 2023.

**ADJOURN STUDY SESSION TO INFORMAL OPEN FORUM WITH CITY COUNCIL**

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to close the Study Session at 6:43 p.m.

Motion passed unanimously.

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss. Certification of Minutes
CITY OF BROOKLYN CENTER)

The undersigned, being the duly qualified and appointed City Clerk of the City of Brooklyn Center, Minnesota, certifies:

1. Attached hereto is a full, true, and complete transcript of the minutes of a Study Session of the City Council of the City of Brooklyn Center held on October 24, 2022.

2. That said meeting was held according to due call and notice thereof and was duly held at Brooklyn Center City Hall.

3. That the City Council adopted said minutes at its November 14, 2022, Regular Session.

_____ _____
City Clerk Mayor

MINUTES OF THE PROCEEDINGS OF THE CITY COUNCIL
OF THE CITY OF BROOKLYN CENTER IN THE COUNTY
OF HENNEPIN AND THE STATE OF MINNESOTA

REGULAR SESSION
OCTOBER 24, 2022
CITY HALL – COUNCIL CHAMBERS

## 1. INFORMAL OPEN FORUM WITH CITY COUNCIL

### CALL TO ORDER INFORMAL OPEN FORUM

The Brooklyn Center City Council met in an Informal Open Forum called to order by Mayor Mike Elliott at 6:44 p.m.

### ROLL CALL

Mayor Mike Elliott and Councilmembers Kris Lawrence-Anderson and Dan Ryan. Councilmembers Marquita Butler was absent and excused and April Graves was absent. Also present were City Manager Reggie Edwards, Director of Public Works Liz Heyman, City Clerk /Interim Assistant City Manager Barb Suciu, Communications & Community Engagement Manager/Interim Assistant City Manager Angel Smith, and City Attorney Jason Hill.

Mayor Mike Elliott opened the meeting for an Informal Open Forum.

Jeff L. stated he is concerned about a lack of code enforcement. Near his home on the intersection of 58th and Logan, there are cars parked overnight while there is not supposed to be parking during certain hours overnight. He has called law enforcement multiple times. Law enforcement has informed one car owner of the rules, but more vehicles have not been addressed.

Jeff L. added there are several work vehicles at once in the residences and there is a large amount of siding, gutters, and other building materials in a certain yard. Jeff L. stated it isn't his responsibility to call time and time again.

Gary D. explained he lives on 39th and 51st, and there is a streetlight out. He has called regarding the streetlight, and Staff has informed him they are unsure if the light is the responsibility of the City or the County. The light has been out for multiple months. Mayor Elliott confirmed Staff will follow up on the matter. He noted some lights are owned by the City and some are owned by Xcel Energy, but they will contact Xcel Energy if it is their responsibility.

Mayor Elliott stated there is no enforcement of the on-street parking unless there is a complaint call. As for the trailer and the gutters, Staff should regularly check neighborhoods for such violations. Staff will follow up about the concern.

Ebony M. noted she lives in the Sterling Square Apartments. She and her neighbors are being harassed by Brian Hamilton. Every time the City codes Mr. Hamilton, he retaliates against the tenants. Any rent help assistance is not accepted as rent. He will hold the check without cashing it and claim a tenant has not paid rent. There is also an active restraining order against Mr. Hamilton from Kia Welch who used to live in the apartments. A door fell on her after civil unrest, and Mr. Hamilton never fixed it. Mr. Hamilton assaulted Ms. Welch.

Ebony M. stated she has also been harassed by Mr. Hamilton. He has expressed he is above the law and said the City and County are stupid. Ebony M. was recently at the hospital caring for her son after surgery, and Mr. Hamilton expressed he didn't care about her situation or the health of her son as he just wanted her to pay the rent. She stated the rent was mostly paid for the month, and she had until November 7th, or else she would incur a late fee. Mr. Hamilton stated he would not allow late rent, and he would take her to court if even a penny is late.

Ebony M. added Mr. Hamilton will not give her the CRP. He has also been demeaning her children. Mr. Hamilton bangs on the door while she is working at home and yells and threatens to harass her. She stated she filed a harassment restraining order against him last week. Mr. Hamilton also lets himself into the unit, and it has been caught on her ring doorbell.

Ebony M. stated Mr. Hamilton finds a way to keep any deposit when someone leaves and calls the tenant's next landlord to complain about the tenant. He evicts people after only a few months. Mr. Hamilton rents to convicted sex offenders and murderers. He also harasses tenants that don't speak English well and trick them into paying extra money because of the language barrier.

Ebony M. noted there is a sexual predator that lives in the apartments who has been messing with young girls in the area. Many units are in disrepair and missing closet doors or oven knobs. There are issues with carbon monoxide issues and tenants are facing respiratory issues.

Ebony M. offered to send over any audio recordings of his admissions, documented issues in the apartment, or any other evidence. Another neighbor also has similar proof. She and her family are losing the peace. Ebony M. has had to take off work to handle issues with Mr. Hamilton. Mr. Hamilton carries a gun himself, and that makes her feel unsafe. Ebony M. asked for some sort of mediation or intervention by the Council.

Mayor Elliott thanked Ebony M. for her comments. Sometimes the allegations seem unbelievable. When more people share their stories, it becomes more believable. He stated the issues fall across various issues in the City, and he and Staff will be sure to address them. It may make sense to start by having a meeting with more tenants to learn more and make their position more powerful. There are also likely issues the State will have to address.

Monica L. explained she is an advocate, community organizer, and real estate agent. She asked if Brooklyn Center requires rental licenses. Mayor Elliott confirmed Brooklyn Center requires rental licenses. He added she understands the inference.

Alfreda D. stated she and other community members are still waiting to hear from the Council if there is a policy in place that holds Councilmembers accountable for intimidation, arguing with community members, or making community members uncomfortable. There is a policy where community members would be removed from the meeting if they exhibit similar behaviors. Harassing behaviors discourage involvement from the community.

Alfreda D. asked if the Council has reviewed the email she sent in 2021 and recently resent regarding the issue of taking the grant for the fence around the Police Department. She stated only one Councilmember responded to her concerns. Brooklyn Center has a lot of immigrants, and Homeland Security has a policy that could require the Brooklyn Center Police Department to work on behalf of Immigration and Customs Enforcement. This is true despite the comments from the City Manager and Police Chief who have stated otherwise.

Alfreda D. added the fence makes a statement to the community of separation and that the public doesn't have ownership over the Police Department. The City is protecting properties over bodies. Brooklyn Center has a history of mistrust between community members and law enforcement. Brooklyn Center Police Department officers have twice killed a community member while community members have never killed a Brooklyn Center police officer. The fence symbolizes the protection of police over the community.

Mayor Elliott moved and Councilmember Ryan seconded to close the Informal Open Forum at 7:11 p.m.

Motion passed unanimously.

## 2. INVOCATION

Mayor Elliott noted Councilmember Lawrence-Anderson passed the Invocation along to Councilmember Ryan.

Councilmember Ryan noted the political season brings up a lot of emotion and misinformation. He read a quote from William Butler Yeats, "Things fall apart; the center cannot hold. Mere anarchy is loosed upon the world. The blood-dimmed tide is loosed, and everywhere. The ceremony of innocence is drowned. The best lack all conviction, while the worst are full of passionate intensity."

## 3. CALL TO ORDER REGULAR BUSINESS MEETING

The Brooklyn Center City Council met in Regular Session called to order by Mayor Mike Elliott at 7:14 p.m.

## 4. ROLL CALL

Mayor Mike Elliott and Councilmembers Kris Lawrence-Anderson and Dan Ryan.

Councilmember Marquita Butler was excused and Councilmember April Graves was absent. Also present were City Manager Reggie Edwards, Director of Public Works Liz Heyman, Engineering Technician III Erik Knutson, City Clerk/Interim Assistant City Manager Barb Suciu, Communications & Community Engagement Manager/Interim Assistant City Manager Angel Smith, and City Attorney Jason Hill.

## 5. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

## 6. APPROVAL OF AGENDA AND CONSENT AGENDA

Mayor Elliott noted Approval of Agenda and Consent Agenda Item 6c. Resolution Awarding Audit Engagement Letter would become Council Consideration Item 10a. Resolution Awarding Audit Engagement Letter.

Mayor Elliott moved and Councilmember Ryan seconded to approve the Agenda and Consent Agenda, as amended, and the following consent items were approved:

### 6a. APPROVAL OF MINUTES

1. October 10, 2022 – Study Session
2. October 10, 2022 – Regular Session

### 6b. LICENSES

**GASOLINE SERVICE STATIONS**

| | |
|---|---|
| Casey's General Store | 2101 Freeway Boulevard<br>Brooklyn Center, MN 55430 |
| YD Holdings<br>dba Holiday Station Store | 5710 Xerxes Avenue N<br>Brooklyn Center, MN 55430 |

**MECHANICAL**

| | |
|---|---|
| SC Service LLC | 28815 111Th Street NW<br>Zimmerman, MN 55378 |

**RENTAL**

*INITIAL (TYPE II – two-year license)*

| | |
|---|---|
| 2836 67th Lane N | Jose A Aguilar |

*INITIAL (TYPE I – three-year license)*

| | |
|---|---|
| 5418 70th Circle | Jazz Properties MN LLC |
| 5818 June Avenue N | Herman Capital Partners VII, LLC |

*RENEWAL (TYPE IV – six-month license)*

| | |
|---|---|
| 5338 Queen Avenue N | Thanh Kim Oan |
| 2223 Brookview Avenue N | Willie Mae Overstreet |
| 3813 61st Avenue N | Deluxe Properties LLC<br>Dhaneshwarie Himraj |
| 5432 Dupont Avenue N | Xiangming Guan & Ping He |
| 5700 Camden Avenue N | Danmark Properties LLC |
| 5937 Vincent Avenue N | Jack Johnson |
| 6130 Scott Avenue N | 2017 1 lH Borrower LP |
| 6749 Humboldt Ave N | Patrick Nguyen |
| 6800 Scott Avenue N | Hija Mwadini & Emmanuel Williams |
| 6820 Fremont Place N | Sharon McGary |
| 7018 Girard Avenue N | Carmen Ganga |
| *RENEWAL (TYPE III – one-year license)*<br>509 61st Avenue N | Timothy Martin Daniel |
| 1352 68th Lane N | Roth Wagner 2 LLC<br>Konrad Wagner |
| 3612 Commodore Drive | lh2 Property Illinois LP |
| 5250 Great View Avenue N | Cosco Property 5 LLC |
| 5500 Knox Avenue N | Mnsf li W1 LLC |
| 6212 Chowen Avenue N | Doreen Kalema |
| *RENEWAL (TYPE II – two-year license)*<br>5541 Morgan Avenue N | 5541 Morgan Ave LLC |
| 7021 Unity Avenue N | Geri L Williams |
| *RENEWAL (TYPE I – three-year license)*<br>4416 69th Avenue North | DMOW LLC – Diane Wright |

| | |
|---|---|
| 6424 Girard Avenue N | LIVEWELL HOME CARE LLC<br>R Sowemimo & O Sowemimo |

**TOBACCO RELATED PRODUCTS**

| | |
|---|---|
| Casey's General Store | 2101 Freeway Boulevard<br>Brooklyn Center, MN 55430 |
| Family Dollar | 2105 57th Avenue N<br>Brooklyn Center, MN 55430 |
| Premier Tobacco | Winner Gas<br>6930 Brooklyn Boulevard<br>Brooklyn Center, MN 55429 |
| Walmart | 1200 Shingle Creek Parkway<br>Brooklyn Center, MN 55430 |
| YD Holdings<br>dba Holiday Station Store | 5710 Xerxes Avenue N<br>Brooklyn Center, MN 55430 |

Motion passed unanimously.

**7. PRESENTATIONS/PROCLAMATIONS/RECOGNITIONS/DONATIONS**

**8. PUBLIC HEARINGS**

**8a. RESOLUTION NO. 2022-116; ORDERING IMPROVEMENTS AND AUTHORIZING PREPARATION OF PLANS AND SPECIFICATIONS FOR IMPROVEMENT PROJECT NO. 2023-02, 50TH AVENUE IMPROVEMENTS**

City Manager Reggie Edwards introduced the item and invited Ms. Heyman to make the staff presentation.

Public Works Director Liz Heyman stated there are three street improvement projects for 2023 to be reviewed in the presentation. She noted on November 14, 2022, it would be time to establish 2023 assessment rates. On December 12, 2022, the Council will hold an assessment public hearing and certify the assessment role. Then in 2023, there would be design, bid, and building processes.

Ms. Heyman noted the City initiated the Capital Improvement Program in 1993. The goal is to reconstruct aging public streets and utilities to extend the initial construction of the infrastructure.

Engineering Tech III Erik Knutson explained the first step in project planning is project evaluation regarding sanitary sewer, water main, storm drainage, streets, sidewalks, trails, and street lights. He showed a map of the Knox, James, and 54th Avenues area and photos of the current road conditions.

Mr. Knutson stated the proposed improvements for the area include full-depth pavement replacement, spot repair curb, and gutter and driveway aprons, turf restoration with sod that was impacted due to work, replacement of gate valves and hydrants, and replacement of storm and sanitary castings.

Mr. Knutson stated the proposed street and trail improvements to the 50th Avenue area include full-depth pavement replacement, spot repair curb, and gutter and driveway aprons where impacted by utility work, reconstruction of pedestrian curb ramps at all cross streets, replacement bituminous trail and the bottom portion of driveways to reduce the cross slope where feasible, turf restoration and sod were impacted due to work and replacement of water main components.

Mr. Knutson added the street and trial improvements to the 51st Avenue area including full-depth pavement replacement, spot repair curb, gutter and driveway, replacement bituminous trail and the bottom portion of driveways to reduce the cross slope where feasible, turf restoration, and sod were impacted due to work, and replacement of gate valves and hydrants.

Mr. Knutson then showed a table with the project summary for each of the three projects. Lighting would only be changed on 51st Avenue where two light poles would be replaced with fiberglass poles and LED lights.

Mayor Elliott asked if Brooklyn Center owns the light. Mr. Knutson stated Xcel owns the light. Mayor Elliott asked about the timeline for replacement. Mr. Knutson stated it was planned to go along with the project in 2023, but Staff can look into replacing it sooner.

Mayor Elliott asked if Council was going to receive a map of which lights the City owns and which lights Xcel owns. Dr. Edwards stated Staff can produce the map and other updates will be shared in the weekly update to Council.

Ms. Heyman stated the Knox, James, and 54th project would cost about $1.17 million, and each of the other two would cost around $400,000. Staff recommends moving forward with the improvement plans for 2023. She noted the public hearing for setting special assessments for 2023 is not until December. Special assessments are included in the budget for each of the three proposed projects. The zoning of each area will impact how the properties are assessed.

Ms. Heyman noted there is a City Council-approved assessment policy. R1 and R2 areas include partial street reconstruction, which results in a lower assessment than a full reconstruction. The assessment rate will be set through the consent agenda on November 14, and those are based on the construction cost index. It is estimated each R1 and R2 will pay $3,914 for principal over the next ten years. That is a six percent increase from 2022, and Staff is waiting on the October data to come in to calculate the final assessment rate. The current interest rate is 3.5 percent, and it will be set at the November 14, 2022 meeting as well.

Ms. Heyman explained R4-R7, commercial, and industrial zones are more complicated and would benefit from an offline conversation if property owners or other community members are

interested. The project cost, property area, and when the amount is paid will impact the assessment.

Ms. Heyman showed a table with an estimated payment amount. If the assessment amount was $3914.000 with an interest rate of 3.5 percent over ten years, the interest would end up costing $787.70. The monthly payment would range from $34 to $47 over the ten years.

Councilmember Lawrence-Anderson thanked Staff for the presentation. She asked if there is an option for the reconstruction of the curb ramp to look good for at least five to ten years. Mr. Knutson stated the specifications in Brooklyn Center include truncated domes, which is a rustic look. As soon as the water is on them, they become more rustic. Staff can look into other material and cost options.

Councilmember Lawrence-Anderson has been through all of the curbs and aprons throughout the City. Ms. Heyman stated there has been a full circle throughout the community for improvements. However, the ADA regulations are constantly changing. Continuous improvements are always needed for public works.

City Attorney Jason Hill noted Statute requires a four-fifths vote to pass a resolution including street improvements. However, public hearings can still be held. He suggested each item be tabled, but the public hearing can be held concurrently.

Mayor Elliott moved and Councilmember Ryan seconded to open the Public Hearings concurrently.

Motion passed unanimously.

Jeff C. stated he spoke to a few residents on the block, and they have started a petition. He was able to contact 23 of the 25 residents in the area. 20 of those 23 residents signed a petition that would like to push back the reconstruction. Fire hydrants last 60-90 years, but they were installed in 1991. The light poles are wooden but have LED heads. He noted he contacted Xcel Energy about repairing one of the lights. They repaired the light a few months ago, but the repair only lasted a few weeks.

Jeff C. pointed out the road has no potholes, and the apron is in excellent condition. The gutters and drains are fully functioning and without cracks. He added the two residents that didn't sign the petition because a certain portion of the sidewalk is slanted, which probably doesn't meet ADA regulations. The two residents agreed the road is not in disrepair, but they would like to see the sidewalk updated.

Jeff C. explained lateral cracking was brought up during the initial presentation, but he has spoken to experts that said lateral cracking appears within a year or two of the initial installation. He offered a copy of the signatures to the Council. Mayor Elliott received the petition and offered to make copies to distribute to the Council. Jeff C. offered to continue reaching out to the two households he was unable to get in touch with.

Mayor Elliott stated the whole point of the Public Hearing is to hear from the public. Staff and Council need to look into the concerns raised by the public and consider the community's perspective before moving forward.

Councilmember Lawrence-Anderson thanked Jeff C. for the comments. She explained Staff will have to provide follow-up information on the project as well. Most people would want to put off the improvements. The purpose of the ongoing improvement plan is to avoid any seriously damaged roads. It is a balance of maintaining roads without updating them too early. Proactive work is key for public works. Staff will return to the Council with more information and Dr. Edwards will follow up with Jeff C. and other concerned parties.

Mayor Elliott stated if it isn't broken, it doesn't need to be fixed. However, they must consider the long-term impact of doing the project now or later.

Dr. Edwards confirmed Staff would follow up with both Council and the commenter. The 15-year assessment includes an in-depth analysis of all roads before developing a timeline.

Ms. Heyman agreed most of the gutters are in good condition, and the project would only replace about 20 percent of the gutters. The pavement itself was constructed in 1990. There are issues with settling throughout the street. The longer the project is pushed out, the bigger and more expensive it would be. Therefore, the assessment would be more expensive. She offered to share the feasibility report with the commenter and other interested neighbors.

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to close the Public Hearings concurrently.

Motion passed unanimously.

Councilmember Ryan moved and Mayor Elliott seconded to table consideration of a resolution ordering the 50th Avenue Improvements, Improvement Project No. 2023-02, and authorizing the preparation of project plans and specifications due to insufficient quorum.

Motion passed unanimously.

**8b. RESOLUTION NO. 2022-117; ORDERING IMPROVEMENTS AND AUTHORIZING PREPARATION OF PLANS AND SPECIFICATIONS FOR IMPROVEMENT PROJECT NO. 2023-03, 51ST AVENUE IMPROVEMENTS**

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to table consideration of a resolution ordering the 51st Avenue Improvements, Improvement Project No. 2023-03 and authorizing the preparation of project plans and specifications due to insufficient quorum.

Motion passed unanimously.

**8c. RESOLUTION NO. 2022-118; ORDERING IMPROVEMENTS AND AUTHORIZING PREPARATION OF PLANS AND SPECIFICATIONS FOR IMPROVEMENT PROJECT NO. 2023-04, KNOX, JAMES, AND 54TH AREA AVENUE IMPROVEMENTS**

Councilmember Ryan moved and Councilmember Lawrence-Anderson seconded to table consideration of a resolution ordering the Knox, James, and 54th Area Improvements, Improvement Project No. 2023-01 and authorizing the preparation of project plans and specifications due to insufficient quorum.

Motion passed unanimously.

**9. PLANNING COMMISSION ITEMS**

None.

**10. COUNCIL CONSIDERATION ITEMS**

**10a. RESOLUTION NO. 2022-119; AWARDING AUDIT ENGAGEMENT LETTER**

Mayor Elliott noted Councilmember Lawrence-Anderson requested the item be considered by the Council.

Councilmember Lawrence-Anderson stated she and two members of the Finance Commission reviewed the RFP for the auditor. There has not been an opportunity for a follow-up meeting where the Finance Commission would interview the applicants. One particular company has been recommended, but there wasn't a consensus reached.

Mayor Elliott suggested the Council table the item until the group can meet and come to a consensus.

Dr. Edwards explained the three members of the Finance Commission did provide their rankings. Based on the rankings provided and the interviews between the Finance Director and the applicants, the recommendation was provided to the Council.

Councilmember Lawrence-Anderson stated she does not have the same information as the City Manager. There was a lack of clarity from the Commissioners as they did not hear the opinions and rankings of one another. The Finance Commission had additional questions before they were comfortable making a recommendation.

Mayor Elliott moved and Mayor Elliott seconded to table a resolution awarding an audit engagement letter.

Motion passed unanimously.

## 11. COUNCIL REPORT

None.

## 12. ADJOURNMENT

Mayor Elliott moved and Councilmember Ryan seconded the adjournment of the City Council meeting at 7:59 p.m.

Motion passed unanimously.

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss. Certification of Minutes
CITY OF BROOKLYN CENTER)

The undersigned, being the duly qualified and appointed City Clerk of the City of Brooklyn Center, Minnesota, certifies:

1. That attached hereto is a full, true, and complete transcript of the minutes of a Regular Session of the City Council of the City of Brooklyn Center held on October 14, 2022.

2. That said meeting was held pursuant to due call and notice thereof and was duly held at Brooklyn Center City Hall.

3. That the City Council adopted said minutes at its November 14, 2022, Regular Session.

_____ _____

Barbara Suciu, City Clerk Mike Elliott, Mayor

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Alix Bentrud, Deputy City Clerk

SUBJECT: Approval of Licenses

**Requested Council Action:**

- *Motion to approve the licenses as presented.*

**Background:**

The following businesses/persons have applied for City licenses as noted. Each business/person has fulfilled the requirements of the City Ordinance governing respective licenses, submitted appropriate applications, and paid proper fees. Applicants for rental dwelling licenses are in compliance with Chapter 12 of the City Code of Ordinances, unless comments are noted below the property address on the attached rental report.

**Gasoline Service Station**

| | |
|---|---|
| City of Brooklyn Center Municipal Garage | 6844 Shingle Creek Parkway Brooklyn Center MN 55430 |
| Kabalan Co dba Pump N Munch | 1505 69th Ave N Brooklyn Center MN 55430 |

**Mechanical Licenses**

| | |
|---|---|
| Aqua Wizards PLumbing LLC | 102 143rd NW Andover MN 55304 |
| Ductech LLC | 1022 S Robert St West St Paul MN 55118 |
| Flare Heating and Air Conditioning | 9303 Plymouth Ave N Golden Valley MN 55427 |
| MS Universal Services | 4785 Underwood Ln Plymouth MN 55442 |
| The Tarbeck Company LLC | 910 121st Ave NE Blaine MN |

**Tobacco Related Products Licenses**

| | |
|---|---|
| A M Brothers dba Cloud Nine Smokeshop | 615 66th Ave N Brooklyn Center MN 55430 |
| Burr Street Market Inc | 5808 Xerxes Ave N |

| | |
|---|---|
| dba Quick Shop | Brooklyn Center MN 55429 |
| Diamond Lake 1994 LLC<br>dba Cub Foods | 3245 Co Rd No 10<br>Brooklyn Center MN 55429 |
| Kabalan Co<br>dba Pump N Munch | 1505 69th Ave N<br>Brooklyn Center MN 55430 |
| Sun Foods | 6350 Brooklyn Blvd<br>Brooklyn Center MN 55429 |
| Walgreens | 6390 Brooklyn Blvd<br>Brooklyn Center MN 55429 |

**Budget Issues:**

**Inclusive Community Engagement:**

**Antiracist/Equity Policy Effect:**

**Strategic Priorities and Values:**

Operational Excellence

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| Rental Criteria | 3/16/2021 | Backup Material |
| Rental LIcenses 11-14-2022 | 11/8/2022 | Backup Material |

| Property Code and Nuisance Violations Criteria | | |
|---|---|---|
| **License Category** (Based on Property Code Only) | **Number of Units** | **Property Code Violations per Inspected Unit** |
| Type I – 3 Year | 1-2 units | 0-2 |
| | 3+ units | 0-0.75 |
| Type II – 2 Year | 1-2 units | Greater than 2 but not more than 5 |
| | 3+ units | Greater than 0.75 but not more than 1.5 |
| Type III – 1 Year | 1-2 units | Greater than 5 but not more than 9 |
| | 3+ units | Greater than 1.5 but not more than 3 |
| Type IV – 6 Months | 1-2 units | Greater than 9 |
| | 3+ units | Greater than 3 |

**b. Police Service Calls.**

Police call rates will be based on the average number of valid police calls per unit per year. Police incidences for purposes of determining licensing categories shall include disorderly activities and nuisances as defined in Section 12-911, and events categorized as Part I crimes in the Uniform Crime Reporting System including homicide, rape, robbery, aggravated assault, burglary, theft, auto theft and arson.

Calls will not be counted for purposes of determining licensing categories where the victim and suspect are "Family or household members" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (b) and where there is a report of "Domestic Abuse" as defined in the Domestic Abuse Act, Minnesota Statutes, Section 518B.01, Subd. 2 (a).

| **License Category** | **Number of Units** | **Validated Calls for Disorderly Conduct Service & Part I Crimes** (Calls Per Unit/Year) |
|---|---|---|
| No Category Impact | 1-2 | 0-1 |
| | 3-4 units | 0-0.25 |
| | 5 or more units | 0-0.35 |
| Decrease 1 Category | 1-2 | Greater than 1 but not more than 3 |
| | 3-4 units | Greater than 0.25 but not more than 1 |
| | 5 or more units | Greater than 0.35 but not more than 0.50 |
| Decrease 2 Categories | 1-2 | Greater than 3 |
| | 3-4 units | Greater than 1 |
| | 5 or more units | Greater than 0.50 |

# Rental Licenses for Council Approval 11.14.22

| Location Address | License Subtype | Renewal/Initial | Owner | Property Code Violations | License Type | Police CFS* | Final License Type ** | Previous License Type*** |
|---|---|---|---|---|---|---|---|---|
| 4809 Twin Lake Ave N | Multiple Family<br>1 Bldg 6 Units | Initial | Twin Lake Apartments, LLC<br>Josephy Cheney | 23 = 3.83 per unit | Type IV | | Type IV | N/A |
| 1217 54th Ave N | Two Family | Initial | Jackson & Cierra Hurst | 14 | Type IV | | Type IV | N/A |
| 4207 Lakeside Ave N, #139 | Condo | Initial | ALEXANDER ANDRZEJEK | 5 | Type II | | Type II | N/A |
| 3800 Burquest La | Single | Initial | Hennepin RP Funding, LLC | 7 | Type III | | Type III | N/A |
| 6229 Brooklyn Dr | Single | Initial | Joy Vang | 1 | Type I | | Type II | N/A |
| 6337 June Ave N | Single | Initial | SFR ACQUISITIONS 2 LLC | 8 | Type III | | Type III | N/A |
| 700 66th Ave N | Multiple Family<br>24 Bldgs 92 Units | Renewal | Georgetown-bc Company Lllp | 485 = 5.27 per unit | Type IV | 4 calls = 0.04 per unit<br>12/1/21 Robbery<br>3/28/22 Disturbance<br>8/24/22 Weapon Law Violations<br>8/20/22 Burglary/Breaking & Entering<br>No impact on license category | Type IV | Type III |
| 3614 50th Ave N | Multiple Family<br>1 Bldg 3 Units | Renewal | Devlin Wubbena | 10 = 3.33 per unit | Type IV | N/A | Type IV | Type IV |
| 4500 58th Ave N | Multiple Family<br>46 Bldgs 276 Units | Renewal | Tln Lanel A Ltd Partnership | 319 = 1.15 per unit | Type II | 3 calls = 0.01 per unit<br>8/20/22 Arson<br>8/25/22 Robbery<br>8/30/22 Disturbance<br>No impact on license category | Type II | Type II |
| 6305 Camden Ave N | Multiple Family<br>6 Bldgs 217 Units | Renewal | Melrose Gates LLC | 256 = 1.18 per unit | Type II | 7/9/22 Narcotics<br>12/25/21 Distrubance<br>2/21/22 Diusturbance<br>9/1/22 Disturbance | Type II | Type II |
| 6331 Beard Ave N | Multiple Family<br>3 Bldgs 36 Units | Renewal | Ccf1 Mn Llc | 130 = 3.6 per unit | Type IV | 1 call = 0.02 per unit<br>12/17/21 Robbery<br>No impact on license category | Type IV | Type I |
| 6737 Humboldt Ave N | Multiple Family<br>2 Bldgs 18 Units | Renewal | Humboldt Square Ventures Llc | 17 = 0.94 per unit | Type II | 1 call = 0.05 per unit<br>3/8/22 Arson<br>No impact on license category | Type III | Type III |
| 6740 Grimes Pl | Multiple Family<br>8 Bldgs 48 Units | Renewal | Victoria Townhouses 1 | 56 = 1.17 per unit | Type II | 1 call = 0.02 per unit<br>5/21/22 Aggravated Assault<br>No impact on license category | Type II | Type III |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 4207 Lakeside Ave N, #123 | Condo | Renewal | Donna E Kabanuk | 0 | Type I | N/A | Type I | Type I |
| 1316 68th La N | Single | Renewal | Valerie McKissack | 1 | Type I | N/A | Type I | Type I |
| 1340 68th La N | Single | Renewal | Jin Li | 5 | Type II | N/A | Type II | Type I |
| 3218 63rd Ave N | Single | Renewal | Madison Ave Homes Llc | 26 | Type IV | N/A | Type IV | Type III |
| 3501 62nd Ave N | Single | Renewal | Doreen Kalema | 2 | Type I | N/A | Type IV | Type IV |
| 5043 Brooklyn Blvd | Single | Renewal | THR Property Illinois LP | 20 | Type IV | N/A | Type IV | Type I |
| 5133 France Ave N | Single | Renewal | Resi SFR Sub LLC | 0 | Type I | N/A | Type IV | Type IV |
| 5228 Ewing Ave N | Single | Renewal | IH2 Property Illinois LP | 8 | Type III | N/A | Type IV | Type IV |
| 5524 Dupont Ave N | Single | Renewal | Nicholas Manthey | 0 | Type I | N/A | Type I | Type I |
| 5631 Hillsview Rd | Single | Renewal | Lrg 2 Llc | 5 | Type II | N/A | Type II | Type II |
| 5636 Fremont Ave N | Single | Renewal | Alice I Mansaray | 12 | Type IV | N/A | Type IV | Type II |
| 5715 Emerson Ave N | Single | Renewal | J And M Homes Ii Llc | 6 | Type III | N/A | Type III | Type III |
| 5737 Emerson Ave N | Single | Renewal | Nutida Wong | 7 | Type III | N/A | Type IV | Type IV |
| 5748 Humboldt Ave N | Single | Renewal | Fyr Sfr Borrower Llc | 25 | Type IV | 1 call<br>11/28/21 Disturbance<br>No impact on license category | Type IV | Type IV |
| 5807 Bryant Ave N | Single | Renewal | Koladex Venture, LLC | 1 | Type I | N/A | Type IV | Type IV |
| 5836 James Ave N | Single | Renewal | Olusola A Agunbiade | 0 | Type I | N/A | Type I | Type IV |
| 5913 June Ave N | Single | Renewal | Mohammed K Mehdi | 6 | Type III | N/A | Type III | Type I |
| 6018 Camden Ave N | Single | Renewal | Crystal Clear Investment Llc | 2 | Type I | N/A | Type IV | Type IV |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 6019 Colfax Ave N | Single | Renewal | Alice T Cooper | 4 | Type II | N/A | Type II | Type II |
| 6343 Dupont Ave N | Single | Renewal | We Are Superior Contracts | 0 | Type I | N/A | Type I | Type I |
| 6400 Noble Ave N | Single | Renewal | Zamzam Gesaade | 0 | Type I | N/A | Type I | Type III |
| 6418 Girard Ave N | Single | Renewal | Genet Gashaw | 1 | Type I | N/A | Type III | Type III |
| 6430 June Ave N | Single | Renewal | Euphemia Brewer | 9 | Type III | N/A | Type III | Type II |
| 6637 Xerxes Pl N | Single | Renewal | Douglas Finch | 2 | Type I | N/A | Type I | Type II |

*CFS = Calls for Service for Renewal Licenses Only (Intitial licenses are not applicable to calls for service and will be listed N/A

** License type being issued

*** Initial licenses will not show a Type I = 3 Year, Type II = 2 Year, Type III = 1 Year, Type IV = 6 months

All properties are current on City utilities and property taxes

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Jesse Anderson, Interim Community Development Director

SUBJECT: Resolution Approving and Entering into a Joint Powers Agreement with the City of Brooklyn Park Regarding Workforce Development Initiatives

**Requested Council Action:**

*- Motion to approve a resolution approving and Entering into a Joint Powers Agreement with the City of Brooklyn Park Regarding Workforce Development initiatives using ARPA Funds*

**Background:**

The Joint Powers Aggreement was initially approved on September 26, 2022 by the Brooklyn Center City Council. Since that date, Brooklyn Park has requested a few minor adjustments to the aggreement. Most of the adjustments were minor. The main adjustments is that the unspend funds would roll over to the next year, rather then being returned. The changes to the aggreement will not adjust the overall budget for the program.

On March 11, 2021, President Biden signed the American Rescue Plan Act (ARPA) of 2021 into law. The ARPA provides $1.9 trillion in additional relief to respond to the novel coronavirus (COVID-19). According to the U.S. Department of the Treasury, the Coronavirus State and Local Fiscal Recovery Funds provide a substantial infusion of resources to help turn the tide on the pandemic, address its fallout, and lay the foundation for a strong and equitable recovery.

The City of Brooklyn Center received a total allocation of $3,200,000 with half the funds received earlier in 2021 and another half available to be requested in 2022.

On March 14, 2022, the City Council adopted a funding plan for the use of ARPA funds that was based on a community engagement process that identified priority spending areas. The city coordinated with community partners, residents, local businesses and nonprofit organizations, and city staff to develop an investment plan for ARPA funds.

Based on the program priorities identified by the community stakeholder group, staff prepared a proposed ARPA Investment Plan. The investment plan includes a mix of internal and external funding programs and allows flexibility in terms of what program year the funds will be delivered in.

Out of the community engagement process, and through the work of identifying program funding several themes arose around which ARPA funded initiatives revolved. The funding focuses on programs that:

1. Build capacity. This focus is achieved through leveraging existing assets in the community,

strengthening partnerships and investing in community.
2. Center economic development and youth. A majority of the programs and initiatives that were prioritized through the community engagement process involved a focus on multi-generational wealth building and youth engagement.
3. Building community. The process to create the ARPA investment plan was imbedded in community, and involved community-based visioning. The funding centers around strengthening community partnerships and resources.

*Workforce Development Programming*

Through the engagement process, the highest priority identified for the use of ARPA funding was to establish and grow a workforce development program to support job training, youth engagement and career pathways.

City staff have been working closely with the City of Brooklyn Park to design and expand upon programming intended to serve this function. A detailed description of the program is attached to this memo. In addition, Brooklyn Park staff will be providing a presentation of the program to Council as part of this item.

The program would be administered by the City of Brooklyn Park on behalf of the City of Brooklyn Center over the three-year timeframe where ARPA funds are available. In the meantime, the two cities intend to seek out state and county workforce funding to sustain the program into the future.

The City Attorney has drafted a Joint Powers Agreement between the two cities for the delivery of this program (attached).

**Budget Issues:**

The Joint Powers Agreement is for $560,000 of Brooklyn Center ARPA funds to Brooklyn Park to administer and operate workforce development programming on behalf of the City of Brooklyn Center.

**Inclusive Community Engagement:**

**Antiracist/Equity Policy Effect:**

The workforce development programming is specifically targeted towards youth and young adults facing barriers to higher education and job training. The program is designed and intended in particular to serve BIPOC youth and adults.

**Strategic Priorities and Values:**

Resident Economic Stability

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| Workforce Development Framework | 9/16/2022 | Backup Material |
| ARPA Funding Plan | 9/16/2022 | Backup Material |

| | | |
|---|---|---|
| Resolution | 11/4/2022 | Resolution Letter |
| Aggreement | 11/4/2022 | Exhibit |
| Redlined Changes | 11/4/2022 | Exhibit |

**2022-2024 Workforce Development Framework**
**Brooklyn Park & Brooklyn Center**

**Objective** (where are we going): Provide programs and services to youth, adults, and businesses that promote economic empowerment and decreases individual, community, and systemic barriers to employment. Respond to workforce development needs caused by the pandemic.

**Outcomes** (how do we know we've gotten there):

- Residents will gain access to training and employment opportunities in in-demand industries.
- Higher barrier youth will receive high touch work readiness services.
- Unemployment rates will decrease, and income will increase, particularly for "BIPOC" residents
- Violence will decrease as residents connect into the economy.
- Local businesses will hire local talent and create workplaces of choice for our residents.

**Shared City Strategies** Employment, Economic Inclusion, Public Safety, Racial Equity, Economic Advancement and Wealth Building

**Workforce Development Programs & Initiatives** (how do we get there):

1) *Youth Workforce Initiatives (age 14-24)*
    - BrookLynk
        - Get Ready!
        - Summer Internships
        - Online Training Series
        - Alumni Engagement
    - Youth Entrepreneurship Program
        - Partnership between Community Development & Recreation
        - Entrepreneurship micro-grants (ages 16+)
        - Small Business Internships
        - Training & Workshops
    - Workforce Innovations Opportunities Act (WIOA)
        - Out of school youth (16-24)
        - Case Management
        - Training & certificates
        - Education
        - Employment
        - Cities United
        - Partner engagement

2) *Young Adult & Adult Workforce Initiatives (18+)*
    - BrookLynk Alumni Network
        - Talent recruitment
        - Job Coaching
        - BrookLynk job board
        - Workshops & Events
    - Career Pathways
        - Construction & Trades
            - Pipeline to seasonal public works & recreation jobs

- MnDot Heavy Highway Construction
- Technology Training Program

3) *Community Workforce Initiatives*
   - Community Partnership Program (workforce development specific)
     - Certified Nursing Assistant (CNA) Certificate program pilot provided by OLM
     - Community grants awarded to local organizations providing workforce development services

4) *Regional Initiatives*
   - CareerForce Relocation (State of MN)
   - ConnextMSP – GreaterMSP (Regional Economic Development Agency)
   - Elevate Futures- Mpls Regional Chamber of Commerce
   - Northwest Education Consortium

5) *Business Engagement*
   - Employer partnerships/pipelining
   - Small business technical assistance and wage subsidy
   - Large business subsidy (State programs -MIF/JCF)
   - Employer/supervisor training
   - Small business centers

**Investment** (what do we need to get there):

*Staffing:*

- **Workforce Development Director (Catrice O'Neal) –** Provides strategic oversite of workforce development programs and initiatives. Manages community contracts, budgets, and grants. Develops new partnerships and funding sources (public and private). Prepares annual and quarterly reports for stakeholders. Co-leads the BrookLynk Advisory committee with the BrookLynk Program Manager and coordination of shared workforce initiatives between the cities of Brooklyn Park & Brooklyn Center.
- **BrookLynk Program Manager (Fred DuBose**)- Manages the day-to-day operations of BrookLynk programs and services. Develops systems to meet program goals. Oversight of data management systems including the states Workforce One database. Coordinates employer engagement. Participates in regional youth workforce development meetings and convenings. Co-leads the BrookLynk Advisory committee with the Workforce Development Director.
- **Career Pathways/Community Programs Manager (Naweed Ahmadzai) -** Manages the day-to-day operations of Career Pathways, WIOA, and Community Partnership programs. Develops systems to meet program goals. Oversight of data management systems including the states Workforce One database. Coordinates employer engagement. Participates in regional workforce development meetings and convenings.
- **BrookLynk Program Coordinator (Open)** – Responsible for the coordination of all BrookLynk program activities. Coordinates the summer internship match process. Provides job coaching and assistance to youth and supervisors. Builds relationships with youth and community partners for youth outreach and engagement. Responsible for entering and maintaining all program data for annual and quarterly reports with guidance from BrookLynk Program Manager.

- **Career Pathways/WIOA Program Coordinator (Madison Hurst)**– Responsible for the coordination of all career pathway program activities and Youth Entrepreneurship Program. Provides case management services to WIOA youth and adult job seekers. Builds relationships with participants and community partners for outreach and engagement. Responsible for entering and maintaining all program data in Workforce One and other data systems for annual and quarterly reports with guidance from the Career Pathways Program Manager.
- **Program Assistant II (Nyoka Ameyaw)**– Supports all workforce development activities - invoices, communications/marketing, technical assistance. Also coordinates the BrookLynk alumni network.
- **Job Coaches –** Seasonal contracted positions during the summer.

*Funding Sources:*

| Source | Amount | Year | Program |
|---|---|---|---|
| **Grants/Donations** | | | |
| DEED – Youth Support Services | $40,000 | 2022-2023 | BrookLynk |
| DEED – Youth at Work | $75,000 | 2022-2023 | BrookLynk |
| Technology Training Pilot | $68,350 | 2022 | Career Pathways |
| Hennepin County – MYP | $110,626 | 2022-2023 | BrookLynk |
| Hennepin County - Gun Violence | $49,999 | 2022 | YEP |
| Hennepin County - WIOA | $206,032 | 2022-2023 | BrookLynk/Career Pathways |
| Brooklyn Park Rotary Foundation | $1,000 | 2022 | BrookLynk |
| MnDot | $99,819 | 2022 | BrookLynk/Career Pathways |
| **City Investments** | | | |
| City of Brooklyn Center | $59,800 | Annual Contribution | BrookLynk |
| Brooklyn Park EDA | $100,000 | Annual Contribution | Brookynk |
| **ARPA** | | | |
| ARPA – Brooklyn Center | $560,000 | 2023-2024 | Career Pathways/YEP/CPP |
| ARPA – Brooklyn Park | $595,000 | 2022-2024 | Career Pathways/YEP/CPP |
| **Total** | **$1,965,626** | | |

| Program item | Key Area | Purpose/description | Cost *(Through 2024)* |
|---|---|---|---|
| **External/Community Partnerships** | | | |
| Workforce Development Program | Economic Development (Resident and Business Economic Stability) | Sub-grants to community parnter organizaitions to deliver workforce development training (Parntership with Brooklyn Park) | $ 560,000 |
| | | Youth Entreprenuership Program - Expansion of Brooklynk Services and programming (Parnterhsip with Brooklyn Park) | |
| | | Connect higher barrier youth and Black Indigenous Person of Color (BIPOC) job seekers to jobs | |
| | | Career Pathways Program - Focused on Adult (24+) workforce development (Partnerhsip with Brooklyn Park) | |
| Youth Outreach and Engagement | Community Life Resources, Public Safety, Public Health, Economic Development | Contract with community partners to establish a Youth Outreach team | $ 158,133 |
| | | Youth onBoards | |
| | | Online and in-person youth outreach to enhance and expand youth and family participation and engagement | |
| Commercial Property Development Fund | Economic Development (Business Economic Stability) | Establish a fund to support local small businesses with the acquisition of bricks and mortar real estate. Funds will be used to provide equity to leverage private lending, and to provide gap financing for commercial development that supports small businesses. | $ 700,000 |
| Food Access | Community Life Resources | Funding to support food distribution operations in the City and expand access through the cretion of a mobile food distribution program in partnership with CEAP and CAPI | $ 125,000 |
| Small Business Resource Hub | Economic Development (Business Economic Stability) | Community-based space to support workforce development, co-working space, innovation lab, and hub for small business technical support | $ 250,000 |
| Humboldt Neighborhood Peace, Harmony and Prosperity Small Area Plan | Community Life Resources | Develop a community-led vision for the future of the Humboldt Neighborhood that includes goals for housing, open space, streetscaping and business development. Identify short and longer-term implementation strategy and support an initial investment in the neighborhood to catalyze the vision. | $ 250,000 |
| Health on the Go | Public Health | Expand upon the partnerships created as part of the pilot Health on the Go program and expand services to residents | $ 225,000 |
| Central Beautification and Business Improvement District | Public Safety and Community Life Resources | Utilize funds to establish a central Business Improvement District to enhane clean-up, snow removal, seasonal lights and greenery, and placemaking (programming to be designed in partnership with district businesses) | $ 75,000 |
| Public Art Matching Fund | Community Life Resources | Funding to cost share public art initiatives on private property | $ 75,000 |

| | | | | |
|---|---|---|---|---|
| Daunte Wright Memorial | Community Life Resources | Commission art memorial | $ | 25,000 |
| **External Total** | | | **$** | **2,443,133** |
| | | | | |
| **Internal Programs/Initiatives/Revenue Replacement** | | | | |
| Digital Message Boards | Public Health, Public Safety | External digital message boards at City facilities to promote better commuication strategies | $ | 122,000 |
| Code Red | Public Health, Public Safety | Revenue replacement to pay for Coe Red services for three years | $ | 24,000 |
| Police labor study | Public Safety | Study to determine number of police officers needed to maintain services | $ | 130,000 |
| Air Filters | Public Health | Installation of clean air filters in the cabs of fire trucks | $ | 12,000 |
| Quantifit2 respirator testing system | Public Health | Purchase a respirator testing system to test respirator fit - testing required annually | $ | 13,000 |
| Front Line Retention and Recognition Incentive | Community Life Resources | Provide a bonus for essential frontline employees who worked in-peson through the pandemic | $ | 28,000 |
| Public Safety Project Manager | Public Safety | New position to assist with coordinating the Public Safety Resolution Implementation Committee. This includes 1 FTE and supplies for 12 months. | $ | 150,000 |
| Police Retention Incentive | Public Safety | This measure was taken as part of negotiations and a means to stabalize and retain police officers during civil unrest. | $ | 192,000 |
| Heritage Center | | Revenue replacement for the Heritage Center - utilize funds to explore ways to expand and enhance the Heritage Center's community benefits | $ | 150,000 |
| **Internal Total** | | | **$** | **821,000** |

| | | |
|---|---|---|
| **Total investment** | **$** | **3,264,133** |

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. 2022-___

**RESOLUTION APPROVING AN AMENDMENT TO THE JOINT POWERS AGREEMENT WITH THE CITY OF BROOKLYN PARK REGARDING WORKFORCE DEVELOPMENT INITIATIVES USING ARPA FUNDS**

WHEREAS, the city of Brooklyn Center ("City") and the city of Brooklyn Park ("Brooklyn Park") propose to enter into a joint powers agreement to provide for the administration of workforce development initiatives developed by both cities in a coordinated planning process; and

WHEREAS, under the terms of the joint powers agreement, the City will contract with Brooklyn Park to provide identified contracted services on behalf of the City to promote workforce development, especially in response to the negative impacts of the pandemic; and

WHEREAS, on September 26, 2022, the City Council adopted Resolution No. 2022-____, which is incorporated herein by reference, approving and entering into a joint powers agreement with Brooklyn Park regarding workforce development; and

WHEREAS, subsequent to September 26, 2022, City staff and Brooklyn Park proposed a substantive amendment to the joint powers agreement that does not change the funds allocated by the City under the agreement but allows staff to amend the budget included in the joint powers agreement to roll any surplus from the previous year into the next year's budget as opposed to returning it to the City; and

WHEREAS, the cities are authorized by Minnesota Statutes, section 471.59, subdivision 10 to enter into agreement with each other for the provision of professional services; and

WHEREAS, the City received a total of $3,353,972 under the American Rescue Plan Act ("ARPA") and has elected to utilize the standard allowance provided for in the Department of the Treasury's Final Rule on use of ARPA funds; and

WHEREAS, the City has determined that use of a portion of its ARPA Funds to fund the proposed workforce development initiatives is an appropriate use of ARPA Funds as part of the provision of government services under the standard allowance; and

WHEREAS, the City wishes to approve the amended joint powers agreement to take advantage of both the efficiencies available to the City by coordinating workforce development efforts between the City and Brooklyn Park and the benefits associated with contracting the services out to Brooklyn Park rather than performing them using staff time.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center as follows:

1. The City of Brooklyn Center is hereby authorized to enter into the amended joint power agreement with the city of Brooklyn Park, a copy of where is attached hereto as Exhibit

A ("Agreement").

2. The Agreement presented to the City is hereby in all respects approved, subject to modifications that do not alter the substance of the Agreement and that are approved by the Mayor and the City Manager, provided that execution of any modifications or documents by such officials shall be conclusive evidence of approval.

3. City staff and officials are hereby authorized and directed to take any and all additional steps and actions necessary or convenient in order to execute the Agreement and to accomplish the intent of this resolution.

_____ _____

Date Mayor

ATTEST: _____

City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:

whereupon said resolution was declared duly passed and adopted.

**BROOKLYN CENTER AND BROOKLYN PARK JOINT POWERS AGREEMENT REGARDING WORKFORCE DEVELOPMENT**

THIS JOINT POWERS AGREEMENT (this "Agreement") is entered into as of [DATE], by and between the **CITY OF BROOKLYN CENTER**, a public body corporate and politic under the laws of the State of Minnesota ("Brooklyn Center"), and the **BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic under the law of the State of Minnesota ("Brooklyn Park"), collectively (the "Cities").

RECITALS

WHEREAS, the U.S. Department of the Treasury ("Treasury") has allocated to Brooklyn Center $3,353,972 of federal stimulus funding from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds under CFDA No. 21.027 ("ARPA Funds") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act ("ARPA");

WHEREAS, ARPA authorizes the ARPA Funds to be used for the following purposes as outlined in the Final Rule as follows:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(4) To make necessary investments in water, sewer, or broadband infrastructure

WHEREAS, Brooklyn Center has elected to take the "standard allowance" under Treasury's Final Rule, allowing Brooklyn Center to use up to $10,000,000 of its ARPA Funds for the provision of government services;

WHEREAS, the Cities wish to work cooperatively to provide programs and services to youth, adults, and businesses that promote economic empowerment and decreases individual, community, and systemic barriers to employment with the cities of Brooklyn Center and Brooklyn Park as described in Exhibit A: Contracted Services ("Contracted Services"), which is incorporated herein by reference; and

WHEREAS, Brooklyn Center authorized $560,000 of its ARPA Funds accounted for under the standard allowance for the provision of government services, for the purpose of funding the Contracted Services;

WHEREAS, the governing bodies of Brooklyn Center and Brooklyn Park are authorized by Minnesota Statutes, Section 471.59, Subdivision 10, to enter into agreements with each other for the provision of professional services by Brooklyn Park to the residents of Brooklyn Center;

WHEREAS, Brooklyn Center and Brooklyn Park desire to enter into this Agreement so that Brooklyn Center may provide ARPA Funds designated for the provision of government services under the Final Rule's standard allowance, for Contracted Services as allowed under the Final Rule.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Brooklyn Center and Brooklyn Park hereby agree as follows:

1. Effective Date And Term. This Agreement shall govern the performance of the parties for the period commencing on October 1, 2022 through December 31, 2024 unless earlier terminated by either party in accordance with the terms of this Agreement.

2. Funds. Brooklyn Center agrees to provide Brooklyn Park a total sum not to exceed five-hundred and sixty thousand and 00/100ths dollars ($560,000.00) for the provision of the Contracted Services.

3. Description of Services. The Contracted Services, as further described in Exhibit A, shall consist of the administration of programs, including granting of funds, and services to youth, adults, and businesses that promote economic empowerment and decreases individual, community, and systemic barriers to employment and that respond to workforce development needs caused by the pandemic. The Cities anticipate other entities will also contribute funding to the Contracted Services as part of the overall workforce development program being implemented by the Cities ("Contracted Program").

4. Payment for Services. Contracted Services budgets include direct program staff time for the Contracted Services, plus a 10% administrative fee that can be applied to cover related overhead expenses, as provided in Exhibit B. Brooklyn Center agrees to provide payments in the amount reflected in the below payment schedule, as also reflected in Exhibit B:

    a. Annual Payments for Contracted Services:
        i. Upon Execution: $84, 666.00
        ii. January 31, 2023: $234,666.00
        iii. January 31, 2024: $184,666.00

    b. Brooklyn Park shall provide quarterly invoicing to Brooklyn Center for administrative fees, on a form provided by Brooklyn Center, based on the actual expenditures incurred by Brooklyn Park for the previous quarter associated with managing funds from Brooklyn Center for Contracted Services. Reimbursements to Brooklyn Park shall not exceed the following amounts for each year calendar year:

i. 2022: $14,068.00
ii. 2023: $23,467.00
iii. 2024: $18,467.00

B. Brooklyn Park shall provide year-end reporting on the outcomes of each section of the Contracted Program.

C. Should any dispute arise over this Agreement, Brooklyn Center shall pay for any undisputed charges submitted under Section 4.b when due. Disputed amounts will be addressed by both parties. If no agreeable solution is reached, the dispute will be handled pursuant to Section 21.

D. Brooklyn Center will make payment within thirty-five (35) days from receipt of the invoice. If the invoice is incorrect, defective, or otherwise improper, Brooklyn Center will notify Brooklyn Park within ten (10) days of receiving the incorrect invoice. Upon receiving the corrected invoice from Brooklyn Park, Brooklyn Center will make payment within thirty-five (35) days.

E. Brooklyn Park shall perform all Contracted Services hereunder to the satisfaction of Brooklyn Center, in accordance with the provisions herein, and in compliance with applicable law. If Brooklyn Center determines that Brooklyn Park has not complied with the foregoing, Brooklyn Center shall not have any obligation to pay Brooklyn Park for the non-complying services.

F. All expenditures and revenues governed by Brooklyn Park's budget as described in Exhibit B and all payments for contracted service costs are made subject to financial review by Brooklyn Center. This financial review shall be the final determination of if expenses meet the requirements under this Agreement and were for Contracted Services.

G. Payments shall be made pursuant to the provisions herein and Brooklyn Center's then applicable payment policies, procedures, rules and directions. Brooklyn Center is not responsible for remedying fraudulent or unauthorized payments requested in Brooklyn Park's name.

H. Failure to comply with the provisions of this Agreement shall be just cause for delaying payment until Brooklyn Park is in compliance. In the event of a decision to withhold payments, Brooklyn Center shall furnish prior written notice to Brooklyn Park.

I. Brooklyn Center may withhold from any payment due to Brooklyn Park any amount which is due and owing Brooklyn Center under this or any other agreement between the parties due to overpayment or as a result of an audit.

J. In the event that Brooklyn Center withholds payment for failure to comply with any of the provisions of this Agreement, then no interest penalty shall accrue against Brooklyn Center. If claims are made by Brooklyn Park that Brooklyn Center did not act in good

faith in withholding payments as provided above, then such claims shall be handled as a dispute pursuant to the Section 21: Disputes. If an audit is required by Brooklyn Center before payment is to be made, then no interest shall accrue against Brooklyn Center until thirty-five (35) days after the audit is completed by Brooklyn Center.

5. Adjustment Of Payments. This cost reimbursement with settle-up contract is subject to financial adjustment. This adjustment will be completed for each budget period, based on Brooklyn Park's year-end financial reports and/or audit report, subject to audit by Brooklyn Center staff or consultants. All expenditures and revenues governed by Brooklyn Park's budget as described in Exhibit B and all payments for Contracted Service costs are subject to financial review by Brooklyn Center. Any resulting adjustment shall be paid by Brooklyn Park to Brooklyn Center within forty-five (45) days of receipt of billing from Brooklyn Center, except as provided in Section 5.A.ii.

   A. Contract Adjustment.

      i. The amount of the contract adjustment to be returned to Brooklyn Center is Brooklyn Center's proportionate share of the total Contracted Program surplus calculated by using Brooklyn Center Contracted Program payments in proportion to total Contracted Program revenue. Categories of the Contracted Program are set forth in Exhibit B.

      ii. Instead of returning the amount of the contract adjustment, Brooklyn Park and Brooklyn Center may agree to amend the budget provided in Exhibit B to roll the surplus into the next budget period instead of Brooklyn Park returning the contract adjustment amount to Brooklyn Center. A budget amendment to address a year-end surplus must be made in writing and be approved by the Brooklyn Park Economic Development Authority Executive Director and the Brooklyn Park City Manager. Budget adjustments will not increase the total funds identified in Section 2.

   B. Financial Accounting Principles:

      i. Financial Reports:

         a. Financial reports for each budget period must be on the accrual basis. Financial reports include a revenue and expense report for the total agency and a contracted program specific line item revenue and expense report.

         b. Brooklyn Park's independent audit must include a supplemental schedule which specifically identifies and itemizes the line item revenues and expenses for each Brooklyn Center contracted program with Brooklyn Park for each budget period as identified in the line item budget attached as Exhibit B.

         c. Brooklyn Park's accounting system and records must be able to specifically identify the revenues and expenses for each contracted program as set forth in

Exhibit B and be able to produce the financial reports required in Section 5.B.i.a.

d. The accounting system should be capable of segregating expenses by program(s) or service type(s).

ii. Administrative Allocations:

a. Administrative (Management & General) expense allocations must be in accordance with the Contracted Services budget. The allocation of General Administrative expenses must be based on a specifically identified methodology which is consistent, verifiable, systematic, and reasonable.

b. The allocations must be in accordance with all applicable federal, state, and local statutes, regulations, rules, ordinances, and Brooklyn Center policies, now in force or as hereafter enacted; identified in the Contracted Services budget and supporting materials; and substantiated by Brooklyn Park's accounting policies and procedures.

c. Fundraising (Development) expenses, if applicable, must be in accordance with the Contracted Services budget. The allocation of fundraising expenses must be based on a method which is verifiable and explained in the line item budget substantiation.

d. Fundraising expenses cannot exceed fundraising revenues for the Contracted Services budget.

iii. Treatment of Other Revenues:

a. Definition: Other revenues are all revenues received (earned), other than Brooklyn Center payment under this Agreement, for the contracted program. Items included as other revenues but not limited thereto, are contributions, grants, fees for services, interest, investment income, and the allocation of indirect revenues per 5.B.iii.c., below.

b. Donor Restrictions: Donors may designate their contributions to be used for a specific purpose. The contribution shall be recorded as specified by the donor and Brooklyn Park must retain substantiation. Unless a donor restricts a contribution for a specific purpose, it will be treated as other unrestricted revenue.

d. Allocation of Indirect Revenues: Other revenues received that are not specifically and directly identifiable with the particular contracted program will be allocated to the contracted program

C. Close-Outs. Brooklyn Park's obligation to Brooklyn Center shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Brooklyn Park close-out certifications, submission of final reports, making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable), and determining the custodianship of records.

6. Suspension and Debarment. Brooklyn Park represents that neither it nor any of its principals has been debarred, suspended or determined ineligible to participate in federal assistance awards or contracts. Brooklyn Park further agrees that it will notify Brooklyn Center immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or nonprocurement programs available at www.sam.gov.

7. Records.

A. Brooklyn Park shall maintain the following records:

i. Financial records through an accounting system which sufficiently and properly reflects all revenue received and all direct and indirect costs of any nature incurred in the performance of this Agreement as determined by Brooklyn Center. All financial transactions must have original supporting documentation.

ii. Performance, program and service delivery records, as required by Brooklyn Center and by the State of Minnesota. Such records may include, but not be limited to: demographic information; enrollment, attendance, and/or utilization information; and information about the type and amount of services provided, such as output and outcome information. Performance records shall be consistent with the performance measures contained in Exhibit A of this Agreement.

iii. An Accounting Policy and Procedure Manual as part of a sound financial accounting system.

B. Brooklyn Park shall maintain all program and financial records during the term of the Agreement and for six (6) years after its termination, cancellation or expiration for audit purposes. However, if Brooklyn Center furnishes written notice during this period requesting retention of records to allow completion of an audit by Brooklyn Center or its ultimate sources of funds, Brooklyn Park shall retain records for the period requested.

8. Financial and Other Reports. Brooklyn Park shall submit to Brooklyn Center such reports and back-up data as may be required by Brooklyn Center, Treasury, or any other entity with authority over the reporting of ARPA Funds, including without limitation such reports in accordance with the following schedule:

| REPORT | DEADLINE |
|---|---|
| Quarterly Report | 20th day of the month following the end of each quarter. |

| | |
|---|---|
| Annual Report | January 31 of 2023, 2024, and 2025. |
| Final Report | January 31, 2025. |

9. Improper Payments. Any item of expenditure by Brooklyn Park under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of Brooklyn Center, state of Minnesota, or authorized federal government agency, including but not limited to Treasury to be improper, unallowable, in violation of federal or state law or the terms of this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of Brooklyn Park, shall become Brooklyn Park's liability, to be paid by Brooklyn Park from funds other than those provided by Brooklyn Center under this Agreement or any other agreements between Brooklyn Center and Brooklyn Park.

10. Termination. Brooklyn Center may terminate this Agreement, if Brooklyn Park defaults under the terms of this Agreement and does not cure the default within thirty (30) days after written notice of the default.

    A. If Brooklyn Park fails to perform any of the provisions of this Agreement, fails to administer the work so as to endanger the performance of the Agreement or otherwise breaches or fails to comply with any of the terms of this Agreement, it shall be in default. Unless Brooklyn Park's default is excused in writing by Brooklyn Center, Brooklyn Center may upon written notice immediately cancel or terminate this Agreement in its entirety. Additionally, failure to comply with the terms of this Agreement shall be just cause for Brooklyn Center to delay payment until Brooklyn Park's compliance. In the event of a decision to withhold payment, Brooklyn Center shall furnish prior written notice to Brooklyn Park.

    B. Notwithstanding any provision of this Agreement to the contrary, Brooklyn Park shall remain liable to Brooklyn Center for damages sustained by Brooklyn Center by virtue of any breach of this Agreement by Brooklyn Park. Upon notice to Brooklyn Park of the claimed breach and the amount of the claimed damage, Brooklyn Center may withhold any payments to Brooklyn Park for the purpose of set-off until such time as the exact amount of damages due Brooklyn Center from Brooklyn Park is determined. Following notice from Brooklyn Center of the claimed breach and damage Brooklyn Park and Brooklyn Center shall attempt to resolve the dispute in good faith.

    C. The above remedies shall be in addition to any other right or remedy available to Brooklyn Center under this Agreement, law, statute, rule, and/or equity.

    D. Brooklyn Center's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

E. Upon written notice, Brooklyn Center may immediately suspend or cancel/terminate this Agreement in the event any of the following occur: (i) Brooklyn Center does not obtain anticipated funding from an outside source for this project; (ii) funding for this project from an outside source is withdrawn, frozen, shut down, is otherwise made unavailable or Brooklyn Center loses the outside funding for any other reason; (iii) Brooklyn Center determines, in its sole discretion, that funding is, or has become, insufficient; or (iv) if Brooklyn Center's final budget as approved by Brooklyn Center City Council changes the amount budgeted for this particular program or this service area for any portion of the term of this Agreement. Brooklyn Center is not obligated to pay for any services that are provided or costs or expenses or obligations incurred or encumbered after the notice and effective date of the suspension or cancellation/termination. In the event Brooklyn Center suspends, cancels or terminates this Agreement pursuant to this paragraph, Brooklyn Center shall pay any amount due and payable prior to the notice of suspension or cancellation/termination except that Brooklyn Center shall not be obligated to pay any amount as or for penalties, early termination fees, charges, time and materials for services not then performed, costs, expenses or profits on work done.

F. This Agreement may be canceled/terminated with or without cause by Brooklyn Center upon thirty (30) days' written notice.

G. After receipt of a notice of cancellation/termination, and except as otherwise directed, Brooklyn Park shall:

i. Discontinue provision of Contracted Services under this Agreement on the date, and to the extent specified, in the notice of cancellation/termination.
ii. Cancel all orders and subcontracts to the extent that they relate to the performance of Contracted Services cancelled/terminated by the notice of cancellation/termination.
iii. Settle all outstanding claims and liabilities for orders and subcontracts existing at the time of the notice of cancellation/termination, provided, however, that the claims and liabilities for orders and subcontracts had been approved in writing by Brooklyn Center.

11. Independent Contractor. Brooklyn Park shall be for all purposes under this Agreement be an Independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. Brooklyn Park shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of Brooklyn Center for any purpose.

12. Indemnification. Brooklyn Park agrees to defend, indemnify and hold Brooklyn Center, its officers, officials, employees, agents and volunteers harmless from and against any and all claims, injuries, damages, losses or expenses including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of Brooklyn

Park, its officers, directors, employees, and/or agents relating to Brooklyn Park's performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.

13. Insurance. Brooklyn Park hereby agrees to maintain in force its present policy of commercial general liability insurance in compliance with Minnesota Statutes, Section 466, and professional liability coverage in the amount of at least $2,000,000 per occurrence for the term of this Agreement. Said policy shall be with an insurance company authorized to do business in Minnesota. If requested, Brooklyn Park will provide a certificate of insurance evidencing such coverage. Upon request, Brooklyn Center may shall be named as an additional insured on Bloomington's commercial general liability insurance only.

14. Compliance with Laws, Guidelines. Brooklyn Park shall comply with all federal, state, and local laws and all requirements (including debarment and other required certifications and audits) when seeking payment from Brooklyn Center and when performing the Contracted Services under this agreement. The source of the funds for payment of services under this Agreement is from federal a federal source, Brooklyn Park is bound by and shall comply with applicable law, rules, regulations, applicable documentation, or other Brooklyn Center directives relating to the source and utilization of such funds.

15. Data Privacy And Security. Brooklyn Park, its officers, agents, owners, partners, employees, volunteers and Brooklyn Parks shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("MGDPA") and all other applicable state and federal laws, rules, regulations and orders relating to data or the privacy, confidentiality or security of data.

16. Maintenance and Audit of Records.

    A. Subject to the requirements of Minnesota Statutes, section 16C.05, subdivision 5, Brooklyn Center, the State Auditor, or any of their authorized representatives which may include other independent financial analysts at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to request submission of documentation, examine, audit, excerpt, and transcribe any books, documents, papers, records, or other data, which are pertinent to the accounting practices and procedures of Brooklyn Park and involve transactions relating to this Agreement. Brooklyn Park shall maintain these materials and allow access during the period of this Agreement and for six (6) years after its expiration, cancellation or termination.

    B. Brooklyn Center Contact or other personnel of Brooklyn Center may conduct periodic site visits to determine compliance with this Agreement and evaluate the quality of services purchased under this Agreement. Such visits may be made with or without prior notice at any time within the hours of operation of Brooklyn Park.

    C. Brooklyn Center reserves the right to evaluate, and to authorize independent evaluations of the Contracted Services.

17. Independent Audits.

A. Brooklyn Center requires Brooklyn Park to hire a Certified Public Accountant annually for the purpose of an Independent External Audit of Brooklyn Park's financial statements.

B. Any time an independent audit is performed, Brooklyn Park shall provide to Brooklyn Center a full set of audited financial statements containing all disclosures required by Generally Accepted Accounting Principles (GAAP) and a copy of the Management Letter (Report on Internal Controls) from the independent auditor within thirty (30) days of completion, but not later than 180 days after the end of Brooklyn Park's accounting year.

18. Notices and Contacts.

A. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430
Attn: Jesse Anderson, Interim Community Development Director

Brooklyn Park
5400 85th Avenue North
Brooklyn Park, MN 55443
Attn: Kimberly Berggren, Community Development Director

B. Contacts. Unless specified and agreed to in writing the following individuals shall be the primary point of contact for each party:

Brooklyn Center Contact: Jesse Anderson, Interim Community Development Director

Brooklyn Park Contact: Kimberly Berggren, Community Development Director

19. Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

20. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

21. Disputes. In the event a dispute shall arise between Brooklyn Park and Brooklyn Center under any provision to this Agreement, Brooklyn Center Contact and Brooklyn Park Contact shall meet and negotiate, in good faith, to resolve the differences prior to commencing any legal proceeding. If negotiations fail, the dispute will submitted to non-binding mediation unless the parties mutually agree otherwise. The cost of mediation will be shared equally by the parties. If the parties are unable to resolve the dispute through mediation, the parties may pursue all remedies available under law.

22. Time. Time is of the essence in this Agreement.

23. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.

24. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.

25. Non-Discrimination. Brooklyn Park shall not exclude any person from full employment rights nor prohibit participation in or the benefits of any program, service or activity on the grounds of any protected status or class including but not limited to race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status, or national origin. No person who is protected by applicable federal or state laws against discrimination shall be subjected to discrimination.

26. Governing Law. The Agreement will be governed in all respects by the laws of the state of Minnesota, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Hennepin County.

27. Non-Waiver. No failure on the part of Brooklyn Center to exercise, and no delay in exercising, any right hereunder shall operate as a wavier thereof; nor shall any single or partial exercise by Brooklyn Center of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to Brooklyn Center at law or in equity.

28. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

29. Assignment. Brooklyn Park shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of Brooklyn Center.

30. Subcontracting.

A. Brooklyn Park shall not subcontract this Agreement and/or services to be performed, whether in whole or in party, without the prior written consent of Brooklyn Center. Permission to subcontract, however, shall under no circumstances relieve Brooklyn Park of its liabilities and obligations under the Agreement. Further, Brooklyn Park shall be fully responsible for the acts, omissions, and failure of its subcontractors in the performance of the specified contractual services, and of person(s) directly or indirectly employed by subcontractors. Contracts between Brooklyn Park and each subcontractor shall require that the subcontractor's services be performed in accordance with this Agreement. Brooklyn Park shall make contracts between Brooklyn Park and subcontractors available upon request. For clarification and not limitation of the provisions herein, none of the following constitutes assent by Brooklyn Center to a contract between Brooklyn Park and a subcontractor, or a waiver or release by Brooklyn Center of Brooklyn Park's full compliance with the requirements of this clause: (1) Brooklyn Center's request or lack of request for contracts between Brooklyn Park and subcontractors; (2) Brooklyn Center's review, extent of review or lack of review of any such contracts; or (3) Brooklyn Center's statements or actions or omissions regarding such contracts.

B. As required by Minnesota Statutes, section 471.425, subd. 4a, Brooklyn Park shall pay any subcontractor within ten (10) days of Brooklyn Park's receipt of payment from Brooklyn Center for undisputed services provided by the subcontractor and Brooklyn Park shall comply with all other provisions of that statute.

31. Entire Agreement. This Agreement constitutes the entire agreement between Brooklyn Center and Brooklyn Park for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.

32. No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either party has to Treasury in connection with the use of ARPA Funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.

33. Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.

34. Counterparts. This Agreement may be executed in one or more counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

*[Remainder of page left intentionally blank]*

IN WITNESS WHEREOF, each of the parties has executed this Agreement by its duly authorized officer as of the day and year first written above.

**CITY OF BROOKLYN CENTER**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

**CITY OF BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

## List of Exhibits

**Exhibit A** Contracted Services

**Exhibit B** Financial Information and Budget

## Exhibit A

Contracted Services

Contracted Services shall include Brooklyn Park's administration of the Contracted Program on behalf of Brooklyn Center. This shall include utilizing funds disbursed under the Agreement, in a manner consistent with the Agreement, to accomplish the work and outcomes included in the 2022-2024 Workforce Development Framework included in this Exhibit A.

**Exhibit B**

**BROOKLYN CENTER AND BROOKLYN PARK JOINT POWERS AGREEMENT REGARDING WORKFORCE DEVELOPMENT**

THIS JOINT POWERS AGREEMENT (this "Agreement") is entered into as of [DATE], by and between the **CITY OF BROOKLYN CENTER**, a public body corporate and politic under the laws of the State of Minnesota ("Brooklyn Center"), and the **BROOKLYN PARK ~~ECOMONIC~~ECONOMIC DEVELOPMENT AUTHORITY**, a public body corporate and politic under the law of the State of Minnesota ("Brooklyn Park"), collectively (the "Cities").

RECITALS

WHEREAS, the U.S. Department of the Treasury ("Treasury") has allocated to Brooklyn Center $3,353,972 of federal stimulus funding from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Funds under CFDA No. 21.027 ("ARPA Funds") under Section 603(b) of the Social Security Act, as amended by Section 9901 of the American Rescue Plan Act ("ARPA");

WHEREAS, ARPA authorizes the ARPA Funds to be used for the following purposes as outlined in the Final Rule as follows:

(1) To respond to the COVID-19 public health emergency or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

(2) To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers;

(3) For the provision of government services to the extent of the reduction in revenue due to the COVID-19 public health emergency relative to revenues collected in the most recent full fiscal year prior to the emergency; and

(4) To make necessary investments in water, sewer, or broadband infrastructure

WHEREAS, Brooklyn Center has elected to take the "standard allowance" under Treasury's Final Rule, allowing Brooklyn Center to use up to $10,000,000 of its ARPA Funds for the provision of government services;

WHEREAS, the Cities wish to work cooperatively to provide programs and services to youth, adults, and businesses that promote economic empowerment and decreases individual, community, and systemic barriers to employment with the cities of Brooklyn Center and Brooklyn Park as described in Exhibit A: Contracted Services ("Contracted Services"), which is incorporated herein by reference; and

WHEREAS, Brooklyn Center authorized $560,000 of its ARPA Funds accounted for under the standard allowance for the provision of government services, for the purpose of funding the Contracted Services;

WHEREAS, the governing bodies of Brooklyn Center and Brooklyn Park are authorized by Minnesota Statutes, Section 471.59, Subdivision 10, to enter into agreements with each other for the provision of professional services by Brooklyn Park to the residents of Brooklyn Center;

WHEREAS, Brooklyn Center and Brooklyn Park desire to enter into this Agreement so that Brooklyn Center may provide ARPA Funds designated for the provision of government services under the Final Rule's standard allowance, for Contracted Services as allowed under the Final Rule.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Brooklyn Center and Brooklyn Park hereby agree as follows:

1. Effective Date And Term. This Agreement shall govern the performance of the parties for the period commencing on October 1, 2022 through December 31, 2024 unless earlier terminated by either party in accordance with the terms of this Agreement.

2. Funds. Brooklyn Center agrees to provide Brooklyn Park a total sum not to exceed five-hundred and sixty thousand and 00/100ths dollars ($560,000.00) for the provision of the Contracted Services.

3. Description of Services. The Contracted Services, as further described in Exhibit A, shall consist of the administration of programs, including granting of funds, and services to youth, adults, and businesses that promote economic empowerment and decreases individual, community, and systemic barriers to employment and that respond to workforce development needs caused by the pandemic. The Cities anticipate other entities will also contribute funding to the Contracted Services as part of the overall workforce development program being implemented by the Cities ("Contracted Program").

4. Payment for Services. Contracted Services budgets include direct program staff time for the Contracted Services, plus a 10% administrative fee that can be applied to cover related overhead expenses, as provided in Exhibit B. Brooklyn Center agrees to provide payments in the amount reflected in the below payment schedule, as also reflected in Exhibit B:

    a. Annual Payments for Contracted Services:
        i. Upon Execution: $84, 666.00
        ii. January 31, 2023: $234,666.00
        iii. January 31, 2024: $184,666.00

    b. Brooklyn Park shall provide quarterly invoicing to Brooklyn Center for administrative fees, on a form provided by Brooklyn Center, based on the actual expenditures incurred by Brooklyn Park for the previous quarter associated with managing funds from Brooklyn Center for Contracted

Services. Reimbursements to Brooklyn Park shall not exceed the following amounts for each year calendar year:

i. 2022: $14,068.00
ii. 2023: $23,467.00
iii. 2024: $18,467.00

B. Brooklyn Park shall provide year-end reporting on the outcomes of each section of the Contracted Program.

C. Should any dispute arise over this Agreement, Brooklyn Center shall pay for any undisputed charges ~~for the previous three (3) month period~~submitted under Section 4.b when due. Disputed amounts will be addressed by both parties. If no agreeable solution is reached, the dispute will be handled pursuant to ~~Clause~~Section 21.

D. Brooklyn Center will make payment within thirty-five (35) days from receipt of the invoice. If the invoice is incorrect, defective, or otherwise improper, Brooklyn Center will notify Brooklyn Park within ten (10) days of receiving the incorrect invoice. Upon receiving the corrected invoice from Brooklyn Park, Brooklyn Center will make payment within thirty-five (35) days.

E. Brooklyn Park shall perform all Contracted Services hereunder to the satisfaction of Brooklyn Center, in accordance with the provisions herein, and in compliance with applicable law. If Brooklyn Center determines that Brooklyn Park has not complied with the foregoing, Brooklyn Center shall not have any obligation to pay Brooklyn Park for the non-complying services.

F. All expenditures and revenues governed by Brooklyn Park's budget as described in Exhibit B and all payments for contracted service costs are made subject to financial review by Brooklyn Center. This financial review shall be the final determination of if expenses meet the requirements under this Agreement and were for Contracted Services.

G. Payments shall be made pursuant to the provisions herein and Brooklyn Center's then applicable payment policies, procedures, rules and directions. Brooklyn Center is not responsible for remedying fraudulent or unauthorized payments requested in Brooklyn Park's name.

H. Failure to comply with the provisions of this Agreement shall be just cause for delaying payment until Brooklyn Park is in compliance. In the event of a decision to withhold payments, Brooklyn Center shall furnish prior written notice to Brooklyn Park.

I. Brooklyn Center may withhold from any payment due to Brooklyn Park any amount which is due and owing Brooklyn Center under this or any other agreement between the parties due to overpayment or as a result of an audit.

J. In the event that Brooklyn Center withholds payment for failure to comply with any of the provisions of this Agreement, then no interest penalty shall accrue against Brooklyn Center. If claims are made by Brooklyn Park that Brooklyn Center did not act in good faith in withholding payments as provided above, then such claims shall be handled as a dispute pursuant to the ~~Clause~~Section 21: Disputes. If an audit is required by Brooklyn Center before payment is to be made, then no interest shall accrue against Brooklyn Center until thirty-five (35) days after the audit is completed by Brooklyn Center.

5. Adjustment Of Payments. This cost reimbursement with settle-up contract is subject to financial adjustment. This adjustment will be completed for each budget period, based on Brooklyn Park's year-end financial reports and/or audit report, subject to audit by Brooklyn Center staff or consultants. All expenditures and revenues governed by Brooklyn Park's budget as described in Exhibit B and all payments for Contracted Service costs are subject to financial review by Brooklyn Center. Any resulting adjustment shall be paid by Brooklyn Park to Brooklyn Center within forty-five (45) days of receipt of billing from Brooklyn Center, except as provided in Section 5.A.ii.

A. ~~A.~~ Contract Adjustment.

i. The amount of the contract adjustment to be returned to Brooklyn Center is Brooklyn Center's proportionate share of the total Contracted Program surplus calculated by using Brooklyn Center Contracted Program payments in proportion to total Contracted Program revenue. Categories of the Contracted Program are set forth in Exhibit B.

ii. Instead of returning the amount of the contract adjustment, Brooklyn Park and Brooklyn Center may agree to amend the budget provided in Exhibit B to roll the surplus into the next budget period instead of Brooklyn Park returning the contract adjustment amount to Brooklyn Center. A budget amendment to address a year-end surplus must be made in writing and be approved by the Brooklyn Park Economic Development Authority Executive Director and the Brooklyn Park City Manager. Budget adjustments will not increase the total funds identified in Section 2.

B. Financial Accounting Principles:

i. Financial Reports:

a. Financial reports for each budget period must be on the accrual basis. Financial reports include a revenue and expense report for the total agency and a contracted program specific line item revenue and expense report.

b. Brooklyn Park's independent audit must include a supplemental schedule which specifically identifies and itemizes the line item revenues and expenses for each Brooklyn Center contracted program with Brooklyn Park for each budget period as identified in the line item budget attached as Exhibit B.

c. Brooklyn Park's accounting system and records must be able to specifically identify the revenues and expenses for each contracted program as set forth in Exhibit B and be able to produce the financial reports required in ~~Clause~~Section 5.B.i.a.

d. The accounting system should be capable of segregating expenses by program(s) or service type(s).

ii. Administrative Allocations:

a. Administrative (Management & General) expense allocations must be in accordance with the Contracted Services budget. The allocation of General Administrative expenses must be based on a specifically identified methodology which is consistent, verifiable, systematic, and reasonable.

b. The allocations must be in accordance with all applicable federal, state, and local statutes, regulations, rules, ordinances, and Brooklyn Center policies, now in force or as hereafter enacted; identified in the Contracted Services budget and supporting materials; and substantiated by Brooklyn Park's accounting policies and procedures.

c. Fundraising (Development) expenses, if applicable, must be in accordance with the Contracted Services budget. The allocation of fundraising expenses must be based on a method which is verifiable and explained in the line item budget substantiation.

d. Fundraising expenses cannot exceed fundraising revenues for the Contracted Services budget.

iii. Treatment of Other Revenues:

a. Definition: Other revenues are all revenues received (earned), other than Brooklyn Center payment under this Agreement, for the contracted program. Items included as other revenues but not limited thereto, are contributions, grants, fees for services, interest, investment income, and the allocation of indirect revenues per 5.B.iii.c., below.

b. Donor Restrictions: Donors may designate their contributions to be used for a specific purpose. The contribution shall be recorded as specified by the donor and Brooklyn Park must retain substantiation. Unless a donor restricts a contribution for a specific purpose, it will be treated as other unrestricted revenue.

d. Allocation of Indirect Revenues: Other revenues received that are not specifically and directly identifiable with the particular contracted program will be allocated to the contracted program

C. Close-Outs. Brooklyn Park's obligation to Brooklyn Center shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: Brooklyn Park close-out certifications, submission of final reports, making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable), and determining the custodianship of records.

6. Suspension and Debarment. Brooklyn Park represents that neither it nor any of its principals has been debarred, suspended or determined ineligible to participate in federal assistance awards or contracts. Brooklyn Park further agrees that it will notify Brooklyn Center immediately if it or any of its principals is placed on the list of parties excluded from federal procurement or nonprocurement programs available at www.sam.gov.

7. Records.

A. Brooklyn Park shall maintain the following records:

i. Financial records through an accounting system which sufficiently and properly reflects all revenue received and all direct and indirect costs of any nature incurred in the performance of this Agreement as determined by Brooklyn Center. All financial transactions must have original supporting documentation.

ii. Performance, program and service delivery records, as required by Brooklyn Center and by the State of Minnesota. Such records may include, but not be limited to: demographic information; enrollment, attendance, and/or utilization information; and information about the type and amount of services provided, such as output and outcome information. Performance records shall be consistent with the performance measures contained in Exhibit A of this Agreement.

iii. An Accounting Policy and Procedure Manual as part of a sound financial accounting system.

B. Brooklyn Park shall maintain all program and financial records during the term of the Agreement and for six (6) years after its termination, cancellation or expiration for audit purposes. However, if Brooklyn Center furnishes written notice during this period requesting retention of records to allow completion of an audit by Brooklyn Center or its ultimate sources of funds, Brooklyn Park shall retain records for the period requested.

8. Financial and Other Reports. Brooklyn Park shall submit to Brooklyn Center such reports and back-up data as may be required by Brooklyn Center, Treasury, or any other entity with authority over the reporting of ARPA Funds, including without limitation such reports in accordance with the following schedule:

| REPORT | DEADLINE |
|---|---|
| Quarterly Report | 20th day of the month following the end of each quarter. |
| Annual Report | January 31 of 2023, 2024, and 2025. |
| Final Report | January 31, 2025. |

9. Improper Payments. Any item of expenditure by Brooklyn Park under the terms of this Agreement which is found by auditors, investigators, and other authorized representatives of Brooklyn Center, state of Minnesota, or authorized federal government agency, including but not limited to Treasury to be improper, unallowable, in violation of federal or state law or the terms of this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of Brooklyn Park, shall become Brooklyn Park's liability, to be paid by Brooklyn Park from funds other than those provided by Brooklyn Center under this Agreement or any other agreements between Brooklyn Center and Brooklyn Park.

10. Termination. Brooklyn Center may terminate this Agreement, if Brooklyn Park defaults under the terms of this Agreement and does not cure the default within thirty (30) days after written notice of the default.

    A. If Brooklyn Park fails to perform any of the provisions of this Agreement, fails to administer the work so as to endanger the performance of the Agreement or otherwise breaches or fails to comply with any of the terms of this Agreement, it shall be in default. Unless Brooklyn Park's default is excused in writing by Brooklyn Center, Brooklyn Center may upon written notice immediately cancel or terminate this Agreement in its entirety. Additionally, failure to comply with the terms of this Agreement shall be just cause for Brooklyn Center to delay payment until Brooklyn Park's compliance. In the event of a decision to withhold payment, Brooklyn Center shall furnish prior written notice to Brooklyn Park.

    B. Notwithstanding any provision of this Agreement to the contrary, Brooklyn Park shall remain liable to Brooklyn Center for damages sustained by Brooklyn Center by virtue of any breach of this Agreement by Brooklyn Park. Upon notice to Brooklyn Park of the claimed breach and the amount of the claimed damage, Brooklyn Center may withhold any payments to Brooklyn Park for the purpose of set-off until such time as the exact amount of damages due Brooklyn Center from Brooklyn Park is determined. Following notice from Brooklyn Center of the claimed breach and damage Brooklyn Park and Brooklyn Center shall attempt to resolve the dispute in good faith.

    C. The above remedies shall be in addition to any other right or remedy available to Brooklyn Center under this Agreement, law, statute, rule, and/or equity.

    D. Brooklyn Center's failure to insist upon strict performance of any provision or to exercise any right under this Agreement shall not be deemed a relinquishment or

waiver of the same, unless consented to in writing. Such consent shall not constitute a general waiver or relinquishment throughout the entire term of the Agreement.

E. Upon written notice, Brooklyn Center may immediately suspend or cancel/terminate this Agreement in the event any of the following occur: (i) Brooklyn Center does not obtain anticipated funding from an outside source for this project; (ii) funding for this project from an outside source is withdrawn, frozen, shut down, is otherwise made unavailable or Brooklyn Center loses the outside funding for any other reason; (iii) Brooklyn Center determines, in its sole discretion, that funding is, or has become, insufficient; or (iv) if Brooklyn Center's final budget as approved by Brooklyn Center City Council changes the amount budgeted for this particular program or this service area for any portion of the term of this Agreement. Brooklyn Center is not obligated to pay for any services that are provided or costs or expenses or obligations incurred or encumbered after the notice and effective date of the suspension or cancellation/termination. In the event Brooklyn Center suspends, cancels or terminates this Agreement pursuant to this paragraph, Brooklyn Center shall pay any amount due and payable prior to the notice of suspension or cancellation/termination except that Brooklyn Center shall not be obligated to pay any amount as or for penalties, early termination fees, charges, time and materials for services not then performed, costs, expenses or profits on work done.

F. This Agreement may be canceled/terminated with or without cause by Brooklyn Center upon thirty (30) days' written notice.

G. After receipt of a notice of cancellation/termination, and except as otherwise directed, Brooklyn Park shall:

i. Discontinue provision of Contracted Services under this Agreement on the date, and to the extent specified, in the notice of cancellation/termination.
ii. Cancel all orders and subcontracts to the extent that they relate to the performance of Contracted Services cancelled/terminated by the notice of cancellation/termination.
iii. Settle all outstanding claims and liabilities for orders and subcontracts existing at the time of the notice of cancellation/termination, provided, however, that the claims and liabilities for orders and subcontracts had been approved in writing by Brooklyn Center.

11. Independent Contractor. Brooklyn Park shall be for all purposes under this Agreement be an Independent Contractor. Nothing contained herein will be deemed to create an association, a partnership, a joint venture, or a relationship of principal and agent, or employer and employee between the parties. Brooklyn Park shall not be, or be deemed to be, or act or purport to act, as an employee, agent, or representative of Brooklyn Center for any purpose.

12. Indemnification. Brooklyn Park agrees to defend, indemnify and hold Brooklyn Center, its officers, officials, employees, agents and volunteers harmless from and against any and

all claims, injuries, damages, losses or expenses including without limitation personal injury, bodily injury, sickness, disease, or death, or damage to or destruction of property, which are alleged or proven to be caused in whole or in part by an act or omission of Brooklyn Park, its officers, directors, employees, and/or agents relating to Brooklyn Park's performance or failure to perform under this Agreement. The section shall survive the expiration or termination of this Agreement.

13. Insurance. Brooklyn Park hereby agrees to maintain in force its present policy of commercial general liability insurance in compliance with Minnesota Statutes, Section 466, and professional liability coverage in the amount of at least $2,000,000 per occurrence for the term of this Agreement. Said policy shall be with an insurance company authorized to do business in Minnesota. If requested, Brooklyn Park will provide a certificate of insurance evidencing such coverage. Upon request, Brooklyn Center may shall be named as an additional insured on Bloomington's commercial general liability insurance only.

14. Compliance with Laws, Guidelines. Brooklyn Park shall comply with all federal, state, and local laws and all requirements (including debarment and other required certifications and audits) when seeking payment from Brooklyn Center and when performing the Contracted Services under this agreement. The source of the funds for payment of services under this Agreement is from federal a federal source, Brooklyn Park is bound by and shall comply with applicable law, rules, regulations, applicable documentation, or other Brooklyn Center directives relating to the source and utilization of such funds.

15. Data Privacy And Security. Brooklyn Park, its officers, agents, owners, partners, employees, volunteers and Brooklyn Parks shall, to the extent applicable, abide by the provisions of the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13 ("MGDPA") and all other applicable state and federal laws, rules, regulations and orders relating to data or the privacy, confidentiality or security of data.

16. Maintenance and Audit of Records.

    A. Subject to the requirements of Minnesota Statutes, section 16C.05, subdivision 5, Brooklyn Center, the State Auditor, or any of their authorized representatives which may include other independent financial analysts at any time during normal business hours, and as often as they may reasonably deem necessary, shall have access to and the right to request submission of documentation, examine, audit, excerpt, and transcribe any books, documents, papers, records, or other data, which are pertinent to the accounting practices and procedures of Brooklyn Park and involve transactions relating to this Agreement. Brooklyn Park shall maintain these materials and allow access during the period of this Agreement and for six (6) years after its expiration, cancellation or termination.

    B. Brooklyn Center Contact or other personnel of Brooklyn Center may conduct periodic site visits to determine compliance with this Agreement and evaluate the quality of

services purchased under this Agreement. Such visits may be made with or without prior notice at any time within the hours of operation of Brooklyn Park.

C. Brooklyn Center reserves the right to evaluate, and to authorize independent evaluations of the Contracted Services.

17. Independent Audits.

A. Brooklyn Center requires Brooklyn Park to hire a Certified Public Accountant annually for the purpose of an Independent External Audit of Brooklyn Park's financial statements.

B. Any time an independent audit is performed, Brooklyn Park shall provide to Brooklyn Center a full set of audited financial statements containing all disclosures required by Generally Accepted Accounting Principles (GAAP) and a copy of the Management Letter (Report on Internal Controls) from the independent auditor within thirty (30) days of completion, but not later than 180 days after the end of Brooklyn Park's accounting year.

18. Notices and Contacts.

A. Any notice desired or required to be given hereunder shall be in writing, and shall be deemed received three (3) days after deposit with the U.S. Postal Service, postage fully prepaid, certified mail, return receipt requested, and addressed to the party to which it is intended at its last known address, or to such other person or address as either party shall designate to the other from time to time in writing forwarded in like manner:

Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430
Attn: Jesse Anderson, Interim Community Development Director

Brooklyn Park
5400 85th Avenue North
Brooklyn Park, MN 55443
Attn: Kimberly Berggren, Community Development Director

B. Contacts. Unless specified and agreed to in writing the following individuals shall be the primary point of contact for each party:

Brooklyn Center Contact: Jesse Anderson, Interim Community Development Director

Brooklyn Park Contact: Kimberly Berggren, Community Development Director

19. Improper Influence. Each party warrants that it did not and will not employ, retain, or contract with any person or entity on a contingent compensation basis for the purpose of seeking, obtaining, maintaining, or extending this Agreement. Each party agrees, warrants, and represents that no gratuity whatsoever has been or will be offered or conferred with a view towards obtaining, maintaining, or extending this Agreement.

20. Conflict of Interest. The elected and appointed officials and employees of the parties shall not have any personal interest, direct or indirect, which gives rise to a conflict of interest.

21. Disputes. In the event a dispute shall arise between Brooklyn Park and Brooklyn Center under any provision to this Agreement, Brooklyn Center Contact and Brooklyn Park Contact shall meet and negotiate, in good faith, to resolve the differences prior to commencing any legal proceeding. If negotiations fail, the dispute will submitted to non-binding mediation unless the parties mutually agree otherwise. The cost of mediation will be shared equally by the parties. If the parties are unable to resolve the dispute through mediation, the parties may pursue all remedies available under law.

22. Time. Time is of the essence in this Agreement.

23. Survival. The provisions of this Agreement that by their sense and purpose should survive expiration or termination of the Agreement shall so survive. Those provisions include without limitation Indemnification and Maintenance and Audit of Records.

24. Amendment. No amendment or modification to the Agreement will be effective without the prior written consent of the authorized representatives of the parties.

25. Non-Discrimination. Brooklyn Park shall not exclude any person from full employment rights nor prohibit participation in or the benefits of any program, service or activity on the grounds of any protected status or class including but not limited to race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status, or national origin. No person who is protected by applicable federal or state laws against discrimination shall be subjected to discrimination.

26. Governing Law. The Agreement will be governed in all respects by the laws of the state of Minnesota, both as to interpretation and performance, without regard to conflicts of law or choice of law provisions. Any action arising out of or in connection with the Agreement may be instituted and maintained only in a court of competent jurisdiction in Hennepin County.

27. Non-Waiver. No failure on the part of Brooklyn Center to exercise, and no delay in exercising, any right hereunder shall operate as a wavier thereof; nor shall any single or partial exercise by Brooklyn Center of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedy available to Brooklyn Center at law or in equity.

28. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors.

29. Assignment. Brooklyn Park shall not assign or transfer any of its interests in or obligations under this Agreement without the prior written consent of Brooklyn Center.

30. Subcontracting.

    A. Brooklyn Park shall not subcontract this Agreement and/or services to be performed, whether in whole or in party, without the prior written consent of Brooklyn Center. Permission to subcontract, however, shall under no circumstances relieve Brooklyn Park of its liabilities and obligations under the Agreement. Further, Brooklyn Park shall be fully responsible for the acts, omissions, and failure of its subcontractors in the performance of the specified contractual services, and of person(s) directly or indirectly employed by subcontractors. Contracts between Brooklyn Park and each subcontractor shall require that the subcontractor's services be performed in accordance with this Agreement. Brooklyn Park shall make contracts between Brooklyn Park and subcontractors available upon request. For clarification and not limitation of the provisions herein, none of the following constitutes assent by Brooklyn Center to a contract between Brooklyn Park and a subcontractor, or a waiver or release by Brooklyn Center of Brooklyn Park's full compliance with the requirements of this clause: (1) Brooklyn Center's request or lack of request for contracts between Brooklyn Park and subcontractors; (2) Brooklyn Center's review, extent of review or lack of review of any such contracts; or (3) Brooklyn Center's statements or actions or omissions regarding such contracts.

    B. As required by Minnesota Statutes, section 471.425, subd. 4a, Brooklyn Park shall pay any subcontractor within ten (10) days of Brooklyn Park's receipt of payment from Brooklyn Center for undisputed services provided by the subcontractor and Brooklyn Park shall comply with all other provisions of that statute.

31. Entire Agreement. This Agreement constitutes the entire agreement between Brooklyn Center and Brooklyn Park for the use of funds received under this Agreement and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written between the parties with respect to this Agreement.

32. No Third Party Beneficiaries. Nothing herein shall or be deemed to create or confer any right, action, or benefit in, to, or on the part of any person or entity that is not a party to this Agreement. This provision shall not limit any obligation which either party has to Treasury in connection with the use of ARPA Funds, including the obligations to provide access to records and cooperate with audits as provided in this Agreement.

33. Severability. In the event that one or more provisions of this Agreement shall be determined to be invalid by any court of competent jurisdiction or agency having jurisdiction thereof, the remainder of the Agreement shall remain in full force and effect and the invalid provisions shall be deemed deleted.

34. Counterparts. This Agreement may be executed in one or more counterparts, any of which shall be deemed an original but all of which together shall constitute one and the same instrument. Authorization. Each party signing below warrants to the other party, that they have the full power and authority to execute this Agreement on behalf of the party for whom they sign.

*[Remainder of page left intentionally blank]*

IN WITNESS WHEREOF, each of the parties has executed this Agreement by its duly authorized officer as of the day and year first written above.

**CITY OF BROOKLYN CENTER**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

**CITY OF BROOKLYN PARK ECONOMIC DEVELOPMENT AUTHORITY**

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

## List of Exhibits

**Exhibit A** Contracted Services

**Exhibit B** Financial Information and Budget

## Exhibit A

Contracted Services

Contracted Services shall include Brooklyn Park's administration of the Contracted Program on behalf of Brooklyn Center. This shall include utilizing funds disbursed under the Agreement, in a manner consistent with the Agreement, to accomplish the work and outcomes included in the 2022-2024 Workforce Development Framework included in this Exhibit A.

# Exhibit B

Document comparison by Workshare 10.0 on Thursday, October 13, 2022 10:08:08 AM

| Input: | |
|---|---|
| Document 1 ID | PowerDocs://DOCSOPEN/813445/3 |
| Description | DOCSOPEN-#813445-v3-Agreement_Workforce_Development_BC |
| Document 2 ID | PowerDocs://DOCSOPEN/813445/4 |
| Description | DOCSOPEN-#813445-v4-Agreement_Workforce_Development_BC |
| Rendering set | Standard |

| Legend: | |
|---|---|
| Insertion | |
| ~~Deletion~~ | |
| ~~Moved from~~ | |
| Moved to | |
| Style change | |
| Format change | |
| ~~Moved deletion~~ | |
| Inserted cell | |
| Deleted cell | |
| Moved cell | |
| Split/Merged cell | |
| Padding cell | |

| Statistics: | |
|---|---|
| | Count |
| Insertions | 27 |
| Deletions | 22 |
| Moved from | 0 |
| Moved to | 0 |
| Style change | 0 |
| Format changed | 0 |
| Total changes | 49 |

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Elizabeth Heyman, Director of Public Works
BY: Cynthia Majors, Public Works Admin Assistant

SUBJECT: Resolution Declaring a Public Nuisance and Ordering the Removal of Diseased Trees at Certain Properties in Brooklyn Center, Minnesota

**Requested Council Action:**

- *Motion to approve a resolution declaring a public nuisance and ordering the removal of diseased trees at certain properties as listed in the resolution.*

**Background:**

The attached resolution represents the official City Council action required to expedite removal of diseased trees that were recently marked by the City Tree Inspector. The City has maintained a policy of removing and properly disposing of diseased trees in order to prevent tree diseases from spreading throughout the community. The removal of diseased trees is defined in City Ordinance Chapter 20-301 to 20-306. Although the City has historically focused on Dutch Elm disease, other transmissible diseases and infestations are addressed as well.

Property owners are given the opportunity to remove the diseased tree on their own or enter into an agreement to allow the City to remove the diseased tree. Where an agreement with the property owner is executed, a minimal administrative charge of $50 is applied to the costs associated with the tree removal.

After a diseased tree is declared a public nuisance by the City Council, another Compliance Notice will be provided to the property owner allowing additional time, at least five (5) days, for voluntary correction, again providing an option for an agreement with the City. If the property owner does not correct the violation or enter into an agreement, the City will remove the diseased tree. An administrative abatement service charge will be imposed based on the cost of the abatement, with a minimum charge of $150.

**Budget Issues:**

The City's share of the cost of removal for diseased trees within the public right-of-way and on City property is included in the 2022 budget under the Public Works Forestry operating budget. The cost of removal for diseased trees located on private property is the responsibility of the respective property owner, and if unpaid, is specially assessed to the property.

**Inclusive Community Engagement:**

**Antiracist/Equity Policy Effect:**

**Strategic Priorities and Values:**

Safe, Secure, Stable Community

**ATTACHMENTS:**

| Description | Upload Date | Type |
| --- | --- | --- |
| Diseased Tree Memo | 10/25/2022 | Cover Memo |

# COUNCIL ITEM MEMORANDUM

DATE: November 14,2022

TO: Dr. Reggie Edwards, City Manager

THROUGH: Elizabeth Heyman, Public Works Director

FROM: Cynthia Majors, Public Works Admin Technician

SUBJECT: Resolution Declaring a Public Nuisance and Ordering the Removal of Diseased Trees at Certain Properties in Brooklyn Center, Minnesota

**Recommendation:**
- Motion to approve a resolution declaring a public nuisance and ordering the removal of diseased trees at certain properties as listed in the resolution.

**Background:**
The attached resolution represents the official City Council action required to expedite removal of diseased trees that were recently marked by the City Tree Inspector. The City has maintained a policy of removing and properly disposing of diseased trees in order to prevent tree diseases from spreading throughout the community. The removal of diseased trees is defined in City Ordinance Chapter 20-301 to 20-306. Although the City has historically focused on Dutch Elm disease, other transmissible diseases and infestations are addressed as well.

Property owners are given the opportunity to remove the diseased tree on their own or enter into an agreement to allow the City to remove the diseased tree. Where an agreement with the property owner is executed, a minimal administrative charge of $50 is applied to the costs associated with the tree removal.

After a diseased tree is declared a public nuisance by the City Council, another Compliance Notice will be provided to the property owner allowing additional time, at least five (5) days, for voluntary correction, again providing an option for an agreement with the City. If the property owner does not correct the violation or enter into an agreement, the City will remove the diseased tree. An administrative abatement service charge will be imposed based on the cost of the abatement, with a minimum charge of $150.

**Budget Issues:**
The City's share of the cost of removal for diseased trees within the public right-of-way and on City property is included in the 2022 budget under the Public Works Forestry operating budget. The cost of removal for diseased trees located on private property is the responsibility of the respective property owner, and if unpaid, is specially assessed to the property.

**Strategic Priorities:**
- Safe, Secure, Stable Community

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Elizabeth Heyman, Director of Public Works
BY: Cynthia Majors, Public Works Admin Assistant

SUBJECT: Resolution Declaring a Public Nuisance and Ordering the Removal of Dead Trees at Certain Properties in Brooklyn Center, Minnesota

**Requested Council Action:**

*- Motion to approve a resolution declaring a public nuisance and ordering the removal of dead trees at certain properties as listed in the resolution.*

**Background:**

The attached resolution represents the official City Council action required to expedite removal of dead trees that were recently marked by the City Tree Inspector and have become a public safety issue due to being a hazard. The removal of dead trees is defined in City Ordinance Chapter 20-202 and 19-101 through 19-106.

Property owners are given the opportunity to remove the dead tree on their own or enter into an agreement to allow the City to remove the dead tree. A minimal administrative charge of $50 is applied to the costs associated with the tree removal when an agreement with the property owner is executed.

If the owner does not respond within ten (10) days, they are provided with a second notice notifying them of the City Council meeting where the dead tree is declared a public nuisance. If the property owner does not correct the violation or enter into an agreement, the City will remove the dead tree. A minimum administrative abatement service charge of $150 will be imposed based on the cost of the abatement.

**Budget Issues:**

The cost of removal of dead trees located on private property is the responsibility of the respective property owner, and if unpaid, is specially assessed to the property.

**Inclusive Community Engagement:**

**Antiracist/Equity Policy Effect:**

**Strategic Priorities and Values:**

Enhanced Community Image

**ATTACHMENTS:**

| Description | Upload Date | Type |
| --- | --- | --- |
| Dead Tree Resolution | 11/8/2022 | Resolution Letter |

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION DECLARING A PUBLIC NUISANCE AND ORDERING THE REMOVAL OF DEAD TREES AT CERTAIN PROPERTIES IN BROOKLYN CENTER, MINNESOTA

WHEREAS, Brooklyn Center City Code Section 20-202 and 19-101 thru 19-106, declares any dead tree a public nuisance and provides for abatement by the City if not corrected by the property owner; and

WHEREAS, removal of dead trees and abatement of the public nuisance is necessary to prevent the hazard and to protect the safety of the public in neighborhoods; and

WHEREAS, a Notice to Abate Nuisance and a Dead Tree Removal Agreement has been issued to the owners of certain properties in the City of Brooklyn Center giving the owners ten (10) days to remove dead trees on the owners' property; and

WHEREAS, the City can expedite the removal of these dead trees by declaring them a public nuisance.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that:

1. The dead tree at the following address is hereby declared to be a public nuisance.

| Property Address | Tree Type | Tree Number |
|---|---|---|
| 6819 Toledo Ave N | Spruce | 47 |

2. After ten (10) days from the date of the initial notice, the property owner(s) was notified of the council action regarding the determination by the City Council declaring the dead tree a public nuisance.

3. The property owner(s) will receive a final written notice providing five (5) business days in which to contest the determination of the City Council by requesting, in writing, a hearing. Said request shall be filed with the City Clerk.

4. After five (5) days, if the property owner fails to request a hearing, the tree(s) shall be removed by the City. The cost of abatement shall be recorded and become the personal responsibility of the owner of record. If unpaid, the costs shall be specially assessed to the property in accordance with city codes and Minnesota Statutes Chapter 429.

RESOLUTION NO. _____

November 14, 2022 _____
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Elizabeth Heyman, Public Works Director
BY: James Soltis, P.E., Assistant City Engineer

SUBJECT: Resolution Establishing Interest Rate for 2023 Special Assessments

**Requested Council Action:**

*- Motion to approve a resolution establishing interest rate for 2023 special assessments.*

**Background:**

Each year the City Council sets an interest rate for special assessments levied against properties based on the City's Special Assessment and Internal Loan Interest Rate Policy. The objective of this policy is to establish an equitable interest rate that will not unfairly burden the property owner yet recover the cost of borrowing from outside sources, recover the cost of administering the special assessments, and protect the City from the possibility that special assessment prepayments might impair the City's ability to service the bonds.

City Council policy has been to establish the special assessment interest rate by calculating the sum of the interest rate for the most recent general obligation bond, adding two percent to cover the overhead costs described above and rounding to the nearest one-half percent in accordance with the policy. The most recent improvement bond sale by the City of Brooklyn Center was 2021 General Obligation Improvement Bonds at 1.08 percent which results in a special assessment interest rate of 3.5 percent for 2023.

**Budget Issues:**

There are no budget issues to consider.

**Inclusive Community Engagement:**

N/A

**Antiracist/Equity Policy Effect:**

N/A

**Strategic Priorities and Values:**

Key Transportation Investments

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| Resolution | 11/8/2022 | Resolution Letter |

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION ESTABLISHING INTEREST RATE FOR 2023 SPECIAL ASSESSMENTS

WHEREAS, the City Council levies special assessments for certain neighborhood street and utility projects, delinquent utility bills, and other services provided to property owners that go unpaid; and

WHEREAS, amounts outstanding are certified to Hennepin County for collection with property taxes; and

WHEREAS, by City Council policy, interest is to be charged on outstanding amounts certified to Hennepin County for collection with property taxes; and

WHEREAS, the interest rate to be charged is two percent over the net interest rate for the most recent City General Obligation bond sale rounded up to the next one-half percent; and

WHEREAS, the most recent General Obligation Improvement Bond sale resulted in a net interest rate of 1.08 percent.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the interest rate charged on outstanding special assessments for the year 2023 is hereby established at 3.5 percent.

November 14, 2022
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Elizabeth Heyman, Public Works Director
BY: James Soltis, P.E., Assistant City Engineer

SUBJECT: Resolution Establishing 2023 Street and Storm Drainage Special Assessment Rates

**Requested Council Action:**

*- Motion to approve a resolution establishing the 2023 street and storm drainage special assessment rates for street and utility improvement projects.*

**Background:**

Each year the City Council establishes assessment rates for R1, R2, and R3 residential zoned properties based on the City's Special Assessment Policy. Within these zoning districts, the assessment rate for street and storm drainage improvements is based on a unit amount that applies to all single-family residential properties. The unit amount represents a specific portion of the average cost for reconstructing a typical residential street and storm drainage system. Street assessments for non-residential and R4 to R7 residential properties are computed separately for each project.

Special assessment rates are typically adjusted each year to reflect normal inflationary increases in construction costs. The City's Special Assessment Policy indicates that "the unit assessment shall be adjusted annually to reflect cost of living increases as measured by the Construction Index" (City Council Code of Policies Section II – 2.10.2.B.1.a.2). The Engineering News Record (ENR) Construction Cost Index has experienced an average annual percent change for 2022 of 3.1 percent, as shown in the table below.

| Year | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022* |
|---|---|---|---|---|---|---|---|---|
| 12-mo avg. annual % change | 3.0 | 1.4 | 3.5 | 5.3 | 0.9 | 1.7 | 3.7 | 3.1 |

Source: ENR website,
Note: * 12 month average November 2021 – October 2022

Based on the 2022 information above, staff recommends adjusting the special assessment rates by an increase of 3.1 percent for 2023, which will be an increase of $199 from the 2022 total assessment amount for street reconstruction projects. This rate should continue to maintain the portion of street and storm drainage costs that are assessed at approximately 33 percent of the total cost for street and storm drainage improvements. The City Council has historically targeted 33 percent as the portion of street and storm drainage improvements that are assessed to adjoining R1, R2, and R3 residential properties.

**Budget Issues:**

The table below shows the proposed 2023 special assessment rates for R1 single-family residential lots. The

attached resolution provides the corresponding adjustments for R2 and R3 zoned properties based on the proposed unit assessment rates.

| Project Type | 2023 Street Improvements R1 Assessment Rates | 2023 Storm Drainage Improvements R1 Assessment Rates |
|---|---|---|
| Full Street Reconstruction | $5,077 | $1,523 |
| Partial Street Reconstruction (full pavement replacement) | $3,806 | NA |
| Pavement Rehabilitation (mill and overlay) | $1,678 | NA |

**Inclusive Community Engagement:**

N/A

**Antiracist/Equity Policy Effect:**

N/A

**Strategic Priorities and Values:**

Key Transportation Investments

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| Resolution | 11/8/2022 | Resolution Letter |

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION ESTABLISHING 2023 STREET AND STORM DRAINAGE SPECIAL ASSESSMENT RATES

WHEREAS, the residential assessment rates for street and storm drainage improvements are annually reviewed and approved by the City Council; and

WHEREAS, the residential assessment rates should be adjusted annually to be effective January 1; and

WHEREAS, the 2023 street and storm drainage assessment rates for R1, R2 and R3 zoned districts are based on a specific proportion of approximately 33 percent of the average cost for street and storm drainage improvements; and

WHEREAS, the R4, R5, R6 and R7 zoned districts will continue to be assessed based on an evaluation of project cost and project benefit.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that:

1. The residential street and storm drainage special assessment rates for street reconstruction and pavement rehabilitation shall apply to properties in R1, R2 or R3 zoned districts. These rates shall also be applied to parcels of property in other land use zones when such parcels (a) are being used as one-family or two-family residential sites at the time the assessment roll is levied; and (b) could not be subdivided under the then-existing Subdivision Ordinance.

2. The residential assessment rates for street and storm drainage reconstruction effective January 1, 2023, shall be as follows:

| Land Use | 2023 Assessment Rates |
|---|---|
| R1 zoned, used as one-family site that cannot be subdivided | $5,077.00 per lot (street)<br>$1,523.00 per lot (storm drainage) |
| R2 zoned, or used as a two-family site that cannot be subdivided | $67.6933 per front foot with a $5077.00 per lot minimum (street)<br><br>$20.3067 per front foot with a $1,523 per lot minimum (storm drainage) |

| Land Use | 2023 Assessment Rates |
|---|---|
| R3 zoned (per unit) | Assessable frontage x $67.6933 (street)<br>Number of residential units<br><br>Assessable frontage x $20.3067 (storm)<br>Number of residential units |

3. The residential assessment rates for partial street reconstruction effective January 1, 2023, shall be as follows:

| Land Use | 2023 Assessment Rates |
|---|---|
| R1 zoned, used as one-family site that cannot be subdivided | $3,806.00 per lot (street) |
| R2 zoned, or used as a two-family site that cannot be subdivided | $50.7467 per front foot with a $3,806.00 per lot minimum (street) |
| R3 zoned (per unit) | Assessable frontage x $50.7467 (street)<br>Number of residential units |

4. The residential assessment rates for pavement rehabilitation effective January 1, 2023, shall be as follows:

| Land Use | 2023 Assessment Rates |
|---|---|
| R1 zoned, used as one-family site that cannot be subdivided | $1,678.00 per lot (street) |
| R2 zoned, or used as a two-family site that cannot be subdivided | $22.3733 per front foot with a $1,678.00 per lot minimum (street) |
| R3 zoned (per unit) | Assessable frontage x $22.3733 (street)<br>Number of residential units |

5. The residential assessment rates for street and storm drainage reconstruction and pavement rehabilitation shall not apply to R4, R5, R6 or R7 zoned districts. The assessment rates for street reconstruction and pavement rehabilitation for R4, R5, R6 or R7 zoned property shall be based on an evaluation of the project cost and project benefit for each project.

RESOLUTION NO. _____

November 14, 2022 _____
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Elizabeth Heyman, Director of Public Works
BY: James Soltis, P.E., Assistant City Engineer, Cynthia Majors, Public Works Admin Assistant

SUBJECT: Resolution Authorizing Execution of Professional Service Agreements with Qualifying Consulting Firms

**Requested Council Action:**

Motion to approve a resolution authorizing execution of professional service agreements with qualifying consultant firms.

**Background:**

It is recommended that the City Council approve execution of professional service agreements with qualifying consultant firms to create an engineering professional services consultant pool. The purpose of the consultant pool to assist staff in areas where special expertise is required or when the workload is such that it cannot be accommodated in a timely fashion by in-house staff.

Consulting services for architectural, engineering, scientific or other professional training are typically obtained on an individual project basis as needed by obtaining bids from several consultants. In an effort to streamline the process and to assist Public Works staff in obtaining consulting services a pre-approved consulting pool is being provided for consideration. This consultant pool would exist for a three-year period and would be drawn upon on a project-by-project basis to enter into professional services agreements for the needed services.
Staff solicited Statements of Qualifications (SOQs) from qualifying firms and in reviewing the qualifications, the philosophy is to establish a pool of firms whose combined and overlapping areas of expertise and abilities will allow staff to draw upon their services in the most cost-effective manner possible without becoming overly dependent on any one firm. While some firms are obviously specialists in a specific field of practice, we will attempt to retain firms whose secondary areas of expertise can serve as backup in the event that a primary firm has a conflict of interest, or is unable to undertake a project for whatever reason.
The City received SOQs from 32 firms. The 32 firms listed in the attached resolution are being recommended for approval for this three-year period. These firms were selected after a thorough review of all SOQs. All firms have the technical expertise and capacity to assist in delivering the City's projects. Fourteen of these firms are currently under contract with the City and staff is satisfied with their quality of performance and level of service. Six of the firms are certified Disadvantaged Business Enterprises (DBE).
Overall, staff feels that this combination of consulting firms represents sufficient expertise to accommodate the recurring engineering, architectural, planning and design needs of the City in an efficient and cost-effective manner.

**Budget Issues:**

There are no budget issues to consider. Individual professional service agreements would be negotiated on a project by project basis to develop a scope, using the fee schedules that were provided by each firm and approved as part of this process. It is planned that each firm will update its fee schedule annually for consideration and approval by the City.

**Inclusive Community Engagement:**

N/A

**Antiracist/Equity Policy Effect:**

N/A

**Strategic Priorities and Values:**

Key Transportation Investments

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| Professional Engineering Services Resolution | 11/8/2022 | Resolution Letter |

Member introduced the following resolution and moved its adoption:

RESOLUTION NO._____

RESOLUTION AUTHORIZING EXECUTION OF PROFESSIONAL SERVICE AGREEMENTS WITH QUALIFYING CONSULTING FIRMS

WHEREAS, City staff solicited Statements of Qualifications (SOQs) from qualifying firms to establish a pool of firms whose combined and overlapping areas of expertise and abilities would allow staff to draw upon their services to accommodate the recurring engineering and technical needs of the City in an efficient and cost-effective manner; and

WHEREAS, thrity-two firms submitted SOQs and fee schedules with all thirty-two firms being recommended for inclusion in the three-year consultant pool; and

WHEREAS, recommended firms include one that is locally based out of Brooklyn Center (BKBM Engineers), and six that are certified Disadvantaged Business Enterprises (Hansen Thorp Pellinen Olson, Inc.; Henning Professional Services, Inc.; NEOO Partners Inc.; Patchin Messner; Transportation Collaborative & Consultants; Zan Associates); and

WHEREAS, firms will be selected in the specific field or practice as outlined below on a project by project basis and whose expertise will serve and fit the City's needs most suitably; and

WHEREAS, the City is now prepared to proceed with the following firms after a thorough review of all SOQs:

***A. Municipal Engineering***

1. *Alliant*
2. *Barr Engineering Co.*
3. *Bolton and Menk, Inc.*
4. *Hansen Thorp Pellinen Olson, Inc. (HTPO)*
5. *IMO Consulting Group*
6. *KLJ*
7. *Loucks*
8. *Moore Engineering*
9. *Sambatek*
10. *Short Elliott Hendrickson Inc. (SEH)*
11. *SRF Consulting Group, Inc.*
12. *Stantec Consulting Services, Inc.*
13. *TKDA*
14. *WSB*
15. *Zan*

***B. Transportation Engineering***

1. *Alliant*
2. *Bolton and Menk, Inc.*

3. *Hansen Thorp Pellinen Olson, Inc. (HTPO)*
4. *KLJ*
5. *Sambatek*
6. *Short Elliott Hendrickson Inc. (SEH)*
7. *SRF Consulting Group, Inc.*
8. *Stantec Consulting Services, Inc.*
9. *Transportation Collaborative & Consultants*
10. *TKDA*
11. *TheMusicantGroup*
12. *Toole Design*
13. *WSB*
14. *Zan*

***C. Surface Water, Parks and Natural Resources***

1. *Alliant*
2. *Barr Engineering Co*
3. *Bolton and Menk, Inc.*
4. *Hansen Thorp Pellinen Olson Inc. (HTPO)*
5. *HKGI*
6. *IMO Consulting Group*
7. *KLJ*
8. *Loucks*
9. *Moore Engineering*
10. *Oertel Architects*
11. *Sambatek*
12. *Short Elliott Hendrickson Inc. (SEH)*
13. *SRF Consulting Group, Inc.*
14. *Stantec Consulting Services, Inc.*
15. *TKDA*
16. *TheMusicantGroup*
17. *Toole Design*
18. *WSB*
19. *Zan*

***D. Geotechnical Services***

1. *American Engineering Testing, Inc.*
2. *Barr Engineering Co*
3. *Braun Intertec*
4. *Hansen Thorp Pellinen Olson Inc. (HTPO)*
5. *Terracon Consultants Inc.*
6. *WSB*

***E. Municipal Utilities***

1. *Barr Engineering Co.*
2. *Bolton and Menk, Inc.*

3. *Badger State Inspection, LLC*
4. *KLJ*
5. *KLM Engineering, Inc.*
6. *Loucks*
7. *Moore Engineering*
8. *Oertel Architects*
9. *Sambatek*
10. *Short Elliott Hendrickson Inc. (SEH)*
11. *Stantec Consulting Services, Inc.*
12. *TKDA*
13. *WSB*

***F. Land Surveying***

1. *Alliant*
2. *Bolton and Menk, Inc.*
3. *Hansen Thorp Pellinen Olson Inc. (HTPO)*
4. *IMO Consulting Group*
5. *Loucks*
6. *Sambatek*
7. *Short Elliott Hendrickson Inc. (SEH)*
8. *SRF Consulting Group, Inc.*
9. *Stantec Consulting Services, Inc.*
10. *WSB*

***G. Fire Protection, Metering, Hydrant Maintenance***

1. *Stantec Consulting Services, Inc.*
2. *TKDA*

***H. Structural***

1. *BKBM*
2. *Badger State Inspection, LLC*
3. *KLJ*
4. *KLM*
5. *Short Elliott Hendrickson Inc. (SEH)*
6. *SRF Consulting Group, Inc.*
7. *Stantec Consulting Services, Inc.*
8. *TKDA*
9. *WSB*

***I. Architectural Services***

1. *Barr Engineering Co.*
2. *Hansen Thorp Pellinen Olson Inc. (HTPO)*
3. *HKGI*
4. *IMO Consulting Group*
5. *Loucks*

6. *Oertel Architects*
7. *Short Elliott Hendrickson Inc. (SEH)*
8. *SRF Consulting Group, Inc.*
9. *Stantec Consulting Services, Inc.*
10. *TKDA*
11. *Zan*

***J. Communications***

1. *Badger State Inspection, LLC*
2. *KLM*
3. *Short Elliott Hendrickson Inc. (SEH)*
4. *SRF Consulting Group, Inc.*
5. *Stantec Consulting Services, Inc.*
6. *TKDA*

***K. Geographical Information System (GIS)***

1. *Barr Engineering Co*
2. *Bolton and Menk, Inc.*
3. *Short Elliott Hendrickson Inc. (SEH)*
4. *SRF Consulting Group, Inc.*
5. *Stantec Consulting Services, Inc.*
6. *WSB*

***L. Electrical/Mechanical Engineering***

1. *Barr Engineering Co*
2. *Short Elliott Hendrickson Inc. (SEH)*
3. *SRF Consulting Group, Inc.*
4. *Stantec Consulting Services, Inc.*
5. *TKDA*

***M. Relocation/Benefit Analysis***

1. *Evergreen Land Services Co*
2. *Henning Professional Services, Inc.*
3. *Stantec Consulting Services, Inc.*
4. *WSB*
5. *Zam*

***N. Miscellaneous Specialty Services***

1. *American Engineering Testing, Inc. (environmental and asbestos investigation)*
2. *Barr Engineering Co (environmental investigation)*
3. *Bay West LLC (environmental and asbestos investigation, response action plans)*
4. *Braun Intertec (environmental and asbestos investigation, response action plans)*
5. *Henning Professional Services, Inc. (land rights assistance, easement acquisition)*
6. *NEOO (Public Engagement)*
7. *Patchin Messner (Funding)*

RESOLUTION NO. _____

8. *Stantec Consulting Services, Inc. (environmental and response action plans)*
9. *Terracon Consultants, Inc. (environmental and asbestos investigation)*

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the City Manager and Director of Public Works/City Engineer are hereby authorized to execute Professional Services Agreements with the qualified firms stated above for three years.

November 14, 2022
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

Member introduced the following resolution and moved its adoption:

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE EXECUTION OF A LETTER OF ENGAGEMENT WITH A PUBLIC ACCOUNTING FIRM FOR AUDIT SERVICES

WHEREAS, the City Council Code of Policies Section 2.80 requires that the City solicit proposals for audit of its financial statements no less frequently than every six (6) years and adopt a schedule under which proposals were to be solicited for audit services in 2022; and

WHEREAS, proposals were solicited in August 2022 through a Request for Proposals for Professional Auditing Services; and

WHEREAS, five (5) proposals were received from 10 firms solicited; and

WHEREAS, a Committee appointed by the City Council following the Code of Policies Section 2.80 has reviewed the proposals and recommended awarding of the engagement for auditing services to Abdo.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Brooklyn Center, Minnesota, that the firm of Abdo is awarded an engagement letter for performing the annual audit of the City's Annual Comprehensive Financial Statement content in accordance with generally accepted accounting principles and generally accepted auditing practice and that the City Manager is hereby authorized and requested to negotiate a Letter of Engagement for those audit services to be reviewed and considered for approval by the City Council.

November 14, 2022
Date

_____
Mayor

ATTEST: _____
City Clerk

The motion for the adoption of the foregoing resolution was duly seconded by member

and upon vote being taken thereon, the following voted in favor thereof:

and the following voted against the same:
whereupon said resolution was declared duly passed and adopted.

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Angela Holm, Finance Director

SUBJECT: Resolution Approving A Ten Year Commitment for LOGIS ERP and Utility Billing Software Applications

**Requested Council Action:**

*-Motion to Approve a Ten-Year Commitment for LOGIS ERP and Utility Billing Software Applications*

**Background:**

The City of Brooklyn Center is currently a member of Local Government Information Systems (LOGIS) for enterprise and utility billing software applications. Over the last 18 months, an eight-member team has been investigating new software solutions for the member organizations. Two new applications, Oracle Cloud ERP and Sprypoint Cloud Utility Billing, have been selected as the preferred choice.

LOGIS staff are requiring a formal ten-year commitment from those members that elect to move forward with the software conversion. City staff had subsequent conversations with the conversion project leaders at LOGIS to obtain additional information regarding pricing and options available to the City. Based on these conversations, staff have determined that remaining part of the LOGIS consortium and entering into a ten-year agreement is in the best interest of the City from an operational perspective.

**Budget Issues:**

The conversion to these new software applications will have both one-time and on-going budget implications.

The overall yearly cost for General Ledger, Human Resources, and Utility billing software services will increase approximately 30%. Based on the increased functionality, several of the smaller "support-type" softwares that are currently used by City staff will be unnecessary and replaced by functionality in the new application. Staff expect that the reduced costs for these applications will partially offset the cost increase in the new software.

In addition to the annual costs, there are implementation costs of approximately $460,000 that will be prorated and need to be paid at various milestones throughout the process.

Once we enter into the agreement, City staff will begin working with LOGIS staff to determine the implementation timeline. Staff hope to extend the implementation over two fiscal years to help minimize the overall impact of the implementation expense.

**Inclusive Community Engagement:**

**Antiracist/Equity Policy Effect:**

**Strategic Priorities and Values:**

Operational Excellence

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| ERP Member Letter | 11/10/2022 | Backup Material |
| Resolution Commitment Template | 11/10/2022 | Resolution Letter |

1972 LOGIS LOCAL GOVERNMENT INFORMATION SYSTEMS 2022
*Celebrating 50 years of Excellence*

August 17, 2022

Dear LOGIS Members,

Over the past 18 months LOGIS has been working with its membership to research, evaluate, and select a new ERP and Utility Billing software solution to meet your needs. This featured a member-driven process involving 27 agencies who collectively established software functional requirements and participated in software demonstrations. It also included an 8-member ERP Selection Team to guide and oversee the entire process.

We also partnered with the Government Finance Officers Association's Research and Consulting Center to refine the requirements, create the RFP, guide the selection process, and assist on pricing negotiations. We received proposals from the following providers:

- Advanced Utility Systems
- Central Square
- Oracle Fusion
- Sprypoint
- Tyler MUNIS
- Workday

After two months of proposal reviews, four weeks of software demonstrations, and several months of follow-up discussions; the **Oracle Cloud ERP** and **Sprypoint Cloud Utility Billing** software solutions have been elevated by the ERP Selection Team as the preferred choice – a culmination of over 1,500 collective hours from the membership and LOGIS staff.

We recognize that moving to the new systems will require a significant financial and operational investment. To help guide you in this decision, we've compiled a list of advantages and value-added outcomes that accompany these changes. This list is presented in *Appendix A*. Proposed member costs are included in *Appendices B (annual) & C (one-time implementation)*.

We understand that this is a major decision that requires careful consideration. However, to secure your pricing, each member organization will need to provide a formal 10-year commitment by November 15, 2022. Please let us know if you have any questions or concerns regarding the selection process, proposed costs, or formal commitment. We look forward to serving your ERP and utility billing needs moving forward.

Sincerely,

*Christopher K. Miller*

Christopher K. Miller
LOGIS Executive Director

*Tonya L. Kusmirek*

Tonya L. Kusmirek
LOGIS Director of Finance & Administration

**Appendix A: Advantages & Value-Added Outcomes**

## Member Advantages

General

- Top-tier software solution with advanced features and capabilities
- Cloud-based solutions with on-going enhancements and functionality that will meet member needs as they evolve
- Direct software support from highly-trained LOGIS staff
- Guaranteed pricing for the next 10 years
- More competitive price entry points for prospective member participants

Oracle

- Enhanced user experience for financial & human resources staff and workflow and employee self-service capabilities for all employees
- Improved/added HR functionality over JDE
- Potential replacement for third-party HR applications such as NEOGOV, Benefits Connect, etc.
- Fully-integrated HR/payroll/general ledger systems (no more double-entry)
- Built-in workflow module including accounts payable
- Built-in budgeting and financial reporting modules/dashboards
- Separate data and configuration environment for each member

Sprypoint

- Fully-integrated with Oracle general ledger
- Fully-integrated meter management function
- Built-in mobile field service: Sprypoint
- Built-in customer portal/payment solution: Sprypoint
- Built-in utility billing workflow module
- Potential replacement for third-party electronic payment solutions
- State-of-the-art interface/web service capability
- Embedded business intelligence reporting platform
- Separate data and configuration environment for each member

## Member Value-Added Outcomes

- Volume discount pricing on software solutions
- Vendor and LOGIS staff implementation services
- Relationship with vendors managed by LOGIS staff
- Software evaluation & selection process that featured a collective knowledge-base from 27 member-organizations
- Free on-site or remote training for system enhancements and staff on-boarding
- Locally-held user group meetings with over two dozen participating local governments

## Appendix B: Member *Annual* Costs

| Oracle Fusion Cloud ERP | | | | | |
|---|---|---|---|---|---|
| | Current | NEW ERP Cost (estimated) | | | |
| | Fin/HR/Pay | Oracle | LOGIS | Total | $ |
| Member | Cost | Cost | Cost | Cost | Change |
| NW Community TV | $ 16,255 | $ 50,886 | $ 11,858 | $ 62,745 | $ 46,490 |
| DCC | 18,190 | 50,886 | 13,270 | 64,156 | 45,966 |
| SW TRANSIT | 18,555 | 50,886 | 13,536 | 64,423 | 45,868 |
| MN VALLEY TRANSIT | 27,410 | 50,886 | 19,996 | 70,882 | 43,472 |
| WACONIA | 36,860 | 50,886 | 26,890 | 77,776 | 40,916 |
| RAMSEY | 66,855 | 50,886 | 48,772 | 99,658 | 32,803 |
| NEW HOPE | 74,665 | 50,886 | 54,470 | 105,356 | 30,691 |
| S. ST PAUL | 77,655 | 50,886 | 56,651 | 107,537 | 29,882 |
| AUSTIN | 83,350 | 80,886 | 60,806 | 141,692 | 58,342 |
| CRYSTAL | 86,470 | 80,886 | 63,082 | 143,968 | 57,498 |
| FARMINGTON | 88,210 | 80,886 | 64,351 | 145,237 | 57,027 |
| WHITE BEAR | 95,750 | 80,886 | 69,852 | 150,738 | 54,988 |
| GOLDEN VALLEY | 104,680 | 80,886 | 76,366 | 157,253 | 52,573 |
| SHAKOPEE | 129,835 | 80,886 | 94,717 | 175,604 | 45,769 |
| RICHFIELD | 141,695 | 80,886 | 103,370 | 184,256 | 42,561 |
| EDEN PRAIRIE | 138,795 | 114,636 | 101,254 | 215,890 | 77,095 |
| BROOKLYN CENTER | 149,690 | 114,636 | 109,202 | 223,838 | 74,148 |
| LAKEVILLE | 152,785 | 114,636 | 111,460 | 226,096 | 73,311 |
| APPLE VALLEY | 155,120 | 114,636 | 113,163 | 227,800 | 72,680 |
| COON RAPIDS | 167,655 | 114,636 | 122,308 | 236,944 | 69,289 |
| MINNETONKA | 184,490 | 114,636 | 134,589 | 249,226 | 64,736 |
| ST LOUIS PARK | 201,210 | 114,636 | 146,787 | 261,423 | 60,213 |
| EAGAN | 216,965 | 114,636 | 158,281 | 272,917 | 55,952 |
| MAPLE GROVE | 251,770 | 114,636 | 183,672 | 298,308 | 46,538 |
| | $2,684,915 | $2,005,020 | $1,958,704 | $3,963,724 | $1,278,809 |

Notes:

- *Current* financial, HR, & payroll costs are based on members' 2023 budget amounts.
- Oracle costs includes annual licensing, software enhancements & upgrades, and data hosting. Oracle costs will remain fixed for 2023-2027, followed by a 2% annual increase from 2028-2032.
- LOGIS costs include all software support and training. Inflationary-type increases are projected in 2024-2032.
- '$ change' column represents the difference between the new ERP system cost and your current cost with JDE + add-ons.
- Oracle Fusion ERP system modules are tightly integrated and cannot be priced separately. Oracle pricing includes all system components including financial, HR, payroll, workflow tools, and advanced reporting tools.

## Appendix B: Member *Annual* Costs

| Sprypoint Cloud Utility Billing | | | | | |
|---|---|---|---|---|---|
| | Current | NEW Utility Billing Cost (estimated) | | | |
| | Utility Billing | Sprypoint | LOGIS | Total | $ |
| Member | Cost | Cost | Cost | Cost | Change |
| NEW HOPE | $ 69,640 | $ 27,824 | $ 36,689 | $ 64,513 | $ (5,127) |
| S. ST PAUL | 69,710 | 33,372 | 36,726 | 70,098 | 388 |
| FARMINGTON | 51,620 | 33,580 | 27,195 | 60,775 | 9,155 |
| GOLDEN VALLEY | 69,760 | 35,620 | 36,752 | 72,372 | 2,612 |
| CRYSTAL | 69,905 | 36,888 | 36,828 | 73,716 | 3,811 |
| WHITE BEAR | 69,725 | 37,900 | 36,734 | 74,634 | 4,909 |
| BROOKLYN CENTER | 92,049 | 41,160 | 48,494 | 89,654 | (2,395) |
| RICHFIELD | 84,830 | 48,480 | 44,691 | 93,171 | 8,341 |
| ST LOUIS PARK | 103,505 | 60,852 | 54,530 | 115,382 | 11,877 |
| APPLE VALLEY | 116,240 | 71,096 | 61,239 | 132,335 | 16,095 |
| MINNETONKA | 116,320 | 74,572 | 61,281 | 135,853 | 19,533 |
| EDEN PRAIRIE | 134,395 | 88,032 | 70,804 | 158,836 | 24,441 |
| EAGAN | 132,130 | 88,312 | 69,611 | 157,923 | 25,793 |
| COON RAPIDS | 132,130 | 90,500 | 69,611 | 160,111 | 27,981 |
| LAKEVILLE | 116,320 | 98,996 | 61,281 | 160,277 | 43,957 |
| MAPLE GROVE | 132,130 | 103,744 | 69,611 | 173,355 | 41,225 |
| WOODBURY | 132,130 | 107,092 | 69,611 | 176,703 | 44,573 |
| | $1,692,539 | $1,078,020 | $ 891,687 | $1,969,707 | $ 277,168 |

Notes:

- *Current* utility billing costs are based on members' 2023 budget amounts.
- Sprypoint costs includes annual licensing, software enhancements & upgrades, and data hosting. Sprypoint costs will increase 5% annually from 2024-2032.
- LOGIS costs include all software support and training. Inflationary-type increases are projected in 2024-2032.
- LOGIS costs include all software support and training.
- '$ change' column represents the difference between the new utility billing system cost and your current cost with CIS Infinity (Advanced).
- Pricing includes all system components including billing & payments, meter management, and mobile field service.

## Appendix C: Member *Implementation* Costs

| Oracle Fusion Cloud ERP | |
|---|---|
| | |
| | Impl. |
| Member | Cost (est.) |
| NW Community TV | $ 158,885 |
| DCC | 158,885 |
| SW TRANSIT | 158,885 |
| MN VALLEY TRANSIT | 158,885 |
| WACONIA | 158,885 |
| RAMSEY | 158,885 |
| NEW HOPE | 158,885 |
| S. ST PAUL | 158,885 |
| AUSTIN | 252,555 |
| CRYSTAL | 252,555 |
| FARMINGTON | 252,555 |
| WHITE BEAR | 252,555 |
| GOLDEN VALLEY | 252,555 |
| SHAKOPEE | 252,555 |
| RICHFIELD | 252,555 |
| EDEN PRAIRIE | 357,935 |
| BROOKLYN CENTER | 357,935 |
| LAKEVILLE | 357,935 |
| APPLE VALLEY | 357,935 |
| COON RAPIDS | 357,935 |
| MINNETONKA | 357,935 |
| ST LOUIS PARK | 357,935 |
| EAGAN | 357,935 |
| MAPLE GROVE | 357,935 |
| | $ 6,260,380 |

Notes:

- Software implementation involves one-time costs that will be pro-rated and paid at various milestones throughout the process.
- Implementation services will be conducted jointly by the software provider and LOGIS.

## Appendix C: Member *Implementation* Costs

| Sprypoint Cloud Utility Billing | |
|---|---|
| | |
| | Impl. |
| Member | Cost (est.) |
| NEW HOPE | $ 109,081 |
| S. ST PAUL | 109,081 |
| FARMINGTON | 109,081 |
| GOLDEN VALLEY | 109,081 |
| CRYSTAL | 109,081 |
| WHITE BEAR | 109,081 |
| BROOKLYN CENTER | 109,081 |
| RICHFIELD | 109,081 |
| ST LOUIS PARK | 109,081 |
| APPLE VALLEY | 156,184 |
| MINNETONKA | 156,184 |
| EDEN PRAIRIE | 156,184 |
| EAGAN | 156,184 |
| COON RAPIDS | 156,184 |
| LAKEVILLE | 156,184 |
| MAPLE GROVE | 156,184 |
| WOODBURY | 156,184 |
| | $ 2,231,200 |

Notes:

- Software implementation involves one-time costs that will be pro-rated and paid at various milestones throughout the process.
- Implementation services will be conducted jointly by the software provider and LOGIS.

Member _____ called for a motion to approve a long-term commitment for the LOGIS enterprise resource planning (ERP) and utility Billing software applications.

**Resolution No. __**
**Approving a 10-Year Commitment**
**For the LOGIS ERP and Utility Billing Software Applications**

WHEREAS, the City of Brooklyn Center is a member of the Local Government Information Systems (LOGIS) association; and

WHEREAS, the City of Brooklyn Center desires to remain in the LOGIS-supported ERP and utility billing software application systems; and

WHEREAS, LOGIS has negotiated new long-term contracts with Oracle Corporation and Spypoint Solutions, Inc. to serve the ERP and utility billing needs of its membership; and

WHEREAS, in recognition of the substantial investment and operational impact of implementing a new software system, the City of Brooklyn Center acknowledges the benefits of ensuring long-term financial and operational certainty; and

WHEREAS, each member participant is asked to adopt a 10-year commitment to secure its ERP and utility billing software pricing and support through LOGIS.

NOW, THEREFORE, BE IT RESOLVED, by the City of Brooklyn Center, that this resolution affirms our long-term commitment to the LOGIS ERP and utility billing software applications and associated software support effective January 1, 2023 through December 31, 2032.

The motion for the adoption of the above resolution was duly seconded by _____and upon the vote being taken, none voted against the same; whereupon the resolution was declared duly passed and adopted.

ADOPTED by the City of Brooklyn Center, on _____, 2022.

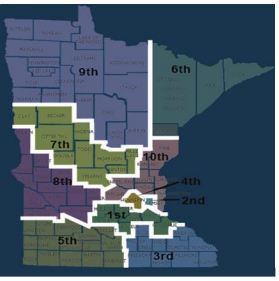
_____
Mayor Mike Elliott

ATTEST:

_____
Barb Suciu, City Clerk

DRAFT

# Fourth Judicial District:
## Hennepin County District Court
### At-A-Glance




## Mission

*To provide justice through a system that assures equal access for the fair and timely resolution of cases and controversies.*

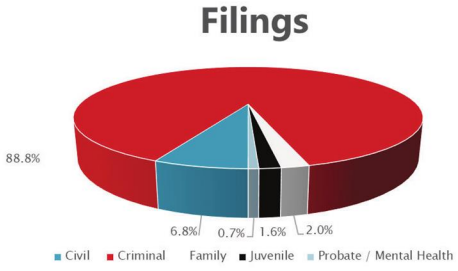



**Personnel:**

- 63 judges (number set by Legislature)
- 12 referees (specialized judicial officers)
- 564 staff (full-time-equivalent)

**Divisions:**

- Civil
- Criminal
- Family
- Juvenile
- Probate/Mental Health




**Locations:**

- 4 locations in downtown Minneapolis and two suburban courts with county libraries and service centers: Brookdale, Brooklyn Center; Ridgedale, Minnetonka

**Large Urban Court:**

- 22% of Minnesotans live in Hennepin County
- In 2020, handled 34% of the state's trial court case filings (334,106)
- One of the largest urban counties in the nation

**Juror stats in 2020:**

- 300 jury trials requested (263 criminal, 34 civil)
- Pre-pandemic comparison: In 2019, there were 725 jury trials requested (633 criminal, 92 civil)
- 30,530 citizens summoned

MINNESOTA JUDICIAL BRANCH

# Fourth Judicial District: Hennepin County District Court

## At-A-Glance

### Fourth District Updates & Innovations

- An efficient, electronic court: paperless court files, effective electronic workflows and queues, customer kiosks, and digital signage
- Texting and emailing to defendants to remind them of court hearings: reduced failure to appear for hearings by 35%
- Adult Detention Initiative: focusing on pretrial detention only for defendants who pose a public safety risk or risk of not reappearing
- Pioneered a validated and locally normed Pretrial Scale that has been used for decades and is race and gender neutral. This tool allows judges to make objective release decisions.
- Juvenile Detention Alternatives Initiative (JDAI): 59% decrease in daily population at Juvenile Detention Center; 37% decrease in out-of-home placements
- Warrant Helpline: Adult defendants can get information about their warrant and possibly schedule a court hearing to take care of their case. 612-543-WRNT (9768)

### Challenges

- 4.2% increase in felony filings between 2015-2019 (five-year average)
- Criminal backlog of felony and gross misdemeanor cases due to pandemic
- Many criminal defendants suffer from drug or alcohol addiction or abuse, mental illness, or a physical disability.
- Continued increase in domestic abuse Order for Protection case filings
- Child in Need of Protection Services (CHIPS) caseload continues to increase
- Many litigants are self-represented. At least one party is without an attorney in most family and minor civil cases.
- Interpreter requests for more than 100 languages provided annually (14,097 requests last year)

### Adoptions

- 179 children adopted in Hennepin County last year



### Focus on Quality of Justice: Treatment Courts Model

Specialized treatment courts include Criminal Mental Health Court, Drug Court, DWI Court, and Veterans Court

- High-risk, high-need population with a treatable condition
- Protects public safety and due process
- Non-adversarial prosecutor/defense counsel
- Intensive judicial/probationary supervision
- More immediate/timely incentives and sanctions

### Contact Us


Todd Barnette, Chief Judge
Toddrick.Barnette@courts.state.mn.us

Sara Gonsalves, District Court Administrator
Sara.Gonsalves@courts.state.mn.us

Mike Valleau, Legislative Liaison
Michael.Valleau@courts.state.mn.us

Website: www.mncourts.gov/hennepin

City of Brooklyn Center

# *Proclamation*

## *DECLARING NOVEMBER 17, 2022, TO BE DESIGNATED AS RANDOM ACTS OF KINDNESS DAY*

*WHEREAS, Random Acts of Kindness are the expression of our empathy and compassion for one another; and*

*WHEREAS, the daily acts of kindness of most of the citizens of Brooklyn Center often go unrecognized; and*

*WHEREAS, by recognizing these daily acts of kindness, all members of Brooklyn Center community will become more aware of the importance of being kind to others throughout the year; and*

*WHEREAS, the City of Brooklyn Center celebrated the first Random Acts of Kindness in 1997, and is celebrating its 26th Annual Random Acts of Kindness by encouraging schools, employees, and community groups to participate in Random Acts of Kindness.*

*NOW, THEREFORE, I, MIKE ELLIOTT, MAYOR OF THE CITY OF BROOKLYN CENTER, State of Minnesota, with the consent and support of the Brooklyn Center City Council, do hereby proclaim November 17, 2022, to be Random Acts of Kindness Day and urge all residents of the City of Brooklyn Center to join in celebrating and performing Random Acts of Kindness.*

*November 14, 2022*
*Date*

_____
*Mayor*

*Council Members*

_____

_____

_____

_____

*ATTEST:*_____
*City Clerk*

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Angela Holm, Director of Fiscal & Support Services

SUBJECT: An Ordinance Amending the Mayor and Council Salaries for 2023 and 2024 (Second Reading)

**Requested Council Action:**

*-Motion to:*
- *Open the public hearing;*
- *Take public input; and*
- *Close the public hearings.*

*-Motion to adopt an ordinance amending the salaries for Mayor and Council for 2023 and 2024*

**Background:**

Tonight is the second reading and public hearing an ordinance setting the salaries for the Mayor and City Councilmembers for 2023 and 2024. The first reading of the ordinance was October 10, 2022 and the notice for the public hearing was published on October 20, 2022.

In accordance with the City Council Code of Policies, every two years the Financial Commission is required to review the salaries for the Mayor and City Council and recommend any changes that may seem appropriate. The Financial Commission has reviewed the salaries in comparison to a specified group of comparison cities as outlined by policy.

For the years 2023 and 2024 the salary increase for Mayor and Council will be 3 percent respectivey.

According to Minnesota Statutes 415.11, such ordinance will be in effect for 12 months after which the salary reverts to the previously designated amount.

**Budget Issues:**

Under the recommended proposal, the wage adjustments for Mayor and Council will increase in total by $1,625 for 2023 and an additional $1,949 for 2024. These amounts have been incorporated into the 2023 preliminary budget that was previously approved.

**Inclusive Community Engagement:**

None

**Antiracist/Equity Policy Effect:**

None

**Strategic Priorities and Values:**

Safe, Secure, Stable Community

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| Ordinance | 11/5/2022 | Ordinance |
| Excerpt from the City Council Code of Policies | 11/5/2022 | Ordinance |
| Mn Statute 415.11 | 10/2/2022 | Backup Material |

Notice is hereby given that a public hearing will be held on the 14th day of November, 2022, at 7 p.m. or as soon thereafter as the matter may be heard at the City Hall, 6301 Shingle Creek Parkway, to consider An Ordinance Amending Ordinance 2016-08 Regarding Council Salaries for 2019-2020.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at 763-569-3300 to make arrangements.

CITY OF BROOKLYN CENTER

ORDINANCE NO. 2022-07

AN ORDINANCE AMENDING ORDINANCE NO. 2020-08 REGARDING COUNCIL SALARIES FOR 2023-2024.

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

**Section 1.** City of Brooklyn Center Ordinance No. 2020-08 which amended the amount of the annual compensation to be paid to the Mayor and Council Members to become effective January 1, 2021, is hereby amended.

**Section 2.** Effective January 1, 2023, the annual salary for the Mayor shall be ~~$13,079~~ $13,737 and the annual salary for Council Members shall be $10,517.

**Section 3.** Effective January 1, 2024, the annual salary for the Mayor shall be ~~$13,341~~ $14,424 and the annual salary for Council Members shall be $10,833.

**Section 4.** This ordinance shall be effective after adoption and thirty days following its legal publication.

November 11, 2022
Date

_____
Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

**Excerpt from City Council Code of Policies**

## 2.05 Policy and Procedure on Mayor and Council Member Total Compensation

### 1. Need for Policy

The community is entitled to a clearly articulated, written description of the policy and procedure for establishing the total compensation of local elected officials.

### 2. Policy

A. Service on the City Council is a civic obligation and an honor. The total compensation of the Mayor and Council Members should, therefore, not encourage candidacies based on monetary rather than public service objectives. However, the compensation of Brooklyn Center elected officials shall be fair and equitable in order to attract qualified candidates for local elective office.

B. The propriety of the compensation levels of the Mayor and Council Members shall be evaluated through comparisons with compensation paid to similar officials within the seven-county metropolitan area.

C. The compensation levels of elected officials should be regularly reviewed and adjusted to ensure compliance with the objectives of this policy and to avoid the need for drastic or sudden compensation adjustments.

D. Compensation set pursuant to this policy and procedure shall be deemed to be the total compensation for elected officials of the City with the exception of expense reimbursement which shall be the same as provided all other City employees.

### 3. Procedure

A. The City Manager shall biennially prepare a compensation report that contains an analysis of the compensation paid to elected officials of Minneapolis-St. Paul Area Metropolitan cities having a population within 10,000 of the City of Brooklyn Center that are generally fully developed {Such grouping shall include the cities of Richfield, Roseville, Maplewood, Fridley, Shoreview, White Bear Lake, Crystal, New Hope, and Golden Valley, in addition to the City of Brooklyn Center.} The report shall compute the average and median amounts paid to Mayors and Council Members and correlate survey results to the current compensation of Brooklyn Center elected City officials. The City Manager shall assemble such additional information on compensation of City elected officials as

may be requested to assist the Commission and Council in their review of elected official's compensation.

B. The City Manager shall submit the compensation report to the City Council and the Financial Commission prior to June 1, for information pertaining to the applicable calendar year.

C. The Financial Commission shall biennially review the City Manager's compensation report and discuss possible budgetary and public perception impacts of the indicated changes. Prior to July 1 of the same year, the Commission shall recommend to the City Council that the compensation of the Mayor and Council Members either remain the same or be changed to some specific amount in the manner prescribed by law.

D. Consistent with the City Charter, Section 2.07, the Mayor and Council Members may, after conducting public hearings, set their compensation by ordinance. No change in compensation shall be in effect until January 1, following the next succeeding general election.

**4. Authority**

The authority for establishing compensation for the Mayor and Council Members is found in Minnesota Statutes 415.11 and the City of Brooklyn Center Charter, Section 2.07.

## 415.11 SECOND TO FOURTH CLASS CITIES; GOVERNING BODY SALARIES.

Subdivision 1. **Set by ordinance.** Notwithstanding the provisions of any general or special law, charter, or ordinance, the governing body of any statutory or home rule charter city of the second, third or fourth class may by ordinance fix their own salaries as members of such governing body, and the salary of the chief elected executive officer of such city, in such amount as they deem reasonable.

Subd. 2. **After next election.** No change in salary shall take effect until after the next succeeding municipal election.

Subd. 3. **Temporary reductions.** Notwithstanding subdivision 2 or a charter provision to the contrary, the governing body may enact an ordinance to take effect before the next succeeding municipal election that reduces the salaries of the members of the governing body. The ordinance shall be in effect for 12 months, unless another period of time is specified in the ordinance, after which the salary of the members reverts to the salary in effect immediately before the ordinance was enacted.

**History:** *Ex1967 c 42 s 1,2; 1976 c 44 s 34; 2009 c 152 s 17*

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: Jesse Anderson, Interim Community Development Director
BY: Ginny McIntosh, City Planner and Zoning Administrator

SUBJECT: An Ordinance Adopting a Unified Development Code and Amending the City Code of Ordinances by Repealing Chapters 15 and 34 and Repealing and Replacing Chapter 35 (Public Hearing and First Reading)

**Requested Council Action:**

(1) Motion to:

- Open the public hearing;
- Take public input; and
- Close the public hearing.

(2) Motion to approve a first reading regarding the adoption of the Unified Development Code and an amendment of the City Code of Ordinances by repealing Chapters 15 and 34 and repealing and replacing Chapter 35, and set the second reading for December 12, 2022.

**Background:**

**Background:**

The City's zoning code has not been meaningfully updated since the 1960s. In 2019, the City adopted the 2040 Comprehensive Plan and embarked on a major overhaul of the City's current zoning (Chapter 35), sign (Chapter 34), and platting (Chapter 15) codes with consultant Bolton & Menk, as these chapters present significant barriers, difficulties, and confusions in their ease of use and overall accessibility for not only City staff, but residents, business owners, and prospective developers as well. Further, these chapters are out of compliance with state law, opening the City up to legal risks. City staff have worked with Bolton & Menk to merge the three chapters into one, unified document (Unified Development Ordinance).

Over the past three years, City staff have been working through a complete overhaul of the UDO, with the intent to:

- Align the UDO with the City's 2040 Comprehensive Plan;
- Bring the UDO into compliance with state law, particularly with waterbody protections and development review requirements;
- Reorganize the UDO so it is clearer and easier to use;
- Modernize regulations to ensure they meet community needs and promote equity; and
- Improve customer service and regional competitiveness

The updated UDO consists of the following components:

- Section 1: General Provisions
- Section 2: Zoning Districts

- Section 3: Overlay Districts
- Section 4: Use Regulations
- Section 5: Development Standards and Incentives
- Section 6: Signs
- Section 7: Administration
- Section 8: Subdivisions and Planned Unit Developments
- Section 9: Definitions

Key changes to the updated UDO include:

- The consolidation of zoning districts;
- Clarifying and modernizing allowed uses within each zoning district;
- Bringing environmental preservation policies into alignment with state law; and
- Clarifying city land use approval and review policies to better support staffs' ability to effectively administer the UDO

City staff recognizes that no UDO is perfect, and that updating and writing land use policies is as much an "art" as it is a technical process. The intent of the updated UDO therefore is to be a robust living, breathing document that modernizes City land use policies, and can be further revised and evolve over time.

A public hearing notice was published in the Brooklyn Center Sun Post on November 3, 2022. Mail notifications were mailed to those properties proposed for re-zoning. A copy of the draft Unified Development Code and Zoning Map are included for review.

**Budget Issues:**

None to be considered at this time.

**Inclusive Community Engagement:**

**Engagement to Date**

Public and targeted stakeholder engagement around the updated UDO have been among the most significant engagement efforts the City has undertaken to date. Careful attention was given towards ensuring the public and impacted stakeholders were provided multiple opportunities and formats for education on the UDO, and in providing feedback that would help craft the UDO's formation.

**Key engagement efforts conducted include:**

- Dedicated UDO Project Website
  - *A dedicated project website was created to be the clearing house for all public-facing information, outreach, and summary of project updates - https://clients.bolton-menk.com/brooklyncenter2019/zoning/*
- Thematic One-Pager Info Sheets
  - *Six info sheets hosted on the UDO project website, that cover topics related to housing, accessory dwelling units (ADUs), commercial standards, and waterbody protections.*
- Citizen Zoning Task Force
  - *14-member resident task force, that met four times with City staff and the consultant team. Task force members helped inform updates to residential and commercial standards, and vetted proposed district updates.*
- Sign Code Task Force
  - *Local business owners met with City staff and consultant team to review draft sign code and offer feedback on updating standards and regulations.*

- Recorded Webinars
  - *Three public overview webinars were recorded in winter 2021 to provide an overview of each draft section of the UDO. Each recorded webinar was uploaded to the UDO project website, and included a comment & question form link for public feedback.*
- Public Online Open Houses
  - *Three virtual public meetings were hosted in summer 2021 to preview draft residential, commercial, and waterbody protections. Meetings were recorded and uploaded to the UDO project website.*
- Targeted Stakeholder Open House
  - *Property owners and residents of properties that would be impacted by either the Shoreland or MRCCA ordinance provisions within the UDO were sent a mailer prior to a waterbody protection open house. The mailer included details about the open house and website where people could learn more information about proposed changes.*
- Surveys
  - *Two surveys were uploaded to the UDO project website to collect feedback on residential standards, and commercial standards related to the new UDO.*
- Property Owner Mailers
  - *As part of adoption of a new UDO, many properties within the City will be re-zoned to align with the new regulations, new zoning districts (refer to Exhibit A), and 2040 Comprehensive Plan. In addition, nearly all existing zoning districts will be updated with new, more modern, regulations. All properties in the City which are anticipated to experience a change in zoning designation have received a postcard in the mail directing them to an online interactive zoning map where they can get more information about the proposed changes and how it will affect their property.*
- Interactive Draft Zoning Map
  - *An online interactive draft zoning map was created for the public to view properties' current zoning and proposed future zoning, and gain more information on potential impacts of the change - https://bmi.maps.arcgis.com/apps/webappviewer/index.html?id=e3b4a4e3bca1482faa4deec8926dd82d*
- Hosting Full Draft Code Sections Online
  - *Full versions of each draft section of the UDO were uploaded to the UDO project website for public review. Online comment forms were provided for the public to submit comments or questions.*
- Joint Planning and Housing Commission Updates
  - *Four work sessions were held with members of the Planning and Housing Commissions, to provide updates on the UDO's development, and to assess key questions related to residential and commercial standards, and environmental protections.*
- City Council Work Sessions
  - *Three work sessions were held with the City Council, to provide updates on the UDO's development, and to vet key questions related to residential and commercial standards, and land use approval processes.*

**Antiracist/Equity Policy Effect:**

**UDO and Equity**

While drafting the UDO, City staff prioritized an equity-centered lens when considering impacts of new land use policies within the UDO. Staff recognizes the historic connections that zoning and land use policies have had on systemic racism and the legal separation of people and uses. Practices such as redlining, restrictive covenants, large lot sizes, and segregating land uses are all policy examples of how this has manifested

throughout US history.

While Brooklyn Center's land use history is not as explicit in this regard, its traditionally auto-oriented design patterns have created issues related to job access, transportation equity, and flexibility regarding integrated land uses.

The updated UDO therefore seeks to address equity-promotion as outlined by the 2040 Comprehensive Plan, and as suggested from community members in the following ways:

- Creation of mixed-use districts;
- Creation of neighborhood commercial nodes;
- Organizing density around transit;
- Permitting zoning flexibility in exchange for identified goals of sustainability, housing affordability, and affordable commercial spaces;
- Supporting multi-generational housing needs;
- Permitting and updating home-based businesses provisions; and
- Supporting more housing options and more affordable home ownership through strategies like ADUs, duplexes, and mixed-use zoning.

**Strategic Priorities and Values:**

Enhanced Community Image, Inclusive Community Engagement, Targeted Redevelopment, Safe, Secure, Stable Community, Customer Intimacy , Operational Excellence

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| UDO Coversheet | 11/7/2022 | Cover Memo |
| Draft UDO (11.07.2022) | 11/7/2022 | Backup Material |
| Draft Zoning Map (11.07.2022) | 11/7/2022 | Backup Material |
| Published Notice-Brooklyn Center UDO (11.03.2022) | 11/7/2022 | Backup Material |
| An Ordinance Adopting the City's Unified Development Code and Amending the City Code of Ordinances by Repealing Chapters 15 and 34 and Repealing and Replacing Chapter 35 | 11/7/2022 | Ordinance |
| presentation | 1/2/2023 | Presentation |
| presentation | 1/2/2023 | Presentation |

DATE: November 7, 2022

TO: Dr. Reggie Edwards, City Manager

THROUGH: Jesse Anderson, Interim Community Development Director

FROM: Ginny McIntosh, City Planner and Zoning Administrator

SUBJECT: An Ordinance Adopting a Unified Development Code and Amending the City Code of Ordinances by Repealing Chapters 15 and 34 and Repealing and Replacing Chapter 35 (Public Hearing and First Reading)

**Recommendation:**

(1) Motion to:

- Open the public hearing;
- Take public input; and
- Close the public hearing.

(2) Motion to approve a first reading regarding the adoption of the Unified Development Code and an amendment of the City Code of Ordinances by repealing Chapters 15 and 34 and repealing and replacing Chapter 35, and set the second reading for December 12, 2022.

**Background:**

The City's zoning code has not been meaningfully updated since the 1960s. In 2019, the City adopted the 2040 Comprehensive Plan and embarked on a major overhaul of the City's current zoning (Chapter 35), sign (Chapter 34), and platting (Chapter 15) codes with consultant Bolton & Menk, as these chapters present significant barriers, difficulties, and confusions in their ease of use and overall accessibility for not only City staff, but residents, business owners, and prospective developers as well. Further, these chapters are out of compliance with state law, opening the City up to legal risks. City staff have worked with Bolton & Menk to merge the three chapters into one, unified document (Unified Development Ordinance).

Over the past three years, City staff have been working through a complete overhaul of the UDO, with the intent to:

- Align the UDO with the City's 2040 Comprehensive Plan;
- Bring the UDO into compliance with state law, particularly with waterbody protections and development review requirements;
- Reorganize the UDO so it is clearer and easier to use;
- Modernize regulations to ensure they meet community needs and promote equity; and
- Improve customer service and regional competitiveness

The updated UDO consists of the following components:

- Section 1: General Provisions
- Section 2: Zoning Districts
- Section 3: Overlay Districts
- Section 4: Use Regulations
- Section 5: Development Standards and Incentives
- Section 6: Signs
- Section 7: Administration
- Section 8: Subdivisions and Planned Unit Developments
- Section 9: Definitions

Key changes to the updated UDO include:

- The consolidation of zoning districts;
- Clarifying and modernizing allowed uses within each zoning district;
- Bringing environmental preservation policies into alignment with state law; and
- Clarifying city land use approval and review policies to better support staffs' ability to effectively administer the UDO

City staff recognizes that no UDO is perfect, and that updating and writing land use policies is as much an "art" as it is a technical process. The intent of the updated UDO therefore is to be a robust living, breathing document that modernizes City land use policies, and can be further revised and evolve over time.

**UDO and Equity**

While drafting the UDO, City staff prioritized an equity-centered lens when considering impacts of new land use policies within the UDO. Staff recognizes the historic connections that zoning and land use policies have had on systemic racism and the legal separation of people and uses. Practices such as redlining, restrictive covenants, large lot sizes, and segregating land uses are all policy examples of how this has manifested throughout US history.

While Brooklyn Center's land use history is not as explicit in this regard, its traditionally auto-oriented design patterns have created issues related to job access, transportation equity, and flexibility regarding integrated land uses.

The updated UDO therefore seeks to address equity-promotion as outlined by the 2040 Comprehensive Plan, and as suggested from community members in the following ways:

- Creation of mixed-use districts;
- Creation of neighborhood commercial nodes;
- Organizing density around transit;
- Permitting zoning flexibility in exchange for identified goals of sustainability, housing affordability, and affordable commercial spaces;
- Supporting multi-generational housing needs;
- Permitting and updating home-based businesses provisions; and
- Supporting more housing options and more affordable home ownership through strategies like ADUs, duplexes, and mixed-use zoning

**Engagement to Date**

Public and targeted stakeholder engagement around the updated UDO have been among the most significant engagement efforts the City has undertaken to date. Careful attention was given towards

ensuring the public and impacted stakeholders were provided multiple opportunities and formats for education on the UDO, and in providing feedback that would help craft the UDO's formation.

**Key engagement efforts conducted include:**

- Dedicated UDO Project Website
  - *A dedicated project website was created to be the clearing house for all public-facing information, outreach, and summary of project updates - https://clients.bolton-menk.com/brooklyncenter2019/zoning/*
- Thematic One-Pager Info Sheets
  - *Six info sheets hosted on the UDO project website, that cover topics related to housing, accessory dwelling units (ADUs), commercial standards, and waterbody protections.*
- Citizen Zoning Task Force
  - *14-member resident task force, that met four times with City staff and the consultant team. Task force members helped inform updates to residential and commercial standards, and vetted proposed district updates.*
- Sign Code Task Force
  - *Local business owners met with City staff and consultant team to review draft sign code and offer feedback on updating standards and regulations.*
- Recorded Webinars
  - *Three public overview webinars were recorded in winter 2021 to provide an overview of each draft section of the UDO. Each recorded webinar was uploaded to the UDO project website, and included a comment & question form link for public feedback.*
- Public Online Open Houses
  - *Three virtual public meetings were hosted in summer 2021 to preview draft residential, commercial, and waterbody protections. Meetings were recorded and uploaded to the UDO project website.*
- Targeted Stakeholder Open House
  - *Property owners and residents of properties that would be impacted by either the Shoreland or MRCCA ordinance provisions within the UDO were sent a mailer prior to a waterbody protection open house. The mailer included details about the open house and website where people could learn more information about proposed changes.*
- Surveys
  - *Two surveys were uploaded to the UDO project website to collect feedback on residential standards, and commercial standards related to the new UDO.*
- Property Owner Mailers
  - *As part of adoption of a new UDO, many properties within the City will be re-zoned to align with the new regulations, new zoning districts (refer to Exhibit A), and 2040 Comprehensive Plan. In addition, nearly all existing zoning districts will be updated with new, more modern, regulations. All properties in the City which are anticipated to experience a change in zoning designation have received a postcard in the mail directing them to an online interactive zoning map where they can get more information about the proposed changes and how it will affect their property.*
- Interactive Draft Zoning Map
  - *An online interactive draft zoning map was created for the public to view properties' current zoning and proposed future zoning, and gain more information on potential impacts of the change - https://bmi.maps.arcgis.com/apps/webappviewer/index.html?id=e3b4a4e3bca1482faa4deec8926dd82d*
- Hosting Full Draft Code Sections Online

- *Full versions of each draft section of the UDO were uploaded to the UDO project website for public review. Online comment forms were provided for the public to submit comments or questions.*

- Joint Planning and Housing Commission Updates
  - *Four work sessions were held with members of the Planning and Housing Commissions, to provide updates on the UDO's development, and to assess key questions related to residential and commercial standards, and environmental protections.*
- City Council Work Sessions
  - *Three work sessions were held with the City Council, to provide updates on the UDO's development, and to vet key questions related to residential and commercial standards, and land use approval processes.*

A public hearing notice regarding this comprehensive update and the recommended adoption of the Unified Development Ordinance was published in the Brooklyn Center *Sun Post* on November 3, 2022 and is attached. Mail notifications were sent to those residents and property owners whose properties are proposed for re-zoning.

**Key UDO Approval Questions & Answers:**

**Q: How Will the New UDO Replace the Current UDO?**

**A:** Upon Council approval, the new UDO will "repeal and replace" corresponding sections within the current city code. The sections to be repealed within the current City Code include Chapter 15 (*Platting*) and Chapter 34 (*Signs*). Chapter 35, which is the City's existing Zoning Code, would be repealed and replaced with said UDO.

**Q: When will the new UDO take effect? How will the public be able to view the new UDO content or zoning map?**

**A:** The new UDO will take effect 30 days after City Council adoption. Upon City approval, City staff will begin the process of digitizing the new UDO, and uploading it online for documentation and public access.

**Q: Will land uses or site design features become non-compliant if they're within a zoning district that is guided to change? Will land owners have to make changes to bring their property into compliance?**

**A:** No, all current property within the city is "grandfathered" into the new UDO, and is considered "legally non-conforming".

**Q: Will all properties in the city be re-zoned at once? When does that process occur?**

**A:** Upon City UDO approval process, the City will also be adopting a new Zoning Map. Upon adoption of the zoning map will change the zoning of all properties within the City of Brooklyn Center, as indicated in the zoning map.

# Section 0: Unified Development Ordinance – CHAPTER 12

## DRAFT 11/07/2022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# Section 1: General Provisions

## 1.1 Title, Purpose, and Effective Date

### 1.1.1 Title

This Chapter 35 and the regulations set forth herein shall be known as the UNIFIED DEVELOPMENT CODE OF THE CITY OF BROOKLYN CENTER and will be referred to herein as the "Unified Development Ordinance". It may also be referenced to throughout Chapter 35 as "UDO" or "this Chapter."

### 1.1.2 Statement of Policy

The provisions of Chapter 35 have been enacted in order to protect and promote health, safety, equity, and the general welfare of the people of Brooklyn Center. This UDO is adopted to achieve the following objectives:

(a) **Compatibility between different land uses;**

(b) **Promotion of a more equitable and sustainable community for all people;**

(c) **Adequate light, air, and safety from fire, flood, and other dangers for occupants of structures;**

(d) **Protection of the character and stability of residential, commercial, and industrial locations throughout the city, and to ensure the orderly and beneficial development of those areas;**

(e) **Protection and conservation of the value of land and buildings;**

(f) **A balanced tax base between residential, commercial, and industrial uses;**

(g) **Avoidance of business failures through improper location;**

(h) **Provision for the safe and efficient circulation of all modes of transportation, with particular regard to the avoidance of congestion in the public streets; and**

(i) **Reasonable standards to which structures and uses shall conform**

### 1.1.3 Effective Date: Month, date, year

This ordinance shall be in full force and take effect from and after the date established upon adoption by the City Council.

## 1.2 Authority, Applicability, and Jurisdiction

### 1.2.1 Authority

This Unified Development Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Section 462.351 to 462.365 and other applicable laws.

### 1.2.2 General Applicability

(a) Where the conditions imposed by any provision of this Unified Development Ordinance are either more or less restrictive than comparable conditions imposed by other ordinances, rules, or regulations of the City, the Unified Development Ordinance rule or regulation which imposes the more restrictive condition, standard, or requirement shall prevail.

(b) Except as herein provided, no building, structure, or premises shall hereafter be used or occupied, and no building permit shall be granted, and no plat approved that does not conform to the requirements of this Unified Development Ordinance.

(c) No structure shall be erected, converted, enlarged, reconstructed, or altered, and no structure or land shall be used for any purpose which is not in conformity with the provisions of this Chapter.

(d) In any zoning district, whenever a use is neither specifically allowed nor specifically prohibited, the use shall be considered prohibited unless the City Council determines the proposed use is substantially similar to a permitted use in which case the proposed use shall be deemed permitted.

(e) The City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if a use not listed as permitted or prohibited is acceptable and if so, what zoning district would be most appropriate and the conditions and standards relating to development of the use. The City Council, Planning Commission, or property owner, if appropriate, may initiate an amendment to the Unified Development Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

(f) This Unified Development Ordinance is a comprehensive revision to Chapters 15, 34 and 35 of the City Code. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Unified Development Ordinance is not affected by its enactment.

### 1.2.3 Jurisdiction

This Unified Development Ordinance applies to all lands within the jurisdiction of the City of Brooklyn Center shown on the official Zoning Map.

## 1.3 Interpretation and Conflicting Provisions

### 1.3.1 Rules of Interpretation

In their interpretation, the provisions of this Unified Development Ordinance shall be held to be the minimum requirements necessary to promote and preserve the public health, safety, morals, and welfare.

(a) **The word "person" includes firm, association, organization, company, partnership, cooperative, or corporation as well as an individual.**

(b) **The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.**

(c) **The word "shall" is mandatory and the word "may" is permissive.**

(d) **The word "lot" shall include the words "plot," "piece," "parcel," and "property" and shall be interpreted broadly to give full effect of the provisions of this Chapter.**

(e) **All distances, unless otherwise specified, shall be measured horizontally.**

(f) **References in this Chapter to any statutes, rules, or regulations shall include any amendments to, or successors of, those statutes, rules, or regulations. Furthermore, such references shall serve to incorporate those statutes, rules, or regulations by reference to the extent necessary to achieve the intent and purposes of this Chapter. However, such incorporations are intended only to give effect to this Chapter and are not intended to make the City responsible for the administration or enforcement of the referenced statutes, rules, or regulations.**

(g) **Whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be constructed as set forth in such definition. If no set definition is given in this Chapter, the word or term shall have the meaning given it in the Minnesota Statutes, Minnesota Rules, or the most applicable Hennepin County ordinance to the extent the term is given a specific definition therein. Any question as to the meaning of a word or term used in this Chapter shall be determined by the City Council.**

(h) **General words are construed to be restricted in their meaning by preceding particular words.**

(i) **The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the City Council finds to be substantially similar as provided in this Chapter.**

The Minnesota legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Chapter, this Chapter shall be interpreted as allowing those uses the legislature expressly requires the City to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute.

For example, Minnesota Statutes, Section 462.357, subdivision 7 requires a licensed day care facility serving 12 or fewer persons to be considered a permitted single family residential use of property. As such, this Chapter shall be interpreted as allowing that

specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the statute shall not be allowed unless the expanded use is expressly permitted in the particular zoning district by this Chapter. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the City. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Chapter and all other applicable laws.

#### 1.3.2 Supremacy

When any condition imposed by any provision of this Unified Development Ordinance upon the use of land or buildings or upon the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by provisions of another City ordinance or resolution, the more restrictive condition shall prevail.

This Unified Development Ordinance is not intended to abrogate any easements, covenants, or any other private agreement, providing that where the provisions of this Unified Development Ordinance are more restrictive than such easements, covenants, or other private agreements, the provisions of this Unified Development Ordinance shall prevail.

## 1.4 Transition from Prior Regulations

#### 1.4.1 Prior Zoning Regulations

This Chapter supersedes and replaces Brooklyn Center City City Code Chapters 15, 34 and 35, and all such provisions are hereby repealed. The repeal of the City's previous zoning and subdivision chapters does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier chapters.

## 1.5 Comprehensive Plan

#### 1.5.1 General

The City Council hereby undertakes to carry on comprehensive study and planning as a continuing guide for land use and development legislation within the municipality. For this purpose, the City Council has adopted a Comprehensive Guide Plan for the City of Brooklyn Center, and the City's Planning Commission aids in such planning as the advisory planning agency. Comprehensive Plan Amendment procedures, criteria, and adoption are detailed in Section 7.12.

#### 1.5.2 Coordination with Other Agencies

In the performance of its planning activities, the Planning Commission shall consult with and coordinate the planning activities of other departments and agencies of the municipality to ensure conformity with and to assist in a development of the comprehensive municipal plan. Furthermore, the Planning Commission shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies.

### 1.5.3 Relationship between Comprehensive Plan and this UDO

Minnesota statutes require the Unified Development Ordinance be consistent with the approved Comprehensive Plan.

## 1.6 Other General Provisions

### 1.6.1 Applications.

All applications must be on forms approved by the City Council. Any requests not submitted on an approved City form shall not be considered an application for the purposes of this UDO or Minnesota Statutes, Section 15.99, and shall be rejected. An application shall be immediately rejected if it is not accompanied by the required application fee. If an escrow is required, the applicant shall submit the required amount for escrow with the City within five days of the submission of the application or the application shall be deemed incomplete and will not be processed.

### 1.6.2 Enforcement.

This Unified Development Ordinance shall be administered and enforced Zoning Administrator. The Zoning Administrator may authorize other employees or agents of the City to perform the various duties of the Zoning Administrator specified in Section 7.1.

### 1.6.3 Penalties.

Violation of the provisions of this Unified Development Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional use permits) shall constitute a misdemeanor. Any person who violates this Unified Development Ordinance or fails to comply with any of its requirements shall, upon conviction thereof by lawful authority, be fined not more than one thousand dollars ($1,000) or imprisoned for not more than ninety (90) days or both, and in addition, shall pay all costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Brooklyn Center from taking such other lawful action as is necessary to prevent or remedy any violation. No provision of this Chapter designating the duties of any official or employee of the City shall be so construed as to make such official or employee liable for the penalty provided in this section for failure to perform such duty, unless the intention of the City Council to impose such penalty on such official or employee is specifically and clearly expressed in the section creating the duty.

### 1.6.4 Severability.

Every section, provision, or part of this Unified Development Ordinance is declared separable from every other section, provision, or part to the extent that if any section, provision, or part of the Unified Development Ordinance shall be held invalid, it shall not invalidate any other section, provision, or part thereof.

# Section 2: Zoning Districts

## 2.1 Zoning Districts and Zoning Map

### 2.1.1 Zoning Districts.

| | |
|---|---|
| **Residential Districts** | |
| R1 | Low Density Residential |
| R2 | Medium Low Density Residential |
| R3 | Medium Density Residential |
| R4 | Medium High Density Residential |
| R5 | High Density Residential |
| **Mixed-Use Districts** | |
| MX-N1 | Neighborhood Mixed-Use |
| MX-N2 | Neighborhood Mixed-Use |
| MX-C | Commercial Mixed-Use |
| TOD | Transit Oriented Development |
| **Non-Residential Districts** | |
| C | Commerce - Service/Office |
| MX-B | Business Mixed-Use |
| I | General Industrial |
| **Special Purpose Districts** | |
| O | Public Open Space |

### 2.1.2 Zoning Map.

The boundaries of the zoning districts are shown on the map entitled "Zoning Map of Brooklyn Center, Minnesota," as may be amended from time to time. The Zoning Map of Brooklyn Center, Minnesota shall be referred to in this Unified Development Ordinance as the Zoning Map or the Map. The Map and all amendments shall be certified by the City Clerk and maintained in the office of the City Clerk. The Zoning Map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are thereby made a part of this Unified Development Ordinance by reference. The official Zoning Map together with all materials attached thereto is hereby adopted by reference and declared to be a part of this Section.

### 2.1.3 General District Regulations.

(a) **Generally.**

Land within a particular zoning district shall be subject to: the general standards, regulations, and restrictions contained within this UDO; any specific standards, regulations, and restrictions established in this UDO for the particular district; any performance standards established for the particular use; the standards, regulations, and restrictions of any applicable overlay district; and any applicable standards, regulations, and restrictions imposed by any other applicable federal, state, and local laws, rules, regulations, and ordinances.

(b) **Overlay District Regulations.**

Land located within an overlay district is subject to both the regulations established herein for the primary zoning district in which it is located as well as the regulations applicable within the overlay district.

(c) **Identified Uses.**

Except as otherwise provided in this UDO, only those uses that are expressly identified by this UDO as being allowed within a district may occur within that district, and then only upon the issuance of all required permits and compliance with all applicable federal, state, and local laws, rules, regulations, and ordinances. If an owner proposes to undertake a use that is not expressly allowed in the particular district, the owner may apply for an amendment to the text of the UDO to add the use to those allowed within the zoning district, or seek a rezoning of the property to a district in which the use is allowed.

(d) **Prohibited Uses.**

Only those uses identified as being allowed within a zoning district under this UDO may occur within that district, subject to the additional restrictions and prohibitions contained in this UDO. References to other uses in this UDO, such as in the standards, are not intended, and shall not be interpreted, as expanding the uses allowed within a particular district.

(e) **Existing Planned Unit Developments**

Planned unit developments, and parcels zoned as a planned unit development, in accordance with prior zoning regulations shall remain in effect and shall remain subject to any and all agreements, conditions and standards applicable to the planned unit development. Amendments shall be processed in accordance with the procedures identified for planned unit developments in this UDO.

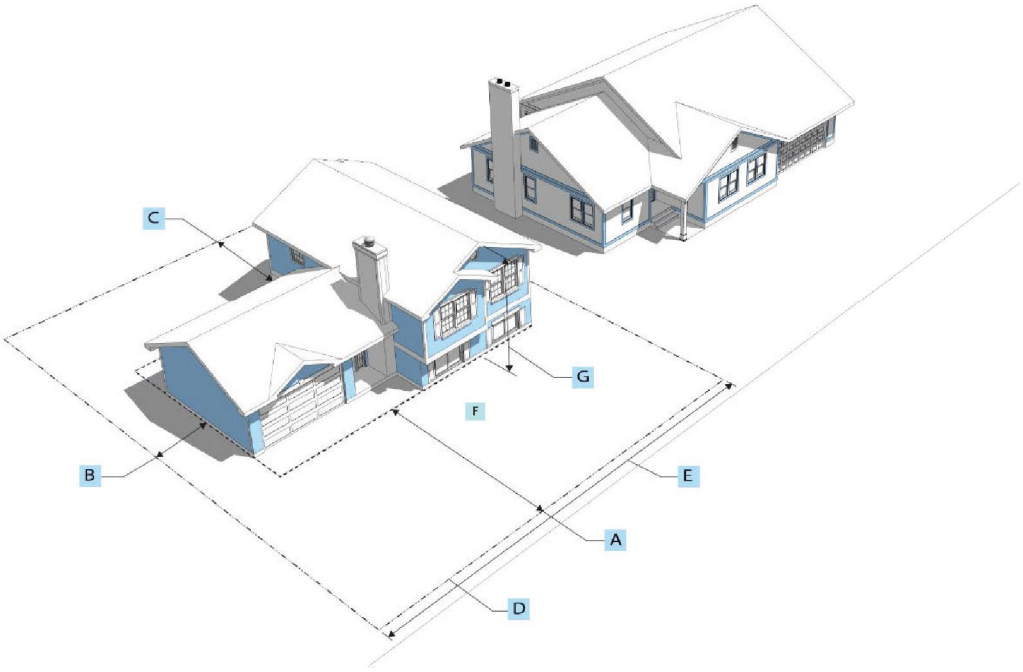
## 2.2 Residential Districts and Standards

### 2.2.1 R1 – Low Density Residential

(a) **Purpose**

The purpose of the R1 (Low Density Residential) zoning district is to conserve low-density, single-family neighborhoods. This district primarily supports one family dwellings. Allowed uses are shown in Section 4.2 Allowed Use Table.






(b) **R1 Dimensional Standards**

| | Building Setbacks | |
|---|---|---|
| A | Front building setback (minimum) | 35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot) |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 25 feet |
| D | Lot area – (minimum) | 9,500 sq. ft. (interior lot) or 10,500 sq. ft. (corner lot) |
| E | Lot width – one family (minimum) | 75 feet (interior lot) or 90 feet (corner lot) |

| | | |
|---|---|---|
| | Accessory Structure setback, Interior Side or Rear (Minimum) | 5 feet |
| | **Other Standards** | |
| F | Primary structure height (maximum) | 25 feet |
| | Accessory Structure height (Maximum) | 16 feet |
| | Density | 3-5 units/acre |

(a) **General Regulations**

(1) Complete, detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) In R1 districts, every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term " principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) All dwellings shall be on permanent foundations which comply with the State Building Code, except that accessory uses such as screened or enclosed porches, canopies, decks, balconies, stairs, etc. may be placed on a noncontinuous permanent foundation as approved by the Building Official.

(4) In the case of permitted dwellings, the dwelling may be located less than ten (10) feet, but not less than five (5) feet, from not more than one (1) of the established interior side lot lines, provided:

All other yard setback requirements are met;

The remaining minimum ten (10) foot setback between the dwelling and the lot line, shall not be used for any accessory building;

The exterior wall of the dwelling, facing the interior side yard of less than ten (10) feet, shall contain no openings including doors, or windows, or provision for mechanical equipment.

(5) In instances where an existing single-family dwelling is deficient in its setback requirements, the building may be expanded along the existing building line, provided there is no greater encroachment into the required yard area. This provision in no way permits the expansion of a conforming building resulting in a setback less than established by this Unified Development Ordinance. In no case shall the expansion be closer than five (5) feet from an interior side yard property line

(6) Where no more than three interior lots have frontage on a "cross street," and where the corner lots are developed so that one side yard of each corner lot faces the "cross street," the front yard setback of the interior lots may conform to the side yard setbacks of the corner primary structures.

(7) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

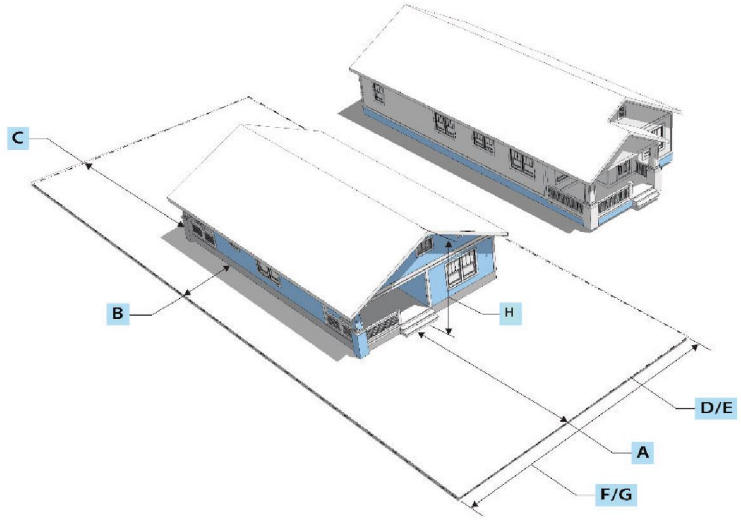
### 2.2.2 R2 – Medium Low Density Residential

#### (a) Purpose

The purpose of the R2 (Medium Low Density Residential) zoning district is to allow for smaller lot sizes or two-family dwellings in residential neighborhoods. Allowed uses are shown in Section 4.2.



(b) **R2 Dimensional Standards**




| | | |
|---|---|---|
| | **Building Setbacks** | |
| A | Front building setback (minimum) | 35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot) |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 20 feet |
| D | Lot area – one family per unit (minimum) | 7,600 sq. Ft. (interior lot) or 8,500 sq. Ft. (corner lot) |
| E | Lot area – two family (minimum) | 5,000 sq. Ft./unit (interior and corner lot) |
| F | Lot width – one family (minimum) | 60 feet (interior lot) or 75 feet (corner lot) |
| G | Lot width – two family (minimum) | 75 feet (interior lot) or 90 feet (corner lot) |
| | Accessory Structure setback, Interior Side or Rear (Minimum) | 5 feet |
| | **Other Standards** | |
| H | Primary structure height (maximum) | 25 feet |
| | Accessory Structure Height (Maximum) | 16 feet |
| | Density | 3-10 units/acre |

(c) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term " principal building" shall be given its common, ordinary meaning; in case of

doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) All dwellings shall be on permanent foundations which comply with the State Building Code, except that accessory uses such as screened or enclosed porches, canopies, decks, balconies, stairs, etc., may be placed on a noncontinuous permanent foundation as approved by the Building Official.

(4) In the case of permitted dwellings, the dwelling may be located less than ten (10) feet, but not less than five (5) feet, from not more than one (1) of the established interior side lot lines, provided:

All other yard setback requirements are met;

The remaining minimum ten (10) foot setback between the dwelling and the lot line, shall not be used for any accessory building;

The exterior wall of the dwelling, facing the interior side yard of less than ten (10) feet, shall contain no openings including doors, or windows, or provision for mechanical equipment.

(5) In instances where an existing single-family dwelling is deficient in its setback requirements, the building may be expanded along the existing building line, provided there is no greater encroachment into the required yard area. This provision in no way permits the expansion of a conforming building resulting in a setback less than established by this Unified Development Ordinance. In no case shall the expansion be closer than five (5) feet from an interior side yard property line.

Where no more than three interior lots have frontage on a "cross street," and where the corner lots are developed so that one side yard of each corner lot faces the "cross street," the front yard setback of the interior lots may conform to the side yard setbacks of the corner primary structures.

Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

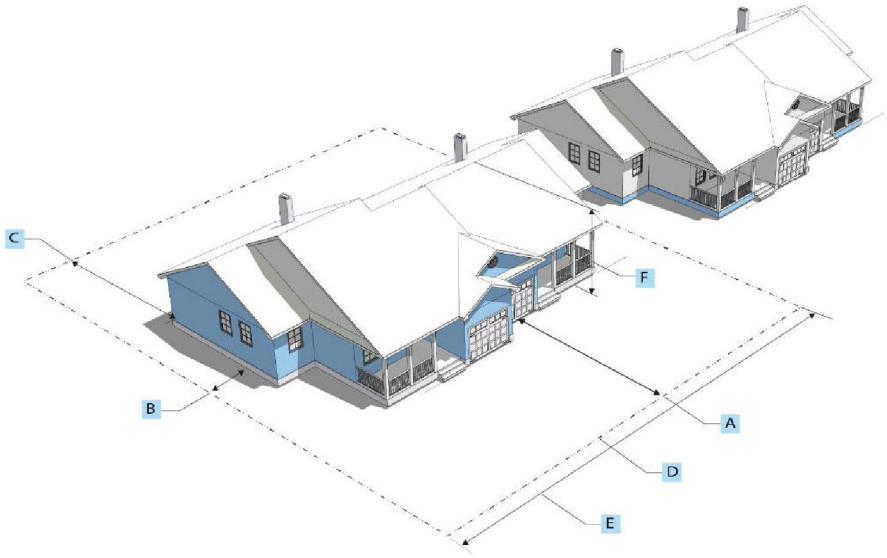
### 2.2.3 R3 – Medium Density Residential

#### (a) Purpose

The purpose of the R3 (Medium Density Residential) zoning district is to provide medium-density housing in townhouses, or condominium single family attached dwelling units. This district primarily supports attached single-family dwellings, but small lot, detached single-family dwellings are permitted as well. Allowed uses are shown in Section 4.2 Allowed Use Table.



### (b) R3 Dimensional Standards




| | Building Setbacks | |
|---|---|---|
| A | Front building setback (minimum) | 35 feet (interior lot) or 35 feet along primary street and 15 along secondary street (corner lot) |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 40 feet |
| D | Lot area – (minimum) | 4,000 sq. ft. per unit |
| E | Lot width – (minimum) | 25 feet |

| | | |
|---|---|---|
| | Accessory Structure setback, Interior Side or Rear (minimum) | 5 feet |
| | **Other Standards** | |
| F | Primary structure height (maximum) | 35 feet |
| | Accessory structure height (Maximum) | 16 feet |
| | Density | 5-10 units/acre |

(c) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term " principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) All dwellings shall be on permanent foundations which comply with the State Building Code, except that accessory uses such as screened or enclosed porches, canopies, decks, balconies, stairs, etc., may be placed on a noncontinuous permanent foundation as approved by the Building Official.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

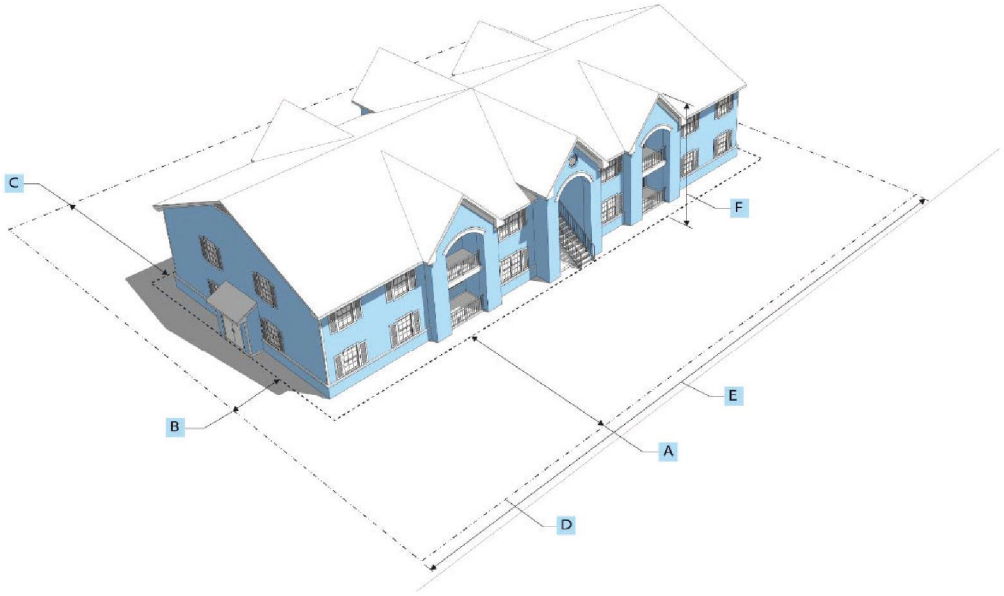
### 2.2.4 R4 – Medium High Density Residential

(a) **Purpose**

The purpose of the R4 (Medium High Density Residential) zoning district is to provide medium- to high-density housing in multiple family dwellings. This district primarily supports multi-family dwellings, but some attached single-family dwellings may also be permitted. Allowed uses are shown in Section 4.2 Allowed Use Table.



### (a) R4 Dimensional Standards




| | Building Setbacks | |
|---|---|---|
| A | Front building setback (minimum) | 35 feet along primary street and secondary street (corner lot) |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 40 feet |
| D | Lot area (minimum) | 2,200 sq. ft. per unit |
| E | Lot width (minimum) | 100 feet |

| | | |
|---|---|---|
| | Accessory Structure setback, Interior side or rear (minimum) | 5 feet |
| | **Other Standards** | |
| F | Primary structure height (maximum) | 40 feet |
| | Accessory Structure height (maximum) | 16 feet |
| | Density | 10-25 Units/acre |

(b) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term " principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(6) For lots abutting R1 and R2 Districts, other than at a public street line

When a building exceeds 25 feet in height the setback from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

A 15-foot-wide buffer strip on the side abutting the R1 or R2 District shall be provided which meets the following provisions:

The buffer strip shall be landscaped and not be used for parking, garages, driveways, off-street loading or storage.

The buffer strip shall contain an opaque fence, which is at least four feet in height.

The City Council may approve an alternative screening device design, provided it is in harmony with the residential neighborhood and provides a similar level of screening to an opaque fence.

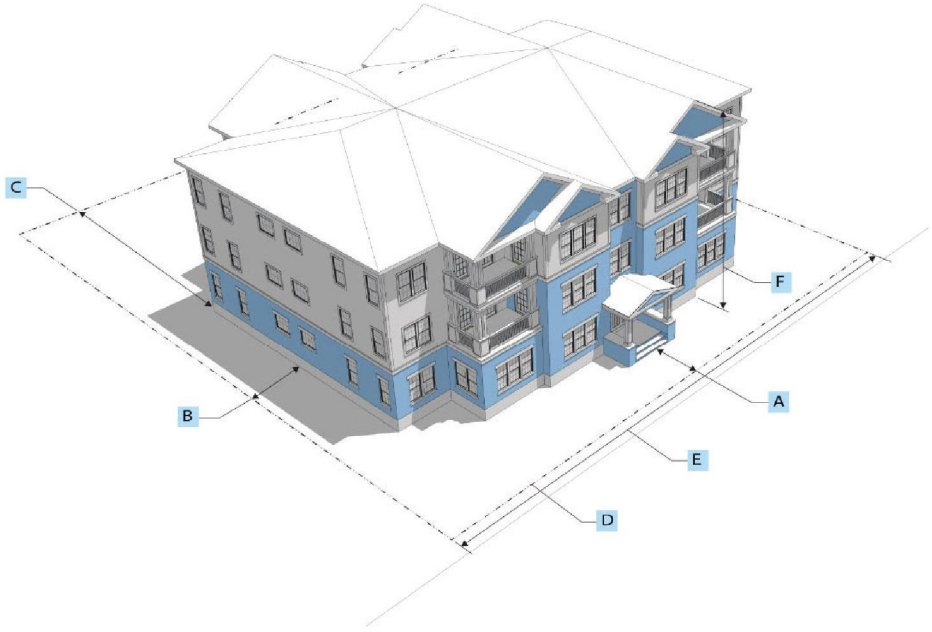
### 2.2.5 R5 – High Density Residential

#### (a) Purpose

The purpose of the R5 (High Density Residential) zoning district is to provide high-density housing of multiple family dwellings, such as townhomes, apartments, and condominiums. Future development or redevelopment of R5 land should be consistent with this land use designation and compatible with surrounding and adjacent land uses. Allowed uses are shown in Section 4.2 Allowed Use Table.



#### (a) R5 Dimensional Standards




| Building Setbacks | |
|---|---|

| | | |
|---|---|---|
| A | Front building setback (minimum) | 35 feet along primary street and secondary street (corner lot) |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 40 feet |
| D | Lot area (minimum) | 1,400 sq. ft. per unit |
| E | Lot width (minimum) | 100 feet |
| | Accessory Structure setback, Interior side or rear (minimum) | 5 feet |
| | **Other Standards** | |
| F | Primary structure height (maximum) | 48 feet |
| | Accessory Structure height (maximum) | 16 feet |
| | Density | 20-31 Units/acre |

(b) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Dimensional Standards.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(6) Lots Abutting R1 and R2 Districts, other than at a public street line

When a building exceeds 25 feet in height the setback from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

A 15-foot-wide buffer strip on the side abutting the R1 or R2 District shall be provided which meets the following provisions:

The buffer strip shall be landscaped and not be used for parking, garages, driveways, off-street loading or storage.

The buffer strip shall contain an opaque fence, which is at least four feet in height.

## 2.3 Mixed-Use Districts

### 2.3.1 MX-N1 – Neighborhood Mixed-Use

#### (a) Purpose

The purpose of the MX-N1 (Neighborhood Mixed-Use) district is to accommodate low- to medium-density residential and multi-family residential development, with or without small-scale ground floor non-residential uses. In addition, MX-N1 allows for the reuse of residential structures with frontage on an arterial street for a variety of residential and non-residential uses. It is intended primarily for use along arterial corridors, at or near major intersections, and areas adjacent those zoned MX-N2 or similarly zoned areas. Allowed uses are shown in Section 4.2 Allowed Use Table.



**MX-N1 Dimensional Standards**



| | | |
|---|---|---|
| | **Building Setbacks** | |
| A | Front build-to line (min-max) | 5-20 feet on primary and secondary street frontage |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 20 feet |
| D | Minimum lot size | N/A |
| | Accessory Structure setback, Interior side or rear (minimum) | 5 feet |
| | **Other Standards** | |
| E | Structure height (maximum) | 48 feet |
| | Density | 15-31 Units/acre |
| | Accessory Structure height (maximum) | 20 feet |
| | Maximum size of individual non-residential use | 7,500 Square Feet |

(b) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(6) After the effective date of this UDO, no new or additional vehicle parking spaces may be created between the front façade of an existing or new structure and the primary street frontage of the lot unless otherwise permitted by the zoning administrator.

(7) Lots Abutting R1 and R2 Districts, other than at a public street line

a. When a building exceeds 25 feet in height the setback from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

b. A 15-foot-wide buffer strip on the side abutting the R1 or R2 District shall be provided which meets the following provisions:

1. The buffer strip shall be landscaped and not be used for parking, garages, driveways, off-street loading or storage.
2. The buffer strip shall contain an opaque fence, which is at least four feet in height.
3. The City Council may approve an alternative screening device design, provided it is in harmony with the residential neighborhood and provides a similar level of screening to an opaque similar level of screening to an opaque fence.

(c) **Building and Site Design**

(1) At least 50 percent of the first floor of the front façade of each primary building shall be located not more than ten feet from the front lot line.

(2) Each primary structure shall have at least one pedestrian entrance on each façade facing a public right-of-way.

(3) Each required pedestrian entrance for a nonresidential use shall open directly to the adjacent sidewalk without requiring pedestrians to pass through a lobby area, garage, parking lot, or a non-pedestrian area located between the building entrance and the entrance to individual ground floor nonresidential establishments in the building.

(4) At least 50 percent of each building façade facing a street, park, plaza, or other public space (not including areas occupied by doors or windows), shall be faced in brick, stone, cultured stone, real stucco, or other material of equivalent visual attractiveness, quality, and durability as determined by the Zoning Administrator.

(5) Each ground floor façade for a nonresidential use facing a public right-of-way shall have transparent windows or other transparent glazed areas covering at least 50 percent of the ground floor façade area between three and eight feet above sidewalk grade. Required glazed areas shall have a visible light transmittance ratio of 0.6 or higher, and shall not include reflective, heavily tinted, or black glass windows.

(d) **Streets and Public Space**

(1) Should new blocks be established, blocks shall be between 300 and 500 feet in length and shall have a block perimeter no greater than 2,000 feet.

(2) Bicycle and pedestrian facilities shall be constructed and connected to existing adjacent bicycle and pedestrian infrastructure, including the provision of bicycle parking.

(3) Attractive public gathering/seating areas, quality streetscaping, and space for outdoor seating shall be integrated into the site design.

(4) A six-foot minimum clear width shall be maintained on all walkways

(5) Public spaces shall be designed to promote social interaction, leisure opportunities, public gathering and activities, and/or to create focal points and activity nodes within development.

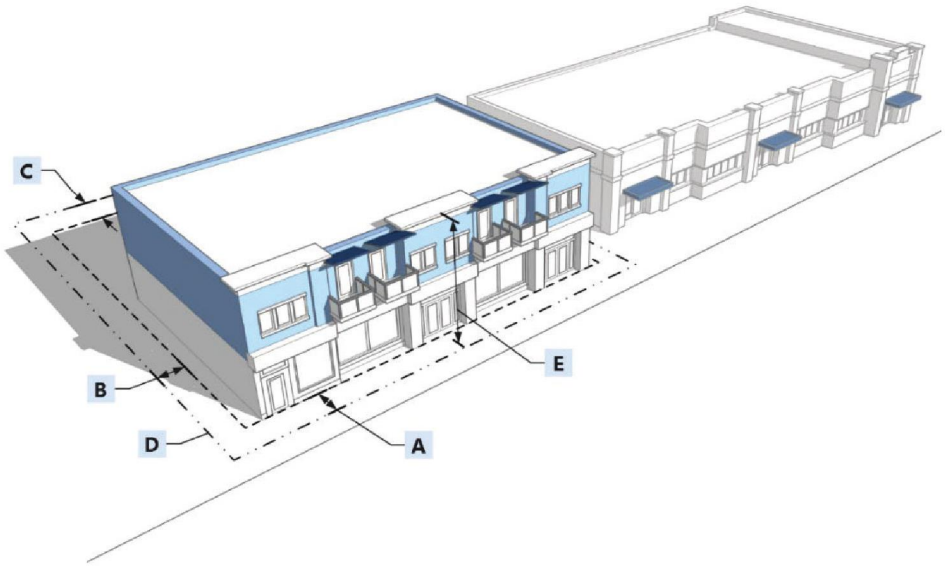
### 2.3.2 MX-N2 – Neighborhood Mixed-Use

#### (a) Purpose

The purpose of the MX-N2 (Neighborhood Mixed-Use) district is to accommodates small-scale, mixed-use neighborhood activity centers with comfortable gathering places, located and scaled to provide minor/convenience services near low density residential neighborhoods. Requirements for this zoning district avoid strip development patterns and the creation of destination retail or business uses serving areas beyond the immediate neighborhood. Allowed uses are shown in Section 4.2 Allowed Use Table.



#### (b) MX-N2 Dimensional Standards



| | | |
|---|---|---|
| | **Building Setbacks** | |
| A | Front build-to line (min-max) | 5-20 feet on primary and secondary street frontage |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 10 feet |
| D | Minimum lot size | N/A |
| | Accessory Structure setback, Interior side or rear (minimum) | 5 feet |
| | **Other Standards** | |
| E | Structure height (maximum) | 48 feet |
| | Density | 15-31 Units/acre |
| | Accessory Structure height (maximum) | 20 feet |
| | Maximum size of individual non-residential use | 10,000 Square Feet |

(c) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(d) **Building and Site Design**

(1) At least 50 percent of the first floor of the front façade of each primary building shall be located not more than ten feet from the front lot line.

(2) Each primary structure shall have at least one pedestrian entrance on each façade facing a public right-of-way.

(3) Each required pedestrian entrance for a nonresidential use shall open directly to the adjacent sidewalk without requiring pedestrians to pass through a lobby area, garage, parking lot, or a non-pedestrian area located between the building

entrance and the entrance to individual ground floor nonresidential establishments in the building.

(4) At least 50 percent of each building façade facing a street, park, plaza, or other public space (not including areas occupied by doors or windows), shall be faced in brick, stone, cultured stone, real stucco, or other material of equivalent visual attractiveness, quality, and durability as determined by the Zoning Administrator.

(5) Each ground floor façade for a nonresidential use facing a public right-of-way shall have transparent windows or other transparent glazed areas covering at least 50 percent of the ground floor façade area between three and eight feet above sidewalk grade. Required glazed areas shall have a visible light transmittance ratio of 0.6 or higher, and shall not include reflective, heavily tinted, or black glass windows.

(6) After the effective date of this UDO, no new or additional vehicle parking spaces may be created between the front façade of an existing or new structure and the primary street frontage of the lot unless otherwise permitted by the zoning administrator.

(7) Lots Abutting R1 and R2 Districts, other than at a public street line

When a building exceeds 25 feet in height the setback from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

A 15-foot-wide buffer strip on the side abutting the R1 or R2 District shall be provided which meets the following provisions:

The buffer strip shall be landscaped and not be used for parking, garages, driveways, off-street loading or storage.

The buffer strip shall contain an opaque fence, which is at least four feet in height.

The City Council May approve an alternative screening device design, provided it is in harmony with the residential neighborhood and provides a similar level of screening to an opaque similar level of screening to an opaque fence.

(e) **Streets and Public Space**

(1) Should new blocks be established, blocks shall be between 300 and 500 feet in length and shall have a block perimeter no greater than 2,000 feet.

(2) Bicycle and pedestrian facilities shall be constructed and connected to existing adjacent bicycle and pedestrian infrastructure, including the provision of bicycle parking.

(3) Attractive public gathering/seating areas, quality streetscaping, and space for outdoor seating shall be integrated into the site design.

(4) A six-foot minimum clear width shall be maintained on all walkways

(5) Public spaces shall be designed to promote social interaction, leisure opportunities, public gathering and activities, and/or to create focal points and activity nodes within development.

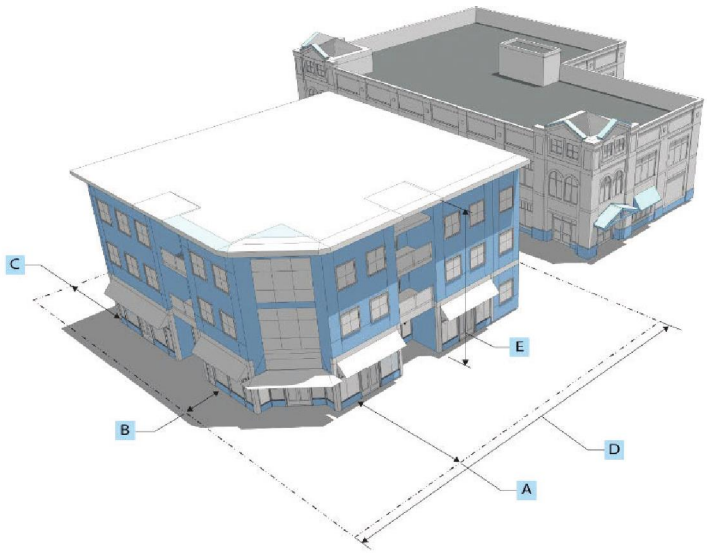
### 2.3.3 MX-C Commercial Mixed-Use

(a) **Purpose**

The purpose of the MX-C (Commercial Mixed-Use) district is to accommodate a hybrid urban form of commercial, office, retail, service and residential uses. This designation is intended primarily for areas adjacent to TOD, and is planned to have a more significant proportion of the land use designated for commercial, office, retail, and service uses, with supporting residential uses. This land use designation will focus on walkable and bikeable connections to adjacent land uses and selected destination nodes along transit corridors. Allowed uses are shown in Section 4.2 Allowed Use Table.



(b) **MX-C Dimensional Standards**



| | | |
|---|---|---|
| | **Building Setbacks** | |
| A | Front building setback (minimum) | 10 feet on primary and secondary street frontage |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 20 feet |
| D | Lot width (minimum) | 100 feet |
| | Accessory Structure setback, Interior side or rear (minimum) | 5 feet |
| | **Other Standards** | |
| E | Structure Height | 48 ft |
| | Density | 10-60 Units/acre |
| | Lot Area | Minimum 2 acres contiguous parcel for residential uses |
| | Accessory Structure height (maximum) | 20 feet |

(c) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(d) **Building and Site Design**

(1) Interior side yard setback requirements may be waived where abutting property owners wish to abut along a common wall built along the property line.

(2) Lots Abutting R1 and R2 Districts, other than at a public street line

(A) When a building exceeds 25 feet in height the setback from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

(B) A 15-foot-wide buffer strip on the side abutting the R1 or R2 District shall be provided which meets the following provisions:

1. The buffer strip shall be landscaped and not be used for parking, garages, driveways, off-street loading or storage.
2. The buffer strip shall contain an opaque fence, which is at least four feet in height.
3. The City Council may approve an alternative screening device design, provided it is in harmony with the residential neighborhood and provides a similar level of screening to an opaque similar level of screening to an opaque fence.

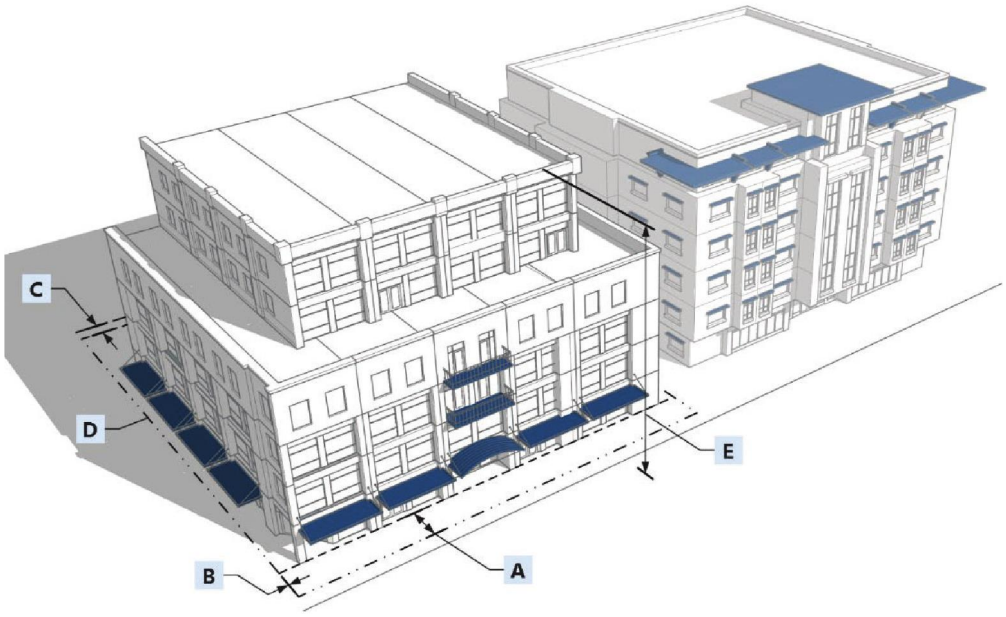
### 2.3.4 Transit Oriented Development

(a) **Purpose**

The purpose of the TOD (Transit Oriented Development) district is to support opportunities for dense, transit-supportive and transit-oriented development. The TOD district requires intensities and patterns of development that support vibrant pedestrian activity, and discourages land uses and development patterns that could decrease walkability or interfere with future growth of transit-oriented development and transit ridership. The district intends to promote sustainable urban places that include places to live, work, shop, and recreate, reduce reliance on automobiles, and encourage the use of public transit. The district intends to foster job creation and economic growth in near-proximity to transit, and provides citizens with new housing and lifestyle choices with a high level of amenities and spaces for social interaction. Allowed uses are shown in Section 4.2 Allowed Use Table.



(b) **TOD Dimensional Standards**




| | | |
|---|---|---|
| | **Building Setbacks** | |
| A | Front building setback (maximum) | 0-10 feet both primary and secondary street frontage |
| B | Side building setback (minimum) | 10 feet, or 50 feet if abutting a R1 or R2 district |
| C | Rear building setback (minimum) | If no alley: 10 feet; If alley: 5 feet<br>Except as required by Fire Code<br>50 feet if abutting an R1 or R2 district |
| | Accessory Structure setback, Interior side or rear (minimum) | 5 feet |
| | **Other Standards** | |
| D | Block Perimeter (maximum) | 2000 ft |
| E | Structure Height | No Limit |
| | Density | 31-130 Units/acre |
| | Accessory Structure height (maximum) | 20 feet |

(c) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(d) **Building and Site Design**

(1) At least 60 percent of the first floor of the front façade of each primary building shall be located not more than eight feet from each lot line.

(2) Each primary structure shall have at least one pedestrian entrance on each façade facing a public right-of-way.

(3) Each required pedestrian entrance for a nonresidential use shall open directly to the adjacent sidewalk without requiring pedestrians to pass through a lobby area, garage, parking lot, or a non-pedestrian area located between the building entrance and the entrance to individual ground floor nonresidential establishments in the building.

(4) At least 50 percent of each building façade facing a street, park, plaza, or other public space (not including areas occupied by doors or windows), shall be faced in brick, stone, cultured stone, real stucco, or other material of equivalent visual attractiveness, quality, and durability as determined by the Zoning Administrator.

(5) At least 50 percent of the ground floor of any parking structure abutting a public street shall have habitable or commercial space for a depth of at least 30 feet.

(6) Each ground floor façade for a nonresidential use facing a public right-of-way shall have transparent windows or other transparent glazed area covering at least 65 percent of the ground floor façade area between three and eight feet above sidewalk grade. Required glazed areas shall have a visible light transmittance ratio of 0.6 or higher, and shall not include reflective, heavily tinted, or black glass windows.

(7) Non-residential ground floor areas facing streets shall be designed with a minimum height of 13 feet to accommodate retail or other uses generating pedestrian traffic.

(e) **Streets and Public Space**

(1) Should new blocks be established, blocks shall be between 300 and 500 feet in length and shall have a block perimeter no greater than 2,000 feet.

(2) Bicycle and pedestrian facilities shall be constructed and connected to existing adjacent bicycle and pedestrian infrastructure, including the provision of bicycle parking.

(3) Each development in the TOD district shall support walkability, multimodal connectivity, and public space principles and goals outlined in the City Comprehensive Plan, cohesive with the surrounding context, and:

Integrate attractive public gathering/seating areas, quality streetscaping, and space for sidewalk cafes while maintaining a six-foot minimum clear zone for pedestrian passage,

Allocate a portion of TDC for landscaping, streetscaping, public art and/or placemaking elements.

(4) Public spaces shall be designed to promote social interaction, leisure opportunities, public gathering and activities, and/or to create focal points and activity nodes within development.

(5) Along all public streets, all utility boxes and above-ground utility installations other than street and pedestrian light poles, traffic safety signals, and fire hydrants shall comply with the following standards to the maximum extent practicable and consistent with their function:

(6) They shall be located to the side or rear of buildings; or

Where a side or rear location is impracticable, they shall be set back a minimum of three feet from the sidewalk, and the three foot minimum setback shall be landscaped with shrubbery that will screen the utility structure from public view.

(7) Interior side yard setback requirements may be waived where abutting property owners wish to abut along a common wall built along the property line.

### (f) Motor Vehicle Parking

At least 70 percent of provided parking shall be located in structured or covered parking

### (g) Density and Incentive Bonuses

See section 5.2.1 for Density Bonus program details

## 2.4 Non-Residential Districts

### 2.4.1 C – Commerce – Service/Office District

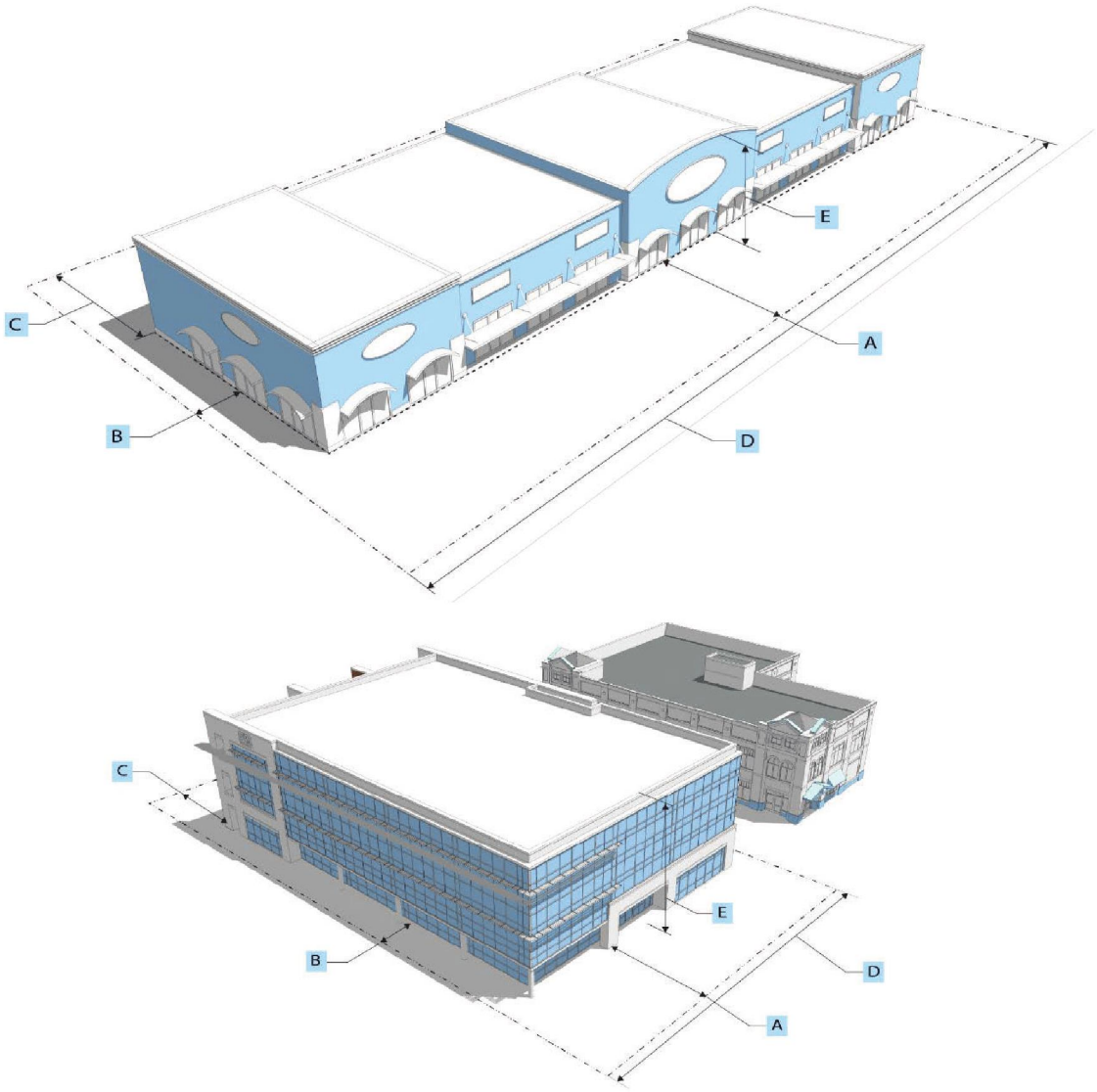
#### (a) Purpose

The purpose of the C (Commerce) district is to supports commerce activity in the form of the retail sale, eating establishments, service/office uses, repair/service uses, medical and health uses, contract/construction uses, educational uses, and other uses similar in nature, as determined by the City Council. Allowed uses are shown in Section 4.2 Allowed Use Table.






### (b) C Dimensional Standards




| | | |
|---|---|---|
| | **Building Setbacks** | |
| A | Front building setback (minimum) | 35 feet primary and secondary street frontage |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 40 feet |
| D | Lot width (minimum) | 100 feet |
| | **Other Standards** | |
| E | Primary structure height (maximum) | 40 feet |

### (c) General Regulations

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(d) **Building and Site Design**

Interior side yard setback requirements may be waived where abutting property owners wish to abut along a common wall built along the property line.

(e) **Lots Abutting R1 and R2 Districts**

(1) When a building in a Commercial zone exceeds 25 feet in height and abuts an R1 or R2 zone, the setback of this building from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

(2) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

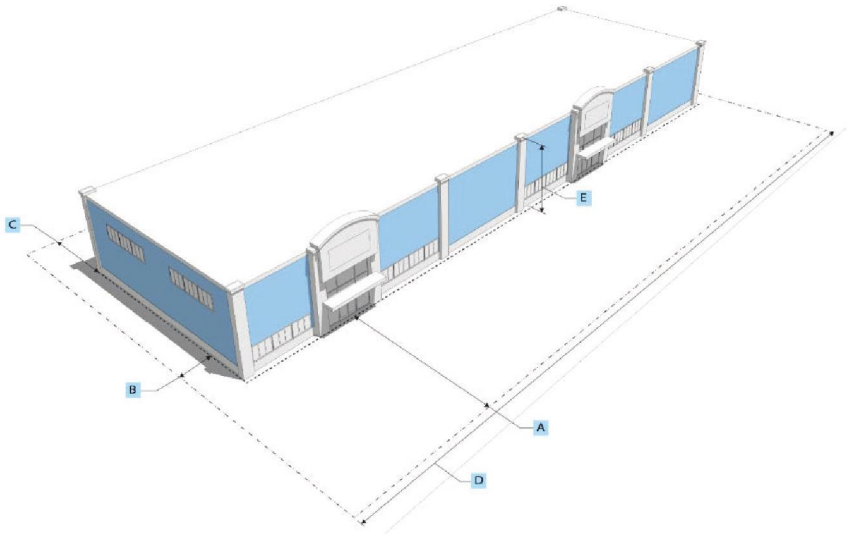
### 2.4.2 MX-B – Business Mixed Use

#### (a) Purpose

The purpose of the MX-B (Business Mixed Use) district to accommodate land for a mix of business and light industrial uses, with allowances for supporting retail/service uses. This designation encourages redevelopment or development of commercial, office, general business, and light industrial uses in coordination with supportive retail/commercial uses towards encouraging a more dynamic and connected experience for workers. This land use does not plan for residential uses but may include limited live-work opportunities as established through supporting official controls. Allowed uses are shown in Section 4.2 Allowed Use Table.




#### (b) MX-B Dimensional Standards




| Building Setbacks |
|---|

| | | |
|---|---|---|
| A | Front building setback (minimum) | 35 feet primary and secondary street frontage |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 25 feet |
| D | Lot width (minimum) | 100 feet |

(c) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(d) **Building and Site Design**

Interior side yard setback requirements may be waived where abutting property owners wish to abut along a common wall built along the property line.

(e) **Lots Abutting R1 and R2 Districts**

(1) When a building in a Commercial zone exceeds 25 feet in height and abuts an R1 or R2 zone, the setback of this building from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

(2) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

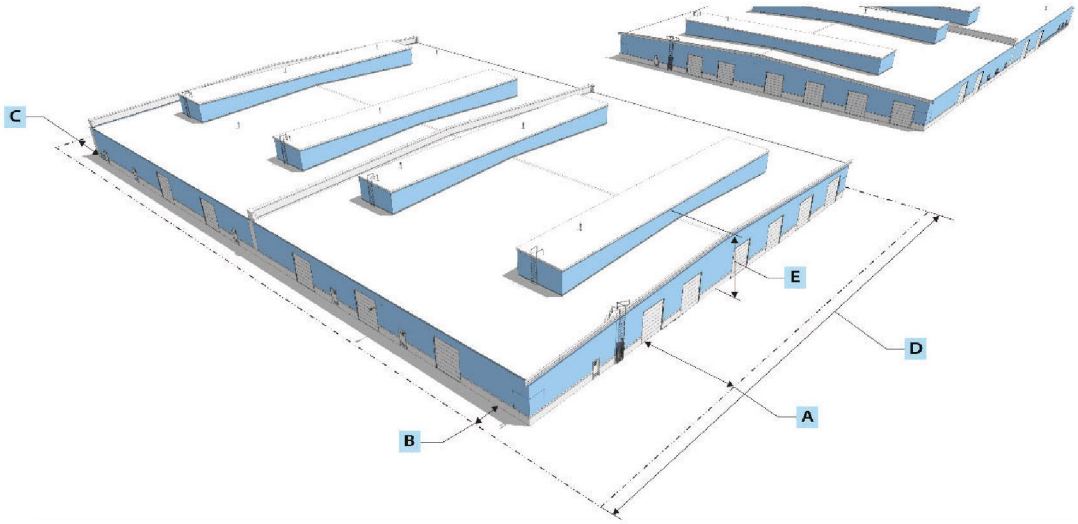
### 2.4.3 I – General Industry

#### (a) Purpose

The purpose of the I (General Industrial) district is to support industrial uses such as manufacturing, wholesale trade activities, service activities, truck terminals or exchange stations, public transit terminals, and similar uses. Allowed uses are shown in Section 4.2 Allowed Use Table.




#### (a) I Dimensional Standard



| | Building Setbacks | |
|---|---|---|
| A | Front building setback (minimum) | 50 feet primary and secondary street frontage |
| B | Side building setback (minimum) | 10 feet |
| C | Rear building setback (minimum) | 25 feet |
| D | Lot width (minimum) | 100 feet |
| | **Other Standards** | |
| E | Primary structure height (maximum) | 48 feet |

(b) **General Regulations**

(1) Complete detailed dimensional standards are located in Section 5 – Development Standards and Incentives.

(2) Every building hereafter erected or structurally altered shall be located on a lot, and in no case shall there be more than one principal building on one lot. The term "principal building" shall be given its common, ordinary meaning; in case of doubt, or on any question of interpretation, the decision shall rest with the Zoning Administrator.

(3) The required total minimum land area may be reduced 500 square feet for each required parking stall constructed completely underground, or otherwise provided in an integrated parking structure.

(4) Permitted Encroachments into the regular setbacks are listed in Section 5.1 of this UDO.

(5) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

(c) **Building and Site Design**

Interior side yard setback requirements may be waived where abutting property owners wish to abut along a common wall built along the property line.

(d) **Lots Abutting R1 and R2 Districts**

(1) When a building in a Commercial zone exceeds 25 feet in height and abuts an R1 or R2 zone, the setback of this building from the R1 or R2 property shall be no less than equal to the height of the building, unless the building steps down to no greater than 25 feet on the side abutting the R1 or R2 zone.

(2) In the case of corner lots, the lot lines not abutting street right-of-way shall, for the purpose of this Unified Development Ordinance, be considered side-interior lot lines, and except as otherwise provided, the use shall adhere to the setback requirements set out for interior side yards.

## 2.5 Special Purpose Districts

### 2.5.1 O – Public Open Space

(a) **Purpose**

The purpose of the O (Public Open Space) district is to preserve or encourage the use of lands designated for public park and open space use. Allowed uses are shown in Section 4.2 Allowed Use Table.



# Section 3: Overlay Districts

## 3.1 Overlay Districts.

**The following overlay districts are hereby established for the City:**

| Overlay Districts | |
|---|---|
| FP | Floodplain |
| SL | Shoreland |
| CA | Mississippi River Corridor Critical Area |

The boundaries of the overlay districts are shown on the Zoning Map.

### 3.1.1 FP – Floodplain

#### (a) Statutory Authorization, Findings of Fact and Purpose

##### (1) Statutory Authorization

The legislature of the State of Minnesota has, in Minnesota Statutes Chapter 103F and Chapter 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(A) Purpose. This Unified Development Ordinance regulates development in the flood hazard areas of the City. These flood hazard areas are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base. It is the purpose of this Unified Development Ordinance to promote the public health, safety, and general welfare by minimizing these losses and disruptions.

(B) National Flood Insurance Program Compliance. This UDO is adopted to comply with the rules and regulations of the National Flood Insurance Program.

(C) This UDO is also intended to preserve the natural characteristics and functions of watercourses and floodplains in order to moderate flood and stormwater impacts, improve water quality, reduce soil erosion, protect aquatic and riparian habitat, provide recreational opportunities, provide aesthetic benefits and enhance community and economic development.

#### (b) General Provisions

##### (1) How to Use This Section

(A) This section adopts the floodplain maps applicable to the City of Brooklyn Center and includes three floodplain districts: Floodway, Flood Fringe, and General Floodplain.

(B) Where Floodway and Flood Fringe districts are delineated on the floodplain maps, the standards in Sections 3.1.1(d) and 3.1.1(e) will apply, depending on the location of a property.

(C) Locations where Floodway and Flood Fringe districts are not delineated on the floodplain maps are considered to fall within the General Floodplain district. Within the General Floodplain district, the Floodway District standards in Section 3.1.1(d) apply unless the floodway boundary is determined, according to the process outlined in Section 3.1.1(f) Once the floodway boundary is determined, the Flood Fringe District standards in Section 3.1.1(e) may apply outside the floodway.

### (2) Lands to Which Section Applies

(A) This section applies to all lands within the jurisdiction of the City of Brooklyn Center shown on the Official Zoning Map and/or the attachments to the map as being located within the boundaries of the Floodway, Flood Fringe, or General Floodplain Districts.

(B) The Floodway, Flood Fringe and General Floodplain Districts are overlay districts that are superimposed on all existing zoning districts. The standards imposed in the overlay districts are in addition to any other requirements in this Unified Development Ordinance. In case of a conflict, the more restrictive standards will apply.

(C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustments and Appeals and to submit technical evidence.

### (3) Incorporation of Maps by Reference

(A) The following maps together with all attached material are hereby adopted by reference and declared to be a part of the Official Zoning Map and this Unified Development Ordinance. The attached material includes the Flood Insurance Study for Hennepin County, Minnesota, and Incorporated Areas, dated November 4, 2016 and the Flood Insurance Rate Map panels enumerated below, dated November 4, 2016, all prepared by the Federal Emergency Management Agency. These materials are on file in the offices of the Zoning Administrator and the City Clerk.

(B) Effective Flood Insurance Rate Map panels numbers as follows: 27053C0203F; 27053C0204F; 27053C0208F; 27053C0209F; 27053C0212F; 27053C0216F.

### (4) Regulatory Flood Protection Elevation

The regulatory flood protection elevation (RFPE) is an elevation no lower than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

### (5) Interpretation

(A) The boundaries of the zoning districts are determined by scaling distances on the Flood Insurance Rate Map.

(B) Where a conflict exists between the floodplain limits illustrated on the official zoning map and actual field conditions, the flood elevations shall be the governing factor. The Zoning Administrator must interpret the boundary location based on the ground elevations that existed on the site on the date of the first National Flood Insurance Program map showing the area within the regulatory floodplain, and other available technical data.

(C) Persons contesting the location of the district boundaries will be given a reasonable opportunity to present their case to the Board of Adjustments and Appeals and to submit technical evidence.

### (6) Abrogation and Greater Restrictions

It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or other private agreements. However, where this section imposes greater restrictions, the provisions of this Unified Development Ordinance prevail. All other sections inconsistent with this section are hereby repealed to the extent of the inconsistency only.

#### (7) Warning and Disclaimer of Liability

This Unified Development Ordinance does not imply that areas outside the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This Unified Development Ordinance does not create liability on the part of the City of Brooklyn Center or its officers or employees for any flood damages that result from reliance on this Unified Development Ordinance or any administrative decision lawfully made hereunder.

#### (8) Annexations

The Flood Insurance Rate Map panels adopted by reference into Section 3.1.1(b)(3) above may include floodplain areas that lie outside of the corporate boundaries of the City of Brooklyn Center at the time of adoption of this Unified Development Ordinance. If any of these floodplain land areas are annexed into the City of Brooklyn Center after the date of adoption of this Unified Development Ordinance, the newly annexed floodplain lands will be subject to the provisions of this Unified Development Ordinance immediately upon the date of annexation.

#### (9) Detachments

The Flood Insurance Rate Map panels adopted by reference into Section 3.1.1(b)(3) above will include floodplain areas that lie inside the corporate boundaries of other municipalities at the time of adoption of this Unified Development Ordinance. If any of these floodplain land areas are detached from another municipality and come under the jurisdiction of the City of Brooklyn Center after the date of adoption of this Unified Development Ordinance, the newly detached floodplain lands will be subject to the provisions of this Unified Development Ordinance immediately upon the date of detachment.

### (c) Establishment of Zoning Districts

#### (1) Districts

##### (A) Floodway District

The Floodway District includes those areas within Zones AE that have a floodway delineated as shown on the Flood Insurance Rate Map adopted in Section 3.1.1(b)(3). For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Floodway District also includes those areas that are at or below the ordinary high water level as defined in Minnesota Statutes, Section 103G.005.

##### (B) Flood Fringe District

The Flood Fringe District includes areas within Zones AE that have a floodway delineated on the Flood Insurance Rate Map adopted in Section 3.1.1(b)(3), but are located outside of the floodway. For lakes, wetlands and other basins within Zones AE that do not have a floodway delineated, the Flood Fringe District also includes those areas below the one percent (1%) annual chance (100-year) flood elevation but above the ordinary high water level as defined in Minnesota Statutes, Section 103G.005.

##### (C) General Floodplain District

The General Floodplain District includes those areas within Zone A as shown on the Flood Insurance Rate Map adopted in Section 3.1.1(b)(3).

#### (2) Applicability

Within the floodplain districts established in this Unified Development Ordinance, the use, size, type and location of development must comply with the terms of this ordinance and other applicable regulations. In no cases shall floodplain development adversely affect the efficiency or unduly

restrict the capacity of the channels or floodways of any tributaries to the mainstream, drainage ditches, or any other drainage facilities or systems. All uses not listed as permitted uses or conditional uses in Section 3.1.1(d), Section 3.1.1(e), and Section 3.1.1((f) noted herein are prohibited. In addition, critical facilities, as defined in Section 3.1.1(b)(9) are prohibited in all floodplain districts.

### (d) Floodway District (FW)

#### (1) Permitted Uses

The following uses, subject to the standards set forth in Section 3.1.1(d)(2) below are permitted uses if otherwise allowed in the underlying zoning district or any applicable overlay district:

(A) General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(B) Industrial-commercial loading areas, parking areas, and airport landing strips.

(C) Open space uses, including but not limited to private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, hunting and fishing areas, and single or multiple purpose recreational trails.

(D) Residential lawns, gardens, parking areas, and play areas.

(E) Railroads, streets, bridges, utility transmission lines and pipelines, provided that the Department of Natural Resources' Area Hydrologist is notified at least ten days prior to issuance of any permit.

#### (2) Standards for Floodway Permitted Uses

(A) The use must have a low flood damage potential.

(B) The use must not obstruct flood flows or cause any increase in flood elevations and must not involve structures, obstructions, or storage of materials or equipment.

(C) Any facility that will be used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

#### (3) Conditional Uses in Floodway

The following uses may be allowed as conditional uses following the standards and procedures set forth in Section 3.1.1(j)(4) of this Unified Development Ordinance and further subject to the standards set forth in Section 3.1.1(d)(4) below, if otherwise allowed in the underlying zoning district or any applicable overlay district.

(A) Structures accessory to the uses listed in Section 3.1.1(d)(1)(A), (1)(B), and (1)(C) above and the uses listed in in Section 3.1.1(d)(3)(A) and (3)(B) below.

(B) Extraction and storage of sand, gravel, and other materials.

(C) Marinas, boat rentals, docks, piers, wharves, and water control structures.

(D) Storage yards for equipment, machinery, or materials.

(E) Placement of fill or construction of fences that obstruct flood flows. Farm fences, as defined Section 3.1.1(b)(9)(A) are permitted uses.

(F) Travel-ready recreational vehicles meeting the exception standards in Section 3.1.1(i)(2)(B).

(G) Levees or dikes intended to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

(4) **Standards for Floodway Conditional Uses**

(A) Extractive uses and storage of materials require the completion of a site development and restoration plan, to be approved by the City Council.

(B) Accessory structures. Structures accessory to the uses detailed in Section 3.1.1(d)(3) and Section 3.1.1(d)(1) must be constructed and placed so as to offer a minimal obstruction to the flow of flood waters, and are subject to the standards in Section 3.1.1(e)(B).

(e) **All Uses.**

A conditional use must not cause any increase in the stage of the 1% chance or regional flood or cause an increase in flood damages in the reach or reaches affected.

(1) **Fill; Storage of Materials and Equipment:**

(A) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(B) Fill, dredge spoil, and other similar materials deposited or stored in the floodplain must be protected from erosion by vegetative cover, mulching, riprap or other acceptable method. Permanent sand and gravel operations and similar uses must be covered by a long-term site development plan.

(C) Temporary placement of fill, other materials, or equipment which would cause an increase to the stage of the 1% percent chance or regional flood may only be allowed if the City has approved a plan that assures removal of the materials from the floodway based upon the flood warning time available.

(2) **Accessory Structures.**

Accessory structures, as identified in Section 3.1.1(d)(3)(A) above may be permitted, provided that:

(A) Structures are not intended for human habitation;

(B) Structures will have a low flood damage potential;

(C) Structures will be constructed and placed so as to offer a minimal obstruction to the flow of flood waters;

(D) Service utilities, such as electrical and heating equipment, within these structures must be elevated to or above the regulatory flood protection elevation or properly floodproofed;

(E) Structures must be elevated on fill or structurally dry floodproofed in accordance with the FP1 or FP2 floodproofing classifications in the State Building Code. All floodproofed structures must be adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls.

(F) As an alternative, an accessory structure may be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided the accessory structure constitutes a minimal investment and does not exceed 576 square feet in size. Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

i. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

ii. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(G) Structural works for flood control that will change the course, current or cross section of protected wetlands or public waters are subject to the provisions of Minnesota Statutes, Section 103G.245.

(H) A levee, dike or floodwall constructed in the floodway must not cause an increase to the 1% chance or regional flood. The technical analysis must assume equal conveyance or storage loss on both sides of a stream.

(I) Floodway developments must not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system.

### (f) Flood Fringe District (FF)

#### (1) Permitted Uses

Permitted uses are those uses of land or structures allowed in the underlying zoning district(s) that comply with the standards in Section 3.1.1(f)(2) below. If no pre-existing, underlying zoning districts exist, then any residential or nonresidential structure or use of a structure or land is a permitted use provided it does not constitute a public nuisance.

#### (2) Standards for Flood Fringe Permitted Uses

(A) All structures, including accessory structures, must be elevated on fill so that the lowest floor, as defined, is at or above the regulatory flood protection elevation. The finished fill elevation for structures must be no lower than one foot below the regulatory flood protection elevation and the fill must extend at the same elevation at least 15 feet beyond the outside limits of the structure.

(B) Accessory Structures. As an alternative to the fill requirements of Section 3.1.1(e)(2)(A) noted above, structures accessory to the uses identified in Section 3.1.1(e)(1) above may be permitted to be internally/wet floodproofed to the FP3 or FP4 floodproofing classifications in the State Building Code, provided that:

i. The accessory structure constitutes a minimal investment, does not exceed 576 square feet in size, and is only used for parking and storage.

ii. All portions of floodproofed accessory structures below the Regulatory Flood Protection Elevation must be:

1. adequately anchored to prevent flotation, collapse or lateral movement and designed to equalize hydrostatic flood forces on exterior walls;
2. be constructed with materials resistant to flood damage; and
3. must have all service utilities be water-tight or elevated to above the regulatory flood protection elevation.

(C) Designs for meeting this requirement must either be certified by a registered professional engineer or meet or exceed the following criteria:

i. To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure, with a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

ii. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.

(D) The cumulative placement of fill or similar material on a parcel must not exceed 1,000 cubic yards, unless the fill is specifically intended to elevate a structure in accordance with Section 3.1.1(e)(2)(A) of this Unified Development Ordinance, or if allowed as a conditional use under Section 3.1.1(f)(3)(C) below.

(E) The storage of any materials or equipment must be elevated on fill to the regulatory flood protection elevation.

(F) All service utilities, including ductwork, must be elevated or water-tight to prevent infiltration of floodwaters.

(G) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(H) All fill must be properly compacted, and the slopes must be properly protected by the use of riprap, vegetative cover or other acceptable method.

(I) All new principal structures must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation or must have a flood warning / emergency evacuation plan acceptable to the City.

(J) Accessory uses such as yards, railroad tracks, and parking lots may be at an elevation lower than the regulatory flood protection elevation. However, any facilities used by employees or the general public must be designed with a flood warning system that provides adequate time for evacuation if the area is inundated to a depth and velocity such that the depth (in feet) multiplied by the velocity (in feet per second) would exceed a product of four upon occurrence of the regional (1% chance) flood.

(K) Interference with normal manufacturing/industrial plant operations must be minimized, especially along streams having protracted flood durations. In considering permit applications, due consideration must be given to the needs of industries with operations that require a floodplain location.

(L) Manufactured homes and recreational vehicles must meet the standards of Section 3.1.1(i) of this Unified Development Ordinance.

### (3) Conditional Uses

The following uses and activities may be allowed as conditional uses, if allowed in the underlying zoning district(s) or any applicable overlay district, following the procedures in Section 3.1.1(j)(4) of this Unified Development Ordinance.

(A) Any structure that is not elevated on fill or floodproofed in accordance with Section 3.1.1(e)(2)(A) and (2)(B) of this Unified Development Ordinance.

(B) Storage of any material or equipment below the regulatory flood protection elevation.

(C) The cumulative placement of more than 1,000 cubic yards of fill when the fill is not being used to elevate a structure in accordance with Section 3.1.1(e)(2)(A) of this Unified Development Ordinance.

(D) The use of methods to elevate structures above the regulatory flood protection elevation, including stilts, pilings, parallel walls, or above-grade, enclosed areas such as crawl spaces or tuck under garages, shall meet the standards in Section 3.1.1(e)(2)(E) below.

### (4) Standards for Flood Fringe Conditional Uses

(A) The standards listed in Section 3.1.1(f)(2)(D) through (2)(J) above apply to all conditional uses.

(B) Basements, as defined by Section 3.1.1(b)(9)(A) of this Unified Development Ordinance, are subject to the following:

i. Residential basement construction is not allowed below the regulatory flood protection elevation; and

ii. Non-residential basements may be allowed below the regulatory flood protection elevation provided the basement is structurally dry floodproofed in accordance with the below Section 3.1.1(e)(4)(C) of this Unified Development Ordinance.

iii. All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation must be floodproofed in accordance with the structurally dry floodproofing classifications in the State Building Code. Structurally dry floodproofing must meet the FP1 or FP2 floodproofing classification in the State Building Code, which requires making the structure watertight with the walls substantially impermeable to the passage of water and with structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

iv. The placement of more than 1,000 cubic yards of fill or other similar material on a parcel (other than for the purpose of elevating a structure to the regulatory flood protection elevation) must comply with an approved erosion/sedimentation control plan.

(C) The plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the regional (1% chance) flood event.

(D) The plan must be prepared and certified by a registered professional engineer or other qualified individual acceptable to the City.

(E) The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

i. Storage of materials and equipment below the regulatory flood protection elevation must comply with an approved emergency plan providing for removal of such materials within the time available after a flood warning.

ii. Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. The base or floor of an enclosed area shall be considered above grade and not a structure' s basement or lowest floor if: 1) the enclosed area is above-grade on at least one side of the structure; 2) it is designed to internally flood and is constructed with flood resistant materials; and 3) it is used solely for parking of vehicles, building access or storage. The above-noted alternative elevation methods are subject to the following additional standards:

4. Design and Certification – The structure' s design and as-built condition must be certified by a registered professional engineer as being in compliance with the general design standards of the State Building Code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or be designed to prevent flood water from entering or accumulating within these components during times of flooding.
5. Specific Standards for Above-grade, Enclosed Areas - Above-grade, fully enclosed areas such as crawl spaces or tuck under garages must be designed to internally flood and the design plans must stipulate:
   I. *The minimum area of openings in the walls where internal flooding is to be used as a floodproofing technique. There shall be a minimum of two openings on at least two sides of the structure and the bottom of all openings shall be no higher than one foot above grade. The automatic openings shall have a minimum net area of not less than one square inch for every square foot of enclosed area subject to flooding unless a registered professional engineer or architect certifies that a smaller net area would suffice. The automatic openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of flood waters without any form of human intervention; and*
   II. *That the enclosed area will be designed of flood resistant materials in accordance with the FP3 or FP4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.*

### (g) General Floodplain District (GF)

#### (1) Permitted Uses

(A) The uses listed in Section 3.1.1(d)(1) of this Unified Development Ordinance, Floodway District Permitted Uses, are permitted uses.

(B) All other uses are subject to the floodway/flood fringe evaluation criteria specified in Section 3.1.1(g)(2) below. Section 3.1.1(d) applies if the proposed use is determined to be in the Floodway District. Section 3.1.1(e) applies if the proposed use is determined to be in the Flood Fringe District.

#### (2) Procedures for Floodway and Flood Fringe Determinations

(A) Upon receipt of an application for a permit or other approval within the General Floodplain District, the Zoning Administrator must obtain, review and reasonably utilize any regional flood elevation and floodway data available from a federal, state, or other source.

(B) If regional flood elevation and floodway data are not readily available, the applicant must furnish additional information, as needed, to determine the regulatory flood protection elevation and whether the proposed use would fall within the Floodway or Flood Fringe District. Information must be consistent with accepted hydrological and hydraulic engineering standards and the standards in Section 3.1.1(f)(2)(C) below.

(C) The determination of floodway and flood fringe must include the following components, as applicable:

i. Estimate the peak discharge of the regional (1% chance) flood.

ii. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.

iii. Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than one-half (0.5) foot. A lesser stage increase than 0.5 foot is required if, as a result of the stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach must be assumed in computing floodway boundaries.

(D) The Zoning Administrator will review the submitted information and assess the technical evaluation and the recommended Floodway and/or Flood Fringe District boundary. The assessment must include the cumulative effects of previous floodway encroachments. The Zoning Administrator may seek technical assistance from a designated engineer or other expert person or agency, including the Department of Natural Resources. Based on this assessment, the Zoning Administrator may approve or deny the application.

(E) Once the Floodway and Flood Fringe District boundaries have been determined, the Zoning Administrator must process the permit application consistent with the applicable provisions of Sections 3.1.1(d) and 3.1.1(e) of this Unified Development Ordinance.

### (h) Land Development Standards

#### (1) In General

Recognizing that flood prone areas may exist outside of the designated floodplain districts, the requirements of this section apply to all land within the City of Brooklyn Center.

#### (2) Subdivisions

(A) No land may be subdivided which is unsuitable for reasons of flooding or inadequate drainage, water supply or sewage treatment facilities. Manufactured home parks and recreational vehicle parks or campgrounds are considered subdivisions under this Unified Development Ordinance.

(B) All lots within the floodplain districts must be able to contain a building site outside of the Floodway District at or above the regulatory flood protection elevation.

(C) All subdivisions must have road access both to the subdivision and to the individual building sites no lower than two feet below the regulatory flood protection elevation, unless a flood warning emergency plan for the safe evacuation of all vehicles and people during the regional (1% chance) flood has been approved by the City. The plan must be prepared by a registered engineer or other qualified individual, and must demonstrate that adequate time and personnel exist to carry out the evacuation.

(D) For all subdivisions in the floodplain, the Floodway and Flood Fringe District boundaries, the regulatory flood protection elevation and the required elevation of all access roads must be clearly labeled on all required subdivision drawings and platting documents.

(E) In the General Floodplain District, applicants must provide the information required in Section 3.1.1(f)(2) of this Unified Development Ordinance to determine the regional flood elevation, the Floodway and Flood Fringe District boundaries and the regulatory flood protection elevation for the subdivision site.

(F) If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal must be reviewed to assure that:

i. All such proposals are consistent with the need to minimize flood damage within the flood prone area;

ii. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

iii. Adequate drainage is provided to reduce exposure of flood hazard.

### (3) Building Sites

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

(A) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

(B) Constructed with materials and utility equipment resistant to flood damage;

(C) Constructed by methods and practices that minimize flood damage; and

(D) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

## (i) Public Utilities, Railroads, Roads, and Bridges

### (1) Public Utilities

All public utilities and facilities such as gas, electrical, sewer, and water supply systems to be located in the floodplain must be floodproofed in accordance with the State Building Code or elevated to the regulatory flood protection elevation.

### (2) Public Transportation Facilities

Railroad tracks, roads, and bridges to be located within the floodplain must comply with Sections 3.1.1(d) and 3.1.1(e) of this Unified Development Ordinance. These transportation facilities must be elevated to the regulatory flood protection elevation where failure or interruption of these facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.

### (3) On-site Water Supply and Sewage Treatment Systems

Where public utilities are not provided: 1) On-site water supply systems must be designed to minimize or eliminate infiltration of flood waters into the systems and are subject to the provisions in Minnesota Rules Part 4725.4350, as amended; and 2) New or replacement on-site sewage treatment systems must be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, they must not be subject to impairment or contamination during times of flooding, and are subject to the provisions in Minnesota Rules Part 7080.2270, as amended.

### (4) Recreational Vehicles

(A) New recreational vehicle parks or campgrounds and expansions to existing recreational vehicle parks or campgrounds are prohibited in any floodplain district. Placement of recreational vehicles in existing recreational vehicle parks or campgrounds in the floodplain must meet the exemption criteria below or be treated as new structures meeting the requirements of this Unified Development Ordinance.

(B) Recreational vehicles are exempt from the provisions of this Unified Development Ordinance if they are placed in any of the following areas and meet the criteria listed in Section 3.1.1(i)(4)(C) below.

i. Individual lots or parcels of record.

ii. Existing commercial recreational vehicle parks or campgrounds.

iii. Existing condominium-type associations.

iv. Criteria for Exempt Recreational Vehicles:

v. The vehicle must have a current license required for highway use.

vi. The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks.

vii. No permanent structural type additions may be attached to the vehicle.

viii. The vehicle and associated use must be permissible in any preexisting, underlying zoning district.

ix. Accessory structures are not permitted within the Floodway District. Any accessory structure in the Flood Fringe District must be constructed of flood-resistant materials and be securely anchored, meeting the requirements applicable to manufactured homes in Section 3.1.1(h)(3).

x. An accessory structure must constitute a minimal investment

(C) Recreational vehicles that are exempt in Section 3.1.1(i)(2)(B) lose this exemption when development occurs on the site that exceeds a minimal investment for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as new structures subject to the elevation and floodproofing requirements of Section 3.1.1(e) of this Unified Development Ordinance. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle should flooding occur.

### (j) Administration

#### (1) Zoning Administrator

The Zoning Administrator or other official designated by the City Manager must administer and enforce this Unified Development Ordinance.

#### (2) Permit Requirements

(A) Permit Required. A permit must be obtained from the Zoning Administrator prior to conducting the following activities:

i. The erection, addition, modification, rehabilitation, or alteration of any building, structure, or portion thereof. Normal maintenance and repair also requires a permit if such work, separately or in conjunction with other planned work, constitutes a substantial improvement as defined in this Unified Development Ordinance.

ii. The use or change of use of a building, structure, or land.

iii. The construction of a dam, fence, or on-site septic system, although a permit is not required for a farm fence as defined in this Unified Development Ordinance.

iv. The change or extension of a nonconforming use.

v. The repair of a structure that has been damaged by flood, fire, tornado, or any other source.

vi. The placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

vii. Relocation or alteration of a watercourse (including new or replacement culverts and bridges), unless a public waters work permit has been applied for such work.

viii. Any other type of "development" as defined in Section 3.1.1(b)(9)(A) of this Unified Development Ordinance.

ix. Application for Permit. Permit applications must be submitted to the Zoning Administrator on forms provided by the Zoning Administrator. The permit application must include the following as applicable:

x. A site plan showing all pertinent dimensions, existing or proposed buildings, structures, and significant natural features having an influence on the permit.

xi. Location of fill or storage of materials in relation to the stream channel.

xii. Copies of any required municipal, county, state or federal permits or approvals.

xiii. Other relevant information requested by the Zoning Administrator as necessary to properly evaluate the permit application.

(B) Certificate of Zoning Compliance for a New, Altered, or Nonconforming Use. No building, land or structure may be occupied or used in any manner until a certificate of zoning compliance has been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this Unified Development Ordinance.

(C) Certification. The applicant is required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this Unified Development Ordinance. Floodproofing measures must be certified by a registered professional engineer or registered architect.

(D) Record of First Floor Elevation. The Zoning Administrator must maintain a record of the elevation of the lowest floor (including basement) of all new structures and alterations or additions to existing structures in the floodplain. The Zoning Administrator must also maintain a record of the elevation to which structures and alterations or additions to structures are floodproofed.

(E) Notifications for Watercourse Alterations. Before authorizing any alteration or relocation of a river or stream, the Zoning Administrator must notify adjacent communities. If the applicant has applied for a permit to work in public waters pursuant to Minnesota Statutes, Section 103G.245, this will suffice as adequate notice. A copy of the notification must also be submitted to the Chicago Regional Office of the Federal Emergency Management Agency FEMA).

(F) Notification to FEMA When Physical Changes Increase or Decrease Base Flood Elevations. As soon as is practicable, but not later than six months after the date such supporting information becomes available, the Zoning Administrator must notify the Chicago Regional Office of FEMA of the changes by submitting a copy of the relevant technical or scientific data.

### (3) Variances

(A) Variance Applications. An application for a variance to the provisions of this Unified Development Ordinance will be processed and reviewed in accordance with applicable state statutes and Section 7.10 of this Unified Development Ordinance.

(B) Adherence to State Floodplain Management Standards. A variance must not allow a use that is not allowed in that district, or permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area or permit standards lower than those required by state law.

(C) Additional Variance Criteria. The following additional variance criteria of the Federal Emergency Management Agency must be satisfied:

i. Variances must not be issued by a community within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.

ii. Variances may only be issued by a community upon the following:

1. a showing of good and sufficient cause;
2. a determination that failure to grant the variance would result in exceptional practical difficulties to the applicant; and
3. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

iii. Variances may only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

iv. Flood Insurance Notice. The Zoning Administrator must notify the applicant for a variance that:

v. The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as $25 for $100 of insurance coverage; and

vi. Such construction below the base or regional flood level increases risks to life and property. Such notification must be maintained with a record of all variance actions.

vii. General Considerations. The community shall consider the following factors in granting variances and imposing conditions on variances and conditional uses in floodplains:

viii. The potential danger to life and property due to increased flood heights or velocities caused by encroachments;

ix. The danger that materials may be swept onto other lands or downstream to the injury of others;

x. The proposed water supply and sanitation systems, if any, and the ability of these systems to minimize the potential for disease, contamination and unsanitary conditions;

xi. The susceptibility of any proposed use and its contents to flood damage and the effect of such damage on the individual owner;

xii. The importance of the services to be provided by the proposed use to the community;

xiii. The requirements of the facility for a waterfront location;

xiv. The availability of viable alternative locations for the proposed use that are not subject to flooding;

xv. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future;

xvi. The relationship of the proposed use to the Comprehensive Land Use Plan and floodplain management program for the area;

xvii. The safety of access to the property in times of flood for ordinary and emergency vehicles; and

xviii. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.

(D) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed variances to the DNR sufficiently in advance to provide at least ten (10) days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

(E) Submittal of Final Decisions to the DNR. A copy of all decisions granting variances must be forwarded to the DNR within ten days of such action. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

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

### (4) Conditional Uses

(A) Administrative Review. An application for a conditional use permit under the provisions of this Unified Development Ordinance will be processed and reviewed in accordance with Section 7.7 of this Unified Development Ordinance.

(B) Factors Used in Decision-Making. In decisions on conditional use applications, the City must consider all relevant factors specified in other sections of this Unified Development Ordinance, and those factors identified in Section 3.1.1(j)(3) of this Unified Development Ordinance.

(C) Conditions Attached to Conditional Use Permits. The City may attach such conditions to the granting of conditional use permits as it deems necessary to fulfill the purposes of this Unified Development Ordinance. Such conditions may include, but are not limited to, the following:

i. Modification of waste treatment and water supply facilities.

ii. Limitations on period of use, occupancy, and operation.

iii. Imposition of operational controls, sureties, and deed restrictions.

iv. Requirements for construction of channel modifications, compensatory storage, dikes, levees, and other protective measures.

v. Floodproofing measures, in accordance with the State Building Code and this Unified Development Ordinance. The applicant must submit a plan or document certified by a registered professional engineer or architect that the floodproofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

(D) Submittal of Hearing Notices to the Department of Natural Resources (DNR). The Zoning Administrator must submit hearing notices for proposed conditional uses to the DNR sufficiently in advance to provide at least ten (10) days' notice of the hearing. The notice may be sent by electronic mail or U.S. Mail to the respective DNR area hydrologist.

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

### (k) Nonconformities

#### (1) Continuance of Nonconformities

(A) A use, structure, or occupancy of land which was lawful before the passage or amendment of this Unified Development Ordinance but which is not in conformity with the provisions of this Unified Development Ordinance may be continued subject to the following conditions. Historic structures, as defined in Section 3.1.1(b)(9)(A) of this Unified Development Ordinance, are subject to the provisions of Section 3.1.1(k)(1)(B) through (1)(G) noted below of this Unified Development Ordinance.

(B) A nonconforming use, structure, or occupancy must not be expanded, changed, enlarged, or altered in a way that increases its flood damage potential or degree of obstruction to flood flows except as provided in Section 3.1.1(k)(1)(C) below. Expansion or enlargement of uses, structures or occupancies within the Floodway District is prohibited.

(C) Any addition or structural alteration to a nonconforming structure or nonconforming use that would result in increasing its flood damage potential must be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or floodproofing techniques (i.e., FP1 thru FP4 floodproofing classifications) allowable in the State Building Code, except as further restricted in Section 3.1.1(k)(1)(D) and (1)(H) below.

(D) If the cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the market value of any nonconforming structure, that shall be considered substantial improvement, and the entire structure must meet the standards of Sections 3.1.1(d) or Section 3.1.1(e) of this Unified Development Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District, respectively. The cost of all structural alterations and additions must include all costs such as construction materials and a reasonable cost placed on all manpower or labor.

(E) If any nonconforming use, or any use of a nonconforming structure, is discontinued for more than one year, any future use of the premises must conform to this Unified Development Ordinance. The Assessor must notify the Zoning Administrator in writing of instances of nonconformities that have been discontinued for a period of more than one year.

(F) If any nonconformity is substantially damaged, as defined in Section 3.1.1(b)(9)(A) of this Unified Development Ordinance, it may not be reconstructed except in conformity with the provisions of this Unified Development Ordinance. The applicable provisions for establishing new uses or new structures in Sections 3.1.1(d) or 3.1.1(e) will apply depending upon whether the use or structure is in the Floodway or Flood Fringe, respectively.

(G) If any nonconforming use or structure experiences a repetitive loss, as defined in Section 3.1.1(b)(9)(A) of this Unified Development Ordinance, it must not be reconstructed except in conformity with the provisions of this Unified Development Ordinance.

(H) Any substantial improvement, as defined in Section 3.1.1(b)(9)(A) of this Unified Development Ordinance, to a nonconforming structure requires that the existing structure and any additions must meet the requirements of Sections 3.1.1(d) or 3.1.1(e) of this Unified Development Ordinance for new structures, depending upon whether the structure is in the Floodway or Flood Fringe District.

### (l) Penalties and Enforcement

#### (1) Violation Constitutes a Misdemeanor

Violation of the provisions of this Unified Development Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) constitute a misdemeanor and will be punishable as defined by law.

#### (2) Other Lawful Action

Nothing in this Unified Development Ordinance restricts the City of Brooklyn Center from taking such other lawful action as is necessary to prevent or remedy any violation. If the responsible party does not appropriately respond to the Zoning Administrator within the specified period of time, each additional day that lapses will constitute an additional violation of this Unified Development Ordinance and will be prosecuted accordingly.

#### (3) Enforcement

Violations of the provisions of this Unified Development Ordinance will be investigated and resolved in accordance with the provisions of Sections 1.2.4 and 1.2.5 of the Unified Development Ordinance. In responding to a suspected Unified Development Ordinance violation, the Zoning Administrator and City 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 Brooklyn Center must act in good faith to enforce these official controls and to correct Unified Development Ordinance violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.

### (m) Amendments

#### (1) Flood Plain Designation – Restrictions on Removal

The floodplain designation on the Official Zoning Map must not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regulatory flood

protection elevation and is contiguous to lands outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of the Department of Natural Resources (DNR) if the Commissioner determines that, through other measures, lands are adequately protected for the intended use.

#### (2) Amendments Require DNR Approval

All amendments to this Unified Development Ordinance must be submitted to and approved by the Commissioner of the Department of Natural Resources (DNR) prior to adoption. The Commissioner must approve the amendment prior to community approval.

#### (3) Map Revisions Require Code Amendments

The floodplain district regulations must be amended to incorporate any revisions by the Federal Emergency Management Agency to the floodplain maps adopted in Section 3.1.1(b)(3) of this Unified Development Ordinance.

### 3.1.2 SL – Shoreland

#### (a) Statutory Authorization and Policy

##### (1) Statutory Authorization

This shoreland section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Rules, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes Chapter 462.

##### (2) Policy

The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is herebyrecognized by the City of Brooklyn Center.

#### (b) General Provisions and Definitions

##### (1) Jurisdiction

The provisions of this section apply to the shorelands of the public water bodies as classified in Section 3.1.2.(d)(1) of this Unified Development Ordinance.
Pursuant to Minnesota Rules, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in

unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this Unified Development Ordinance.

The Mississippi River and adjacent river corridor lands are designated and classified as a "Critical Area" by the State of Minnesota and are regulated by provisions of the Mississippi River Corridor Critical Area Overlay District, Section 3.1.3 of this code, and any other applicable provisions, whichever is more restrictive.

**(2) Enforcement**

The City Manager or designee is responsible for the administration and enforcement of this Unified Development Ordinance. Any violation of the provisions of this Unified Development Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this Unified Development Ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in Section 4 of this Unified Development Ordinance.

**(3) District Application**

The Shoreland Overlay is applied over zoning districts as identified in the official city Shoreland Areas Map. Regulations and requirements imposed by the Shoreland Overlay shall be enforced in addition to those in the base zoning district. In instances where two or more overlay districts apply, the more restrictive requirements shall apply.

**(4) Definitions**

Unless specifically defined in Section 9, words or phrases used in this Unified Development Ordinance must be interpreted according to common usage and so as to give this Unified Development Ordinance its most reasonable application.

**(c) Administration**

**(1) Purpose**

The purpose of this Section is to identify administrative provisions to ensure this Section is administered consistent with its purpose.

**(2) Permits**

(A) A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of sewage treatment systems, and those grading and filling activities not exempted by section 3.1.2(g)(3) of this Unified Development Ordinance.

(B) A certificate of compliance, consistent with Minnesota Rules Part 7082.0700 Subp. 3, is required whenever a permit or variance of any type is required for any improvement on or use of the property. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

**(3) Application materials.**

(A) Application for permits and other zoning applications such as variances shall be made to the Zoning Administrator on the forms provided. The application shall include the necessary information so that the Zoning Administrator can evaluate how the application complies with the provisions of this Unified Development Ordinance.

**(4) Certificate of Zoning Compliance.**

The Zoning Administrator shall issue a certificate of zoning compliance for each activity requiring a permit as specified in Section 3.1.2 of this Unified Development Ordinance. This certificate will specify that the use of land conforms to the requirements of this Unified Development Ordinance. Any use, arrangement, or construction at variance with that authorized by permit shall be deemed a violation of this Unified Development Ordinance and shall be punishable as provided in Section 1.6.3 of this Unified Development Ordinance.

**(5) Variances.**

Variances may only be granted in accordance with Minnesota Statutes, Section 462.357 and are subject to the following:

(A) A variance may not circumvent the general purposes and intent of this Unified Development Ordinance; and

(B) For properties with existing sewage treatment systems, a certificate of compliance, consistent with Minnesota Rules Chapter 7082.0700 Subp. 3, is required for variance approval. A sewage treatment system shall be considered compliant if the only deficiency is the system's improper setback from the ordinary high water level.

**(6) Conditional Uses**

All conditional uses in the shoreland area are subject to a thorough evaluation of the waterbody and the topographic, vegetation, and soil conditions to ensure:

(A) The prevention of soil erosion or other possible pollution of public waters, both during and after construction;

(B) The visibility of structures and other facilities as viewed from public waters is limited;

(C) There is adequate water supply and on-site sewage treatment; and

(D) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercrafts.

**(7) Mitigation**

(A) In evaluating all variances, conditional uses, zoning and building permit applications, the zoning authority shall require the property owner to address when appropriate the following conditions, when related to and proportional to the impact, to meet the purpose of this Unified Development Ordinance, to protect adjacent properties, and the public interest:

i. Advanced storm water runoff management treatment;

ii. Reducing impervious surfaces;

iii. Increasing setbacks from the ordinary high water level;

iv. Restoration of wetlands;

v. Limiting vegetation removal and/or riparian vegetation restoration;

vi. Provisions for the location, design, and use of structures, sewage treatment systems, water supply systems, watercraft launching and docking areas, and parking areas; and

vii. Other conditions the zoning authority deems necessary.

(B) In evaluating plans to construct sewage treatment systems, roads, driveways, structures, or other improvements on steep slopes, conditions to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters assuming summer, leaf-on vegetation shall be attached to permits.

**(8) Notifications to the Department of Natural Resources.**

(A) All amendments to this Shoreland Section must be submitted to the Department of Natural Resources for review and approval for compliance with the statewide shoreland management rules. The City of Brooklyn Center will submit the proposed amendments to the commissioner or the commissioner's designated representative at least 30 days before any scheduled public hearings.

(B) All notices of public hearings to consider variances, Unified Development Ordinance amendments, or conditional uses under shoreland management controls must be sent to the commissioner or the commissioner's designated representative at least ten (10) days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.

(C) All approved Unified Development Ordinance amendments and subdivisions/plats, and final decisions approving variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action. When a variance is approved after the Department of Natural Resources has formally recommended denial in the hearing record, the notification of the approved variance shall also include the summary of the public record/testimony and the findings of facts and conclusions which supported the issuance of the variance.

(D) Any request to change the shoreland management classification of public waters within Brooklyn Center must be sent to the commissioner or the commissioner's designated representative for approval, and must include a resolution and supporting data as required by Minnesota Rules, part 6120.3000.

(E) Any request to reduce the boundaries of shorelands of public waters within Brooklyn Center must be sent to the commissioner or the commissioner's designated representative for approval and must include a resolution and supporting data. The boundaries of shorelands may be reduced when the shoreland of water bodies with different classifications overlap. In these cases, the topographic divide between the water bodies shall be used for adjusting the boundaries.

**(9) Mandatory EAW.**

An Environmental Assessment Worksheet consistent with Minnesota Rules, Chapter 4410 must be prepared for projects meeting the thresholds of Minnesota Rules, part 4410.4300.

## (d) Shoreland Classification System and Land Uses

### (1) Purpose

To ensure that shoreland development on the public waters of Brooklyn Center is regulated consistent with the classifications assigned by the commissioner under Minnesota Rules, part 6120.3300.

(A) Lakes are classified as follows:

| Lake Classification | DNR Public Waters I.D. # |
|---|---|
| *General Development* | |
| Middle Twin | 27004202 |
| Upper Twin | 27004201 |
| *Recreational Development* | |
| Ryan | 27005800 |
| *Natural Environment* | |
| Palmer | 27005900 |

### (2) Land Uses

(A) Purpose. To identify land uses that are compatible with the protection and preservation of shoreline resources in order to conserve the economic and environmental values of shoreland and sustain water quality.

(B) Shoreland district land uses listed below are regulated as:

i. Permitted uses (P). These uses are allowed, provided all standards in this Unified Development Ordinance are followed;

ii. Conditional uses (C). These uses are allowed through a conditional use permit. The use must be evaluated according to the criteria in Section 3.1.2(c)(6) of this Unified Development Ordinance and any additional conditions listed in this Unified Development Ordinance; and

iii. Not permitted uses (N). These uses are prohibited.

(C) Land Uses for lake, river, and stream classifications:

| | Lake Classification | | |
|---|---|---|---|
| **Land Uses** | **General Development** | **Recreational Development** | **Natural Environment** |
| Single residential | P | P | P |
| Duplex, triplex, quad residential | P | P | C |
| Residential PUD | C | C | C |
| Water-dependent commercial - As accessory to a residential planned unit development | C | C | C |
| Commercial | P | P | C |
| Commercial PUD - Limited expansion of a commercial planned unit development involving up to six additional dwelling units or sites may be allowed as a permitted use provided the provisions of Section 8.3 of this UDO are satisfied. | C | C | C |
| Parks & historic sites | C | C | C |
| Public, semipublic | P | P | C |
| Industrial | C | C | N |
| Agricultural: cropland and pasture | P | P | P |
| Agricultural feedlots - New | N | N | N |
| Agricultural feedlots - Expansion or resumption of existing | C | C | C |
| Forest management | P | P | P |
| Forest land conversion | C | C | C |
| Extractive use | C | C | C |
| Mining of metallic minerals and peat | P | P | P |

### (e) Special Land Use Provisions

#### (1) Commercial, Industrial, Public, and Semipublic Use Standards

(A) Water-dependent uses may be located on parcels or lots with frontage on public waters provided that:

i. The use complies with the provisions of Section 3.1.2(f).

ii. The use is designed to incorporate topographic and vegetative screening of parking areas and structures;

iii. Uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and

iv. Uses that depend on patrons arriving by watercraft may use signs and lighting, provided that:

a. Signs placed in or on public waters must only convey directional information or safety messages and may only be placed by a public authority or under a permit issued by the county sheriff; and

b. Signs placed within the shore impact zone are:

i. No higher than ten feet above the ground, and no greater than 32 square feet in size; and

ii. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination across public waters; and

c. Other lighting may be located within the shore impact zone or over public waters if it is used to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination across public waters. This does not preclude use of navigational lights.

(B) Commercial, industrial, public, and semi-public uses that are not water-dependent must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.

**(2) Agriculture Use Standards**

(A) Buffers.

i. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.

ii. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in perennial vegetation or operated under an approved conservation plan that includes alternative riparian water quality practices consistent with the field office technical guides of the local soil and water conservation district or the Natural Resource Conservation Service, and as approved by the local soil and water conservation district.

(B) New animal feedlots are not allowed in shoreland. Modifications or expansions to existing feedlots or resumption of old feedlots are conditional uses and must meet the following standards:

i. Feedlots must be designed consistent with Minnesota Rules, Chapter 7020;

ii. Feedlots must not further encroach into the existing ordinary high water level setback or the bluff impact zone and must not expand to a capacity of 1,000 animal units or more; and,

iii. Old feedlots not currently in operation may resume operation consistent with Minnesota Statutes, Section 116.0711.

### (f) Dimensional and General Performance Standards

#### (1) Purpose

To establish dimensional and performance standards that protect shoreland resources from impacts of development.

#### (2) Lot Area and Width Standards

Lot Area and Width Standards. After the effective date of this Unified Development Ordinance, all new lots must meet the minimum lot area and lot

width requirements in Sections 2.2 through 2.5, subject to the following standards:

(A) Only lands above the ordinary high water level can be used to meet lot area and width standards;

(B) Lot width standards must be met at both the ordinary high water level and at the building line;

(C) The sewer lot area dimensions can only be used if publicly owned sewer system service is available to the property;

(D) Residential subdivisions with dwelling unit densities exceeding those in Sections 2.2 through 2.5 are allowed only if designed and approved as residential PUDs under Section 8.3 of this Unified Development Ordinance; and

(E) Lake Minimum Lot Area and Width Standards:

| **General Development – Sewer** | | | | |
|---|---|---|---|---|
| | *Riparian* | | *Nonriparian* | |
| | Lot Area (sf) | Lot Width (ft) | Lot Area (sf) | Lot Width (ft) |
| Single | 15,000 | 75 | 10,000 | 75 |
| Duplex | 26,000 | 135 | 17,500 | 135 |
| Triplex | 38,000 | 195 | 25,000 | 190 |
| Quad | 49,000 | 255 | 32,500 | 245 |
| **Recreational Development – Sewer** | | | | |
| | *Riparian* | | *Nonriparian* | |
| | Lot Area (sf) | Lot Width (ft) | Lot Area (sf) | Lot Width (ft) |
| Single | 20,000 | 75 | 15,000 | 75 |
| Duplex | 35,000 | 135 | 26,000 | 135 |
| Triplex | 50,000 | 195 | 38,000 | 190 |
| Quad | 65,000 | 255 | 49,000 | 245 |
| **Natural Environment – Sewer** | | | | |
| | *Riparian* | | *Nonriparian* | |
| | Lot Area (sf) | Lot Width (ft) | Lot Area (sf) | Lot Width (ft) |
| Single | 40,000 | 125 | 20,000 | 125 |
| Duplex | 70,000 | 225 | 35,000 | 220 |
| Triplex | 100,000 | 325 | 52,000 | 315 |
| Quad | 130,000 | 425 | 65,000 | 410 |

### (3) Special Residential Lot Provisions

(A) Subdivisions of duplexes, triplexes, and quads are conditional uses on Natural Environment Lakes and must also meet the following standards:

i. Each building must be set back at least 200 feet from the ordinary high water level;

ii. Each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;

iii. Watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and

iv. No more than 25 percent of a lake's shoreline can be in duplex,

triplex, or quad developments.

(B) One guest cottage may be allowed on lots meeting or exceeding the duplex lot area and width dimensions presented in Sections 3.1.2(f)(2) provided the following standards are met:

i. For lots exceeding the minimum lot dimensions of duplex lots, the guest cottage must be located within an area equal to the smallest duplex-sized lot that could be created including the principal dwelling unit;

ii. A guest cottage must not cover more than 700 square feet of land surface and must not exceed 15 feet in height; and

iii. A guest cottage must be located or designed to reduce its visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer leaf-on conditions.

(C) Controlled access lots are permissible if created as part of a subdivision and in compliance with the following standards:

i. The lot must meet the area and width requirements for residential lots, and be suitable for the intended uses of controlled access lots as provided in Section 3.1.2(f)(3)(C)iv below.

ii. If docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by a percentage of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

| Controlled Access Lot Frontage Requirements | |
|---|---|
| *Ratio of Lake Size to Shore Length (acres/mile)* | *Required Percent Increase in Frontage* |
| Less than 100 | 25% |
| 100 – 200 | 20% |
| 201 – 300 | 15% |
| 301 – 400 | 10% |
| Greater than 400 | 5% |

iii. The lot must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and

iv. Covenants or other equally effective legal instruments must be developed that:

a. Specify which lot owners have authority to use the access lot;

b. Identify what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, docking, swimming, sunbathing, or picnicking;

c. Limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water;

d. Require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations; and

e. Require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

### (4) Placement, Height, and Design of Structures

#### (A) Placement of Structures and Sewage Treatment Systems on Lots.

When more than one setback applies to a site, structures and facilities must be located to meet all setbacks, and comply with the following OHWL setback provisions:

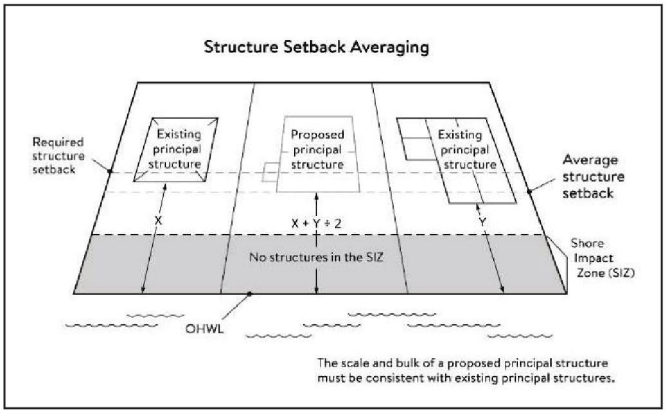
| Classification | Structures Sewer (ft) | Sewage Treatment System (ft) |
|---|---|---|
| Natural Environment | 150 | 150 |
| Recreational Development | 75 | 75 |
| General Development | 50 | 50 |

**(B) OHWL Setbacks.**

Structures, impervious surfaces, and sewage treatment systems must meet setbacks from the OHWL, except that one water- oriented accessory structure or facility, designed in accordance with Section 3.1.2(f)(3) of this Unified Development Ordinance, may be set back a minimum distance of ten (10) feet from the OHWL:

**(C) Setback averaging.**

Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the OHWL, provided the proposed structure is not located in a shore impact zone or in a bluff impact zone;




**(D) Setbacks of decks.**

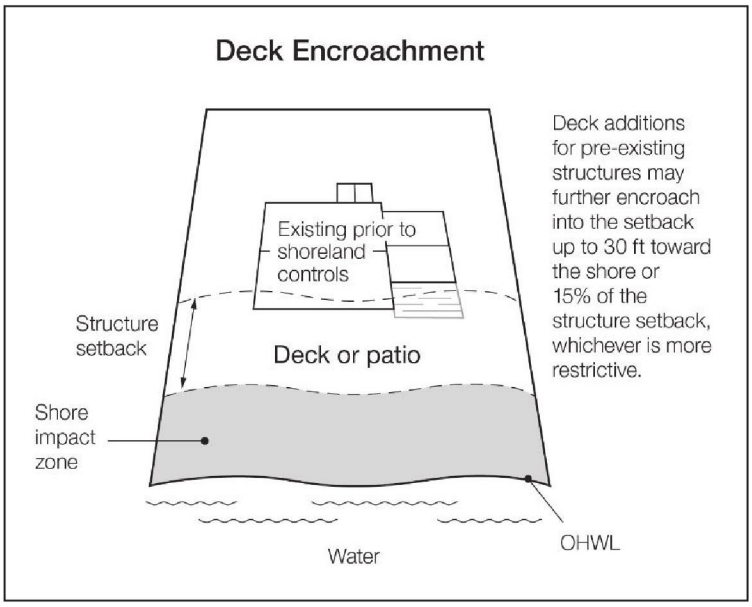
Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria are met:

i. The structure existed on the date the structure setbacks were established;

ii. A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing OHWL setback of the structure;

iii. The deck encroachment toward the OHWL does not exceed 15 percent of the existing setback of the structure from the OHWL or is no closer than 30 feet from the OHWL, whichever is more restrictive; and

iv. The deck is constructed primarily of wood and is not roofed or screened.




**(E) Additional structure setbacks.**

Structures must also meet the following setbacks, regardless of the waterbody classification:

| Setback from: | Setback (ft) |
|---|---|
| Top of bluff | 30 (40 for Mississippi River) |
| Unplatted cemetery | 50 |
| Right-of-way line of federal, state, or county highway | 50 |
| Right-of-way line of town road, public street, or other roads not classified | 20 |

**(F) Bluff Impact Zones.**

Structures, impervious surfaces, and accessory facilities, except stairways and landings, must not be placed within bluff impact zones.

**(G) Height of Structures.**

All structures in residential districts, except places of religious assembly and nonresidential agricultural structures, must not exceed 25 feet in height.

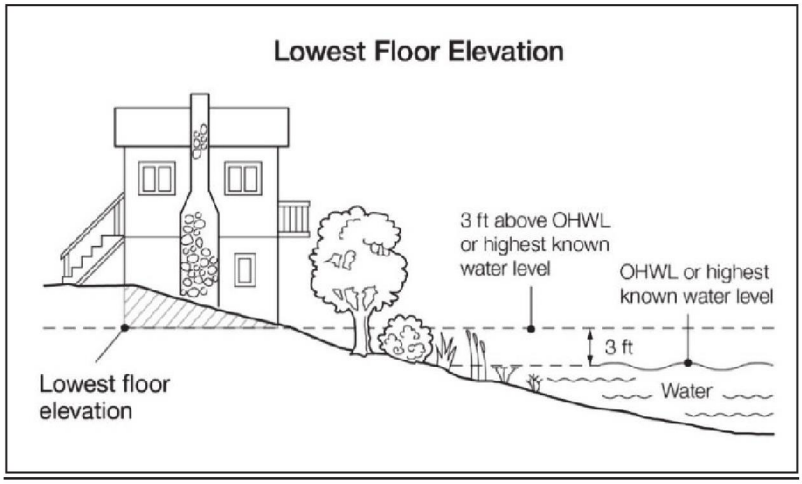
**(H) Lowest Floor Elevation.**

Structures must be placed in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:

i. For lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;

ii. For rivers and streams, by placing the lowest floor at least three feet above the highest known flood elevation. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with Minnesota Rules, Parts 6120.5000 to 6120.6200 governing the management of floodplain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

iii. If the structure is floodproofed instead of elevated under items i and ii above, then it must be floodproofed in accordance with Minnesota Rules, part 6120.5900.




**(I) Significant Historic Sites.**

No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.

### (5) Water Supply and Sewage Treatment

**(A) Water Supply.**

Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.

**(B) Sewage treatment.**

Any premises used for human occupancy must be connected to a publicly-owned sewer system, where available or comply with Minnesota Rules, Chapters 7080 – 7081.

### (g) Performance Standards for Public and Private Facilities

#### (1) Placement and Design of Roads, Driveways, and Parking Areas.

Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening as viewed from public waters and comply with the following standards:

(A) Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts;

(B) Watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met;

(C) Private facilities must comply with the grading and filling provisions of Section 3.1.2(h) (Vegetation and Land Alteration) of this Unified Development Ordinance; and

(D) For public roads, driveways and parking areas, documentation must be provided by a qualified individual that they are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.

#### (2) Stairways, Lifts, and Landings.

Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas.
Stairways, lifts, and landings must meet the following design requirements:

(A) Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public recreational uses, and planned unit developments;

(B) Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public-space recreational uses, and planned unit developments;

(C) Canopies or roofs are prohibited on stairways, lifts, or landings;

(D) Stairways, lifts, and landings 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;

(E) Stairways, lifts, and landings must be located in the least visible portion of the lot as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and

(F) Facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, if they are consistent with the dimensional and performance standards of Section 3.1.2(a) through (f) above, and the requirements of Minnesota Rules, Chapter 1341.

**(3) Water-oriented Accessory Structures or Facilities.**

Each residential lot may have one water-oriented accessory structure or facility if it complies with the following provisions:

(A) The structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 120 square feet. The structure or facility may include detached decks not exceeding eight feet above grade at any point or at-grade patios;

(B) The structure or facility is not in the Bluff Impact Zone;

(C) The setback of the structure or facility from the ordinary high water level must be at least ten feet;

(D) The structure is not a boathouse or boat storage structure as defined under Minnesota Statutes, Section 103G.245;

(E) The structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;

(F) The roof may be used as an open-air deck with safety rails, but must not be enclosed with a roof or sidewalls or used as a storage area;

(G) The structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities;

(H) As an alternative for general development and recreational development waterbodies, water-oriented accessory structures used solely for storage of watercraft and boating- related equipment may occupy an area up to 400 square feet provided the maximum width of the structure is 20 feet as measured parallel to the shoreline; and

(I) Water-oriented accessory structures may have the lowest floor placed lower than the elevation specified in Section 3.1.2(f)(4)(H) if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.

### (h) Vegetation and Land Alterations

#### (1) Purpose.

Alterations of vegetation and topography are regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, sustain water quality, and protect fish and wildlife habitat.

#### (2) Vegetation Management

(A) Removal or alteration of vegetation must comply with the provisions of this subsection except for:

i. Vegetation alteration necessary for the construction of structures and sewage treatment systems under validly issued permits for these facilities;

ii. The construction of public roads and parking areas if consistent with Section 3.1.2(f)(1) of this Unified Development Ordinance;

iii. Forest management uses consistent with Section 3.1.2(e) of this Unified Development Ordinance; and

iv. Agricultural uses consistent with Section 3.1.2(e)(2) of this Unified Development Ordinance.

(B) Intensive vegetation clearing in the shore and bluff impact zones and on steep slopes is prohibited. Intensive clearing outside of these areas is allowed if consistent with the forest management standards in Section 3.1.2(e) of this Unified Development Ordinance.

(C) Limited clearing and trimming of trees and shrubs in the shore and bluff impact zones and on steep slopes, is allowed to provide a view to the water from the principal dwelling and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:

i. The screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;

ii. Existing shading of water surfaces along rivers is preserved;

iii. Cutting debris or slash shall be scattered and not mounded on the ground; and

iv. Perennial ground cover is retained.

(D) Removal of trees, limbs, or branches that are dead, diseased, dying, or pose safety hazards is allowed without a permit.

(E) Fertilizer and pesticide runoff into surface waters must be minimized through use of vegetation, topography or both.

**(3) Grading and Filling.**

(A) Grading and filling activities must comply with the provisions of this subsection except for the construction of public roads and parking areas if consistent with Section 3.1.2(g)(1) of this Unified Development Ordinance.

**(B) Permit Requirements.**

i. Grading, filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways, if part of an approved permit, do not require a separate grading and filling permit. However, the standards in Section 3.1.2(h)(3)(C) of this

Unified Development Ordinance must be incorporated into the permit.

ii. For all other work, including driveways not part of another permit, a grading and filling permit is required for:

a. the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

b. the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.

(C) Grading, filling and excavation activities must meet the following standards:

i. Grading or filling of any wetland must meet or exceed the wetland protection standards under Minnesota Rules, Chapter 8420 and any other permits, reviews, or approvals by other local state, or federal agencies such as watershed districts, the DNR or US Army Corps of Engineers;

ii. Land alterations must be designed and implemented to minimize the amount of erosion and sediment from entering surface waters during and after construction consistently by:

a. Limiting the amount and time of bare ground exposure;

b. Using temporary ground covers such as mulches or similar materials;

c. Establishing permanent vegetation cover as soon as possible;

d. Using sediment traps, vegetated buffer strips or other appropriate techniques;

e. Stabilizing altered areas to acceptable erosion control standards consistent with the field office technical guides of the soil and water conservation district;

f. Not placing fill or excavated material in a manner that creates unstable slopes. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;

g. Fill or excavated material must not be placed in bluff impact zones;

h. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, Section 103G;

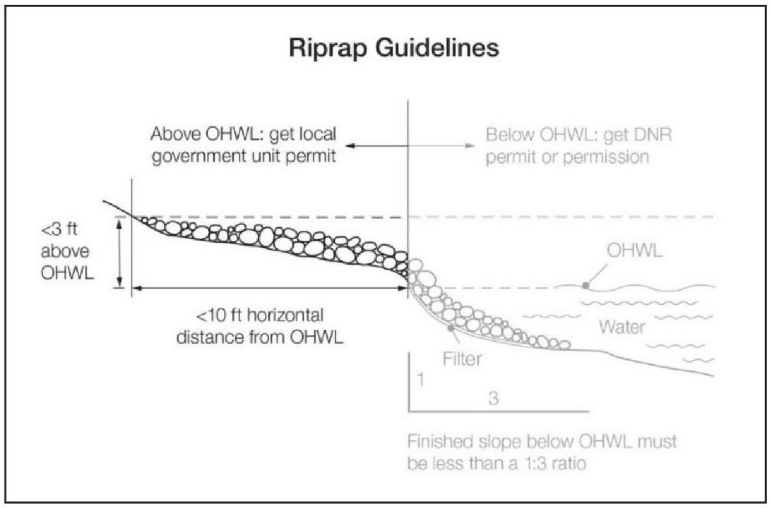
i. Alterations of topography are only allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and

j. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if:

i. the finished slope does not exceed three feet horizontal to one foot vertical;

ii. the landward extent of the riprap is within ten feet of the ordinary high water level; and

iii. the height of the riprap above the ordinary high water level does not exceed three feet.




**(D) Connections to public waters.**

Excavations to connect boat slips, canals, lagoons, and harbors to public waters require a public waters permit and must comply with Minnesota Rules, Chapter 6115.

**(4) Stormwater Management.**

**(A) General Standards:**

i. When possible, existing natural drainageways, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.

ii. Development 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 as soon as possible, and appropriate facilities or methods used to retain sediment on the site.

iii. When development density, topography, soils, and vegetation are not sufficient to adequately handle stormwater runoff, constructed facilities such as settling basins, skimming devices, dikes, waterways, ponds and infiltration may be used. Preference must be given to surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

(B) **Specific Standards:**

i. Impervious surfaces of lots must not exceed 25 percent of the lot area.

ii. When constructed facilities are used for stormwater management, documentation must be provided by a qualified individual that they are designed and installed consistent with the field office technical guide of the local soil and water conservation district or the Minnesota Stormwater Manual, as applicable.

iii. New constructed stormwater outfalls to public waters must be consistent with Minnesota Rules, part 6115.0231.

### (i) Subdivision/Platting Provisions

#### (1) Purpose

To ensure that new development minimizes impacts to shoreland resources and is safe and functional.

#### (2) Land Suitability

Each lot created through subdivision, including planned unit developments authorized under Section 8.3 of this Unified Development Ordinance, must be suitable in its natural state for the proposed use with minimal alteration. A suitability analysis must be conducted for each proposed subdivision, including planned unit developments, to determine if the subdivision is suitable in its natural state for the proposed use with minimal alteration and whether any feature of the land is likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or of the community.

#### (3) Consistency with other Controls

Subdivisions and each lot in a subdivision shall meet all official controls so that a variance is not needed later to use the lots for their intended purpose.

#### (4) Water and Sewer Design Standards

(A) A potable water supply and a sewage treatment system consistent with Minnesota Rules, Chapters 7080 – 7081 must be provided for every lot.

(B) Each lot must include at least two soil treatment and dispersal areas that support systems described in Minnesota Rules, parts 7080.2200 to 7080.223 or site conditions described in part 7081.0270, as applicable.

(C) Lots that would require use of holding tanks are prohibited.

#### (5) Information requirements.

(A) Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more current sources, showing limiting site characteristics;

(B) The surface water features required in Minnesota Statutes, Section 505.021, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more current sources;

(C) Adequate soils information to determine suitability for building and sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;

(D) Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;

(E) Location of 100-year floodplain areas and floodway districts from existing adopted maps or data; and

(F) A line or contour representing the ordinary high water level, the "toe" and the "top" of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.

**(6) Dedications.**

When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.

**(7) Platting.**

All subdivisions that cumulatively create five or more lots or parcels that are 2- 1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Section 462.358 and Section 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after the adoption of this Unified Development Ordinance unless the lot was previously approved as part of a formal subdivision.

**(8) Controlled Access Lots.**

Controlled access lots within a subdivision must meet or exceed the lot size criteria in Section 3.1.2(f)(3) of this Unified Development Ordinance.

**(j) Planned Unit Developments (PUDs)**

**(1) Purpose**

To protect and enhance the natural and scenic qualities of shoreland areas during and after development and redevelopment of high density residential and commercial uses.

**(2) Types of PUDs Permissible**

Planned unit developments are allowed for new projects on undeveloped land, redevelopment of previously built sites, or conversions of existing buildings and land. Deviation from the minimum lot size standards of Sections 2.2 through 2.5 of this Unified Development Ordinance is allowed if the standards in this Section are met.

**(3) Processing of PUDs**

Planned unit developments must be processed as a conditional use. An expansion to an existing commercial PUD involving 6 or less new dwelling units or sites since the date this Unified Development Ordinance was adopted is permissible as a permitted use provided the total project density does not exceed the allowable densities calculated in the project density evaluation procedures in 3.1.2(j)(5). Approval cannot occur until all applicable environmental reviews are complete.

**(4) Application for a PUD.**

The applicant for a PUD must submit the following documents prior to final action on the application request:

(A) Site plan and/or plat showing:

i. Locations of property boundaries;
ii. Surface water features;
iii. Existing and proposed structures and other facilities;
iv. Land alterations;
v. Sewage treatment and water supply systems (where public systems will not be provided);
vi. Topographic contours at ten-foot intervals or less; and
vii. Identification of buildings and portions of the project that are residential, commercial, or a combination of the two (if project combines commercial and residential elements).

(B) A property owners association agreement (for residential PUD's) with mandatory membership, and consistent with Section 3.1.2(j)(6) of this Unified Development Ordinance.

(C) Deed restrictions, covenants, permanent easements or other instruments that:

i. Address future vegetative and topographic alterations, construction of additional buildings, beaching of watercraft, and construction of commercial buildings in residential PUDs; and
ii. Ensure the long-term preservation and maintenance of open space in accordance with the criteria and analysis specified in Section 3.1.2(j)(6) of this Unified Development Ordinance.

(D) A master plan/site plan describing the project and showing floor plans for all commercial structures.

(E) Additional documents necessary to explain how the PUD will be designed and will function.

### (5) Density Determination

Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures.

(A) Step 1. Identify Density Analysis Tiers. Divide the project parcel into tiers by drawing one or more lines parallel to the ordinary high water level at the following intervals, proceeding landward:

| Classification | Tier Depth Sewer (ft) |
|---|---|
| General Development Lakes – 1st tier | 200 |
| General Development Lakes – all other tiers | 200 |
| Recreational Development Lakes | 267 |
| All Rivers | 300 |

(B) Step 2. Calculate Suitable Area for Development. Calculate the suitable area within each tier by excluding all wetlands, bluffs, or land below the ordinary high water level of public waters.

(C) Step 3. Determine Base Density:

i. For residential PUDs, divide the suitable area within each tier by the minimum single residential lot area for lakes to determine the allowable number of dwelling units, or base density, for each tier. For rivers, if a minimum lot area is not specified, divide the tier width by the minimum single residential lot width.

ii. For commercial PUDs:

a. Determine the average area for each dwelling unit or dwelling site within each tier. Include both existing and proposed dwelling units and sites in the calculation.

i. For dwelling units, determine the average inside living floor area of dwelling units in each tier. Do not include decks, patios, garages, or porches and basements, unless they are habitable space.

ii. For dwelling sites (campgrounds), determine the area of each dwelling site as follows:

- For manufactured homes, use the area of the manufactured home, if known, otherwise use 1,000 sf.
- For recreational vehicles, campers or tents, use 400 sf.

iii. Select the appropriate floor area/dwelling site area ratio from the following table for the floor area or dwelling site area determined in Section 3.1.2(c)(ii)(A) above.

iv. Multiply the suitable area within each tier determined in (B) above by the floor area or dwelling site area ratio to yield the total floor area or dwelling site area for each tier to be used for dwelling units or dwelling sites.

v. Divide the total floor area or dwelling site area for each tier calculated in (C)(ii)(a), (iv) above by the average inside living floor area for dwelling units or dwelling site area determined in (C)(ii), (a)(i) above This yields the allowable number of dwelling units or dwelling sites, or base density, for each tier.

b. Allowable densities may be transferred from any tier to any other tier further from the waterbody but must not be transferred to any tier closer to the waterbody.

c. All PUDs with densities at or below the base density must meet the design standards in Section 3.1.2(j)(6).

(D) Step 4. Determine if the Site can Accommodate Increased

| Inside Living Floor Area or Dwelling Site Area (sq. Ft.) | Floor Area/Dwelling Site Area Ratio | | |
|---|---|---|---|
| | General Development Lakes w/Sewer – all tiers, Urban Rivers | Recreational Development Lakes | Natural Environment Lakes |
| < 200 | .040 | .020 | .010 |
| 300 | .048 | .024 | .012 |
| 400 | .056 | .028 | .014 |
| 500 | .065 | .032 | .016 |
| 600 | .072 | .038 | .019 |
| 700 | .082 | .042 | .021 |
| 800 | .091 | .046 | .023 |
| 900 | .099 | .050 | .025 |
| 1,000 | .108 | .054 | .027 |
| 1,100 | .116 | .058 | .029 |
| 1,200 | .125 | .064 | .032 |
| 1,300 | .133 | .068 | .034 |
| 1,400 | .142 | .072 | .036 |
| > 1,500 | .150 | .075 | .038 |

Density:

i. The following increases to the dwelling unit or dwelling site base densities determined (B) above are allowed if the design criteria in

Section 3.1.2(j)(6) of this Unified Development Ordinance are satisfied as well as the standards in item ii below:

| Shoreland Tier | Maximum Density Increase within Each Tier |
|---|---|
| 1st | 50% |
| 2nd | 100% |
| 3rd | 200% |
| 4th | 200% |
| 5th | 200% |

ii. Structure setbacks from the ordinary high water level:

a. Are increased to at least 50 percent greater than the minimum setback; or

b. The impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional acceptable means and the setback is at least 25 percent greater than the minimum setback.

**(6) Design Criteria**

All PUDs must meet the following design criteria.

**(A) General Design Standards.**

i. All residential planned unit developments must contain at least five dwelling units or sites.

ii. On-site water supply and sewage treatment systems must be centralized and meet the standards in Section 3.1.2(f)(5) of this Unified Development Ordinance. Sewage treatment systems must meet the setback standards of Section 3.1.2(f)(4) of this Unified Development Ordinance.

iii. Dwelling units or dwelling sites must be clustered into one or more groups and located on suitable areas of the development.

iv. Dwelling units or dwelling sites must be designed and located to meet the dimensional standards in Section 3.1.2(f)(3) and (4)

v. Shore recreation facilities:

a. Must be centralized and located in areas suitable for them based on a suitability analysis.

b. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor).

c. Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers.

vi. Structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided.

vii. Accessory structures and facilities, except water oriented accessory structures, must meet the required structure setback and must be centralized.

viii. Water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Section 3.1.2(g) of this Unified Development Ordinance and are centralized.

**(B) Open Space Requirements.**

i. Open space must constitute at least 50 percent of the total project area and must include:

a. Areas with physical characteristics unsuitable for development in their natural state;

b. Areas containing significant historic sites or unplatted cemeteries;

c. Portions of the shore impact zone preserved in its natural or existing state as follows:

i. For existing residential PUD's, at least 50 percent of the shore impact zone

ii. For new residential PUDs, at least 70 percent of the shore impact zone.

iii. For all commercial PUD's, at least 50 percent of the shore impact zone.

ii. Open space may include:

a. Outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;

b. Subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems; and

c. Non-public water wetlands.

iii. Open space shall not include:

a. Dwelling sites or lots, unless owned in common by an owners' association;

b. Dwelling units or structures, except water-oriented accessory structures or facilities;

c. Road rights-of-way or land covered by road surfaces and parking areas;

d. Land below the OHWL of public waters; and

e. Commercial facilities or uses.

**(C) Open Space Maintenance and Administration Requirements.**

i. Open space preservation. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved and maintained by use of deed restrictions, covenants, permanent easements, public dedication, or other equally effective and permanent means. The instruments must prohibit:

a. Commercial uses (for residential PUD's);

b. Vegetation and topographic alterations other than routine maintenance;

c. Construction of additional buildings or storage of vehicles and other materials; and

d. Uncontrolled beaching of watercraft.

ii. Development organization and functioning. Unless an equally effective alternative community framework is established, all residential planned unit developments must use an owners' association with the following features:

a. Membership must be mandatory for each dwelling unit or dwelling site owner and any successive owner;

b. Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or dwelling sites;

c. Assessments must be adjustable to accommodate changing conditions; and

d. The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.

**(D) Erosion Control and Stormwater Management.**

i. Erosion control plans must be developed and must be consistent with the provisions of Section 3.1.2(h)(3) of this Unified Development Ordinance. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant.

ii. Stormwater management facilities must be designed and constructed to manage expected quantities and qualities of stormwater runoff. For commercial PUDs, impervious surfaces within any tier must not exceed 25 percent of the tier area, except that 35 percent impervious surface coverage may be allowed in the first tier of general development lakes with an approved stormwater management plan and consistency with Section 3.1.2(h) of this Unified Development Ordinance.

## 3.1.3 CA – Mississippi River Corridor Critical Area (MRCCA)

### (a) Authority, Intent, and Purpose

#### (1) Statutory Authorization.

This Mississippi River Corridor Critical Area (MRCCA) (Section 3.1.3) is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 116G, Minnesota Rules, Parts 6106.0010 - 6106.0180, and the planning and zoning enabling legislation in

Minnesota Statutes, Chapter 462 and 473.

**(2) Policy**

The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of designated critical areas and thus preserve and enhance the quality of important historic, cultural, aesthetic values, and natural systems and provide for the wise use of these areas.

### (b) General Provisions and Definitions

**(1) Jurisdiction**

The provisions of this Section apply to land within the river corridor boundary as described in the State Register, volume 43, pages 508 to 519 and shown on the official zoning map (insert reference citation).

**(2) Enforcement**

The Zoning Administrator is responsible for the administration and enforcement of this section. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this Section can occur regardless of whether or not a permit is required for a regulated activity listed in Section 3.1.2.

**(3) Severability**

If any section, clause, provision, or portion of this Section is judged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

**(4) Abrogation and Greater Restrictions**

It is not intended by this Section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this Section imposes greater restrictions, the provisions of this Section shall prevail. All other Sections inconsistent with this Section are hereby repealed to the extent of the inconsistency only.

**(5) Underlying Zoning**

Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.

**(6) Definitions**

Unless specifically defined in Section 9, words or phrases used in this Unified Development Ordinance must be interpreted according to common usage and so as to give this Unified Development Ordinance its most reasonable application.

### (c) Administration

**(1) Purpose**

The purpose of this Section is to identify administrative provisions to ensure this Section is administered consistent with its purpose.

**(2) Permits**

A permit is required for the construction of buildings or building additions (including construction of decks and signs), the installation and/or alteration of

sewage treatment systems, vegetation removal, and land alterations consistent with this Chapter.

**(3) Variances.**

Variances to the requirements under this Section may only be granted in accordance with Minnesota Statutes, Section 462.357 and must consider the potential impacts of variances on primary conservation areas (PCAs), public river corridor views (PRVCs), and other resources identified in the MRCCA plan. In reviewing the variance application the City of Brooklyn Center shall:

(A) Evaluate the impacts to these resources. and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, consistent with Section 3.1.3(e) and

(B) Make written findings that the variance is consistent with Section 7.10 and with the following criteria.

i. The extent, location and intensity of the variance will be in substantial compliance with the MRCCA Plan;

ii. The variance is consistent with the character and management purpose of the MRCCA district in which it is located;

iii. The variance will not negatively impact birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats, or light pollution, in compliance with Minnesota B3 guidelines version 3.2, Site and Water Guideline: S. 5 Animal Habitat Support;

iv. The variance will not limit public access to parklands and the River;

v. The variance will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions.

**(4) Conditional and Interim Use Permits**

All conditional and interim uses, required under this Section, must comply with Minnesota Statutes, Section 462.3595 and must consider the potential impacts on primary conservation areas, public river corridor views, and other resources identified in the MRCCA plan. In reviewing the application, the City shall:

(A) Evaluate the impacts to these resources and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts, consistent with Section 3.1.3(j); and

(B) Make written findings that the conditional use is consistent with the purpose of this Section, as follows.

i. The extent, location and intensity of the conditional use will be in substantial compliance with the MRCCA Plan;

ii. The conditional use is consistent with the character and management purpose of the MRCCA district in which it is located;

iii. The conditional use permit will not negatively impact birds and other wildlife using the Mississippi Flyway through habitat loss, collision threats, or light pollution, in compliance with Minnesota B3 guidelines version 3.2, Site and Water Guideline: S. 5 Animal Habitat Support;

iv. The conditional use will not be detrimental to PCAs and PRCVs nor will it contribute to negative incremental impacts to PCAs and PRCVs when considered in the context of past, present and reasonable future actions.

**(5) Conditions of Approval.**

The City shall evaluate the impacts to PCAs, PRCVs, and other resources identified in the MRCCA Plan, and if negative impacts are found, require conditions to mitigate the impacts that are related to and proportional to the impacts.
Mitigation may include:

(A) Restoration of vegetation identified as "vegetation restoration priorities" identified in the MRCCA plan;

(B) Preservation of existing vegetation;

(C) Stormwater runoff management;

(D) Reducing impervious surface;

(E) Increasing structure setbacks;

(F) Wetland and drainageway restoration and/or preservation; and

(G) Other conservation measures, including;

i. Increasing and/or improving habitat for pollinators, birds and other wildlife using native trees, shrubs and other vegetation.

**(6) Application materials.**

Applications for permits and discretionary actions required under this Section must submit the following information unless the City determines that the information is not needed.

(A) A detailed project description; and

(B) Scaled maps and plans, dimensional renderings, maintenance agreements, and other materials that identify and describe:

i. Primary conservation areas;

ii. Public river corridor views;

iii. Buildable area;

iv. Existing and proposed topography and drainage patterns;

v. Proposed storm water and erosion and sediment control practices;

vi. Existing and proposed vegetation to be removed and established;

vii. Ordinary high water level, blufflines, and all required setbacks;

viii. Existing and proposed structures;

ix. Existing and proposed impervious surfaces; and

x. Existing and proposed subsurface sewage treatment systems.

**(7) Nonconformities.**

(A) All legally established nonconformities as of the date of this Unified Development Ordinance may continue consistent with Minnesota Statutes Section 462.357.

(B) New structures erected in conformance with the setback averaging provisions of Section 3.1.3(f)(5)(D) are conforming structures.

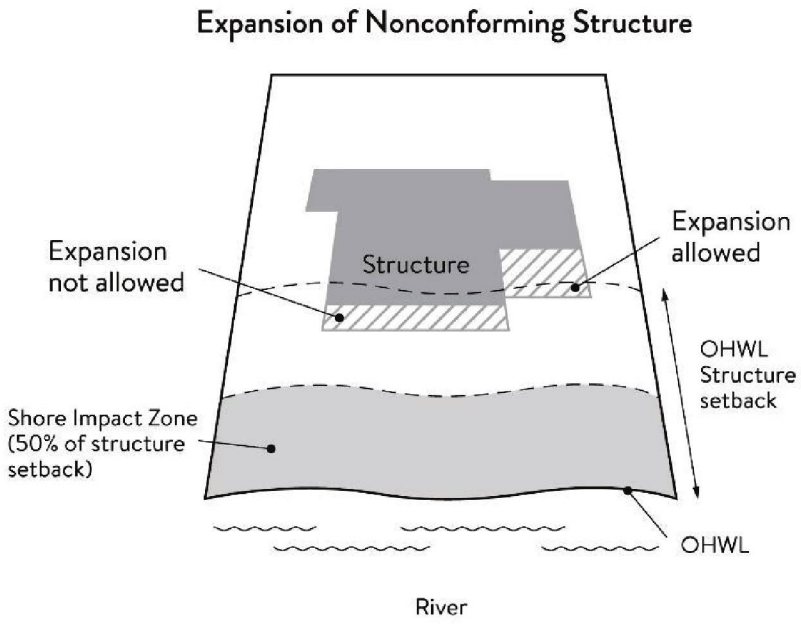
(C) Site alterations and expansion of site alterations that were legally made prior to the effective date of this Unified Development Ordinance are conforming. Site alterations include vegetation, erosion control, storm water control measures, and other nonstructural site improvements.

(D) Legally nonconforming principal structures that do not meet the setback requirements of Section 3.1.3(f)(2) may be expanded laterally provided that:

i. The expansion does not extend into the shore or bluff impact zone or further into the required setback than the building line of the existing principal structure (See Figure 5); and

ii. The expanded structure's scale and bulk is consistent with that of the original structure and existing surrounding development.

**Figure 5. Expansion of Nonconforming Structure**




**(8) Notifications**

(A) Amendments to this Section and to the MRCCA plan must be submitted to the Commissioner as provided in Minnesota Rules, part 6106.0070.

(B) Notice of public hearings for discretionary actions, including conditional and interim use permits, variances, appeals, rezonings, preliminary plats, final subdivision plats, and PUDs, must be sent to the following entities at least ten (10) days prior to the hearing:

i. The Commissioner in a format prescribed by the DNR;

ii. National Park Service; and

iii. Where building heights exceed the height limits specified in Section 3.1.3(f)(2) as part of the conditional use or variance process, adjoining local governments within the MRCCA, including those with overlapping jurisdiction and those across the river.

(C) Notice of final decisions for actions in Section 3.1.3(c)(8)(B), including findings of fact, must be sent to the Commissioner, the National Park Service, and adjoining local governments within the MRCCA within ten (10) days of the final decision.

(D) Requests to amend district boundaries must follow the provisions in Minnesota Rules, part 6106.0100.

**(9) Accommodating disabilities.**

Reasonable accommodations for ramps or other facilities to provide persons with disabilities access to the persons' property, as required by the federal Americans with Disabilities Act and the federal Fair Housing Act and as provided by Minnesota Rules, chapter 1341, must:

(A) Comply with Sections 3.1.3(f) through (l); or

(B) If Sections 3.1.3(f) through (l) cannot be complied with, ramps or other facilities are allowed with an administrative permit provided:

i. The permit terminates on either a specific date or upon occurrence of a particular event related to the person requiring accommodation; and

ii. Upon expiration of the permit, the ramp or other facilities must be removed.

## (d) MRCCA Districts

**(1) Purpose.**

The purpose of this Section is to establish districts under which building height and structure placement are regulated to protect and enhance the Mississippi River's resources and features consistent with the natural and built character of each district.

**(2) District Application**

MRCCA Districts are overlaid over zoning districts as identified in the official city Zoning Map. Regulations and requirements imposed by MRCCA Districts shall be

enforced in addition to those in the base zoning district. In instances where two or more overlay districts apply, the more restrictive requirements shall apply.

**(3) District description and management purpose.**

The MRCCA within the City is divided into the following MRCCA Districts:

**(A) River Neighborhood (RN).**

**i. Description.**

The RN District is characterized by primarily residential neighborhoods that are riparian or readily visible from the river or that abut riparian parkland. The district includes parks and open space, limited commercial development, marinas, and related land uses.

**ii. Management Purpose**

The RN District must be managed to maintain the character of the river corridor within the context of existing residential and related neighborhood development, and to protect and enhance habitat, parks and open space, public river corridor views, and scenic, natural, and historic areas. Minimizing erosion and the flow of untreated storm water into the river and enhancing habitat and shoreline vegetation are priorities in the district.

**(B) Separated from River (SR).**

**i. Description.**

The SR District is characterized by its physical and visual distance from the Mississippi River. The district includes land separated from the river by distance, topography, development, or a transportation corridor. The land in this district is not readily visible from the Mississippi River.

**ii. Management purpose.**

The SR district provides flexibility in managing development without negatively affecting the key resources and features of the river corridor. Minimizing negative impacts to primary conservation areas and minimizing erosion and flow of untreated storm water into the Mississippi River are priorities in the district. The RTC district must be managed in a manner that allows continued growth and redevelopment in historic downtowns and more intensive redevelopment in limited areas at river crossings to accommodate compact walkable development patterns and connections to the river. Minimizing erosion and the flow of untreated storm water into the river, providing public access to and public views of the river, and restoring natural vegetation in riparian areas and tree canopy are priorities in the district.

**(4) MRCCA District Map**

The locations and boundaries of the MRCCA districts established by this Section are shown on the City Zoning Map which is incorporated herein by reference. The district boundary lines are intended to follow the center lines of rivers and streams, highways, streets, lot lines, and municipal boundaries, unless a boundary

line is otherwise indicated on the map. Where district boundaries cross unsubdivided property, the district boundary line is determined by use of dimensions or the scale appearing on the map.

### (e) Special Land Use Provisions

#### (1) Purpose

To identify development standards and considerations for land uses that have potential to negatively impact primary conservation areas and public river corridor views.

#### (2) Underlying Zoning

Uses within the MRCCA are generally determined by underlying zoning, with additional provisions for the following land uses:

**(A) Agricultural use.**

Perennial ground cover is required within 50 feet of the ordinary high water level and within the bluff impact zone.

**(B) Feedlots.**

New animal feedlots and manure storage areas are prohibited. Existing animal feedlots and manure storage areas must conform with Minnesota Rules, chapter 7020.

**(C) River-dependent uses.**

River-dependent uses must comply with the following design standards:

i. Structures and parking area, except shoreline facilities and private roads and conveyances serving river-dependent uses as provided in Section 3.1.3(l), must meet the dimensional and performance standards in this Section, must be designed so that they are not readily visible, and must be screened by establishing and maintaining natural vegetation;

ii. Shoreline facilities must comply with Minnesota Rules, chapter 6115 and must:

   a. be designed in a compact fashion so as to minimize the shoreline area affected; and

   b. minimize the surface area of land occupied in relation to the number of watercraft or barges to be served; and

iii. Dredging and placement of dredged material are subject to existing federal and state permit requirements and agreements.

**(D) Wireless communication towers.**

Wireless communication towers require a conditional or interim use permit and are subject to the following design standards:

i. The applicant must demonstrate that functional coverage cannot be provided through co-location, a tower at a lower height, or a tower at a location outside of the MRCCA;

ii. The tower must not be located in a bluff or shore impact zone; and

iii. Placement of the tower must minimize impacts on public river corridor views.

iv. Comply with the general design standards in Section 3.1.3(h)(2)

(f) **Structure Height and Placement and Lot Size**

(1) **Purpose**

To establish standards that protect primary conservation areas and public river corridor views from development impacts and ensure that new development is sited consistent with the purpose of the MRCCA.

(2) **Structure Height**

Structures and facilities must comply with the following standards unless identified as exempt in Section 3.1.3(l)

(A) Structures and facilities must comply with the following standards unless identified as exempt in Section 3.1.3(l).

i. RN District: 25 feet in residential districts, except for places of religious assembly. 35 feet for all other districts.

ii. SR District: Height is determined by underlying zoning, provided the allowed height is consistent with that of the mature treeline, where present, and existing surrounding development, as viewed from the OHWL of the opposite shore.

(3) **Height is measured of the side of the structure facing the Mississippi River.**

(4) **In addition to the conditional use permit requirements of Section 3.1.3(c)(4), criteria for considering whether to grant a conditional use permit for structures exceeding the height limits must include:**

(A) Assessment of the visual impact of the proposed structure on public river corridor views, including views from other communities;

(B) Determination that the proposed structure meets the required bluff and OHWL setbacks;

(C) Identification and application of techniques to minimize the perceived bulk of the proposed structure, such as:

i. Placing the long axis of the building perpendicular to the river;

ii. Stepping back of portions of the facade;

iii. Lowering the roof pitch or use of a flat roof;

iv. Using building materials or mitigation techniques that will blend in with the natural surroundings such as green roofs, green walls, or other green and brown building materials;

v. Compliance with the Minnesota B3 Guidelines version 3.2, Site and Water Guideline: S. 5 Animal Habitat Support;

vi. Narrowing the profile of upper floors of the building; or

vii. Increasing the setbacks of the building from the Mississippi River or blufflines;

(D) Identification of techniques for preservation of those view corridors identified in the MRCCA Plan; and

(E) Opportunities for creation or enhancement of public river corridor views.

**(5) Structure and impervious surface placement.**

(A) Structures and impervious surface must not be placed in the shore or bluff impact zones unless identified as an exemption in Section 3.1.3(l).

(B) Structures, impervious surfaces, and facilities must comply with the following OHWL setback provisions unless identified as exempt in 3.1.3(l).

i. RN District: 100 feet from the Mississippi River.

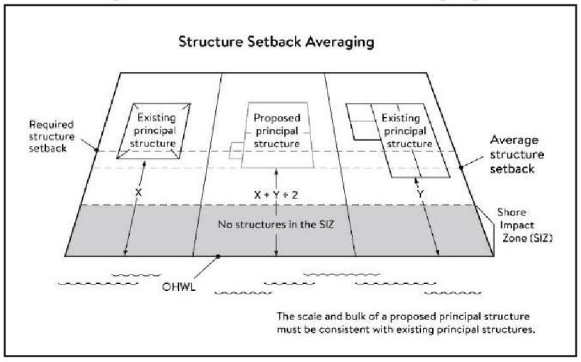
(C) Structures, impervious surfaces, and facilities must comply with the following bluffline setback provisions unless identified as exempt in Section 3.1.3(l):

i. RN District: 40 feet.

ii. SR District: 40 feet.

(D) Where principal structures exist on the adjoining lots on both sides of a proposed building site, the minimum setback may be altered to conform to the average of the adjoining setbacks, provided that the new structure's scale and bulk riverward or bluffward of the setbacks required under Section 3.1.3(f)(C) and (D) are consistent with adjoining development. See Figure 6.

**Figure 6. Structure Setback Averaging**




(E) Subsurface sewage treatment systems, including the septic tank and absorption area, must be located at least 75 feet from the ordinary high water level of the Mississippi River and all other public waters.

**(6) Lot size and buildable area.**

(A) All new lots must have adequate buildable area to comply with the setback requirements of Section 3.1.3(b) and (c) so as to not require variances to use the lots for their intended purpose.

### (g) Performance Standards for Private Facilities

#### (1) Purpose

To establish design standards for private facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan.

#### (2) General Design Standards

All private facilities must be developed in accordance with the vegetation management and land alteration requirements in Section 3.1.3(i) and Section 3.1.3(j).

#### (3) Private Roads, Driveways, and Parking Areas

Except as provided in Section 3.1.3(l), private roads, driveways and parking areas must:

(A) Be designed to take advantage of natural vegetation and topography so that they are not readily visible;

(B) Comply with structure setback requirements according to Section 3.1.3(c); and

(C) Not be placed within the bluff impact zone or shore impact zone, unless exempt under Section 3.1.3(l) and designed consistent with Section 3.1.3(h).

#### (4) Private water access and viewing facilities.

(A) Private access paths must be no more than:

i. Eight feet wide, if placed within the shore impact zone; and

ii. Four feet wide, if placed within the bluff impact zone.

(B) Private water access ramps must:

i. Comply with Minnesota Rules, Parts 6115.0210 and 6280.0250; and

ii. Be designed and constructed consistent with the applicable standards in Design Handbook for Recreational Boating and Fishing Facilities.

(C) Design and construction of private stairways, lifts, and landings are subject to the following standards:

i. Stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties and residential facilities held in common, if approved by the City;

ii. Landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet area allowed for commercial properties and residential facilities held in common, if approved by the City Zoning Administrator;

iii. Canopies or roofs are prohibited on stairways, lifts, or landings;

iv. Stairways, lifts, and landings must be located in the least visible portion of the lot whenever practical; and

v. Ramps, lifts, mobility paths, or other facilities for persons with physical disabilities are allowed for achieving access to shore areas according to Section 3.1.3(g) and as provided under Section 3.1.3(c).

(D) One water-oriented accessory structure is allowed for each riparian lot or parcel less than 300 feet in width at the ordinary high water level, with one additional water-oriented accessory structure allowed for each additional 300 feet of shoreline on the same lot or parcel. Water-oriented accessory structures are prohibited in the bluff impact zone and must:

i. not exceed 10 feet in height;

ii. not exceed 120 square feet in area; and

iii. be placed a minimum of 10 feet from the ordinary high water level.

**(5) Decks and patios in setback areas.**

Decks and at-grade patios may encroach into the required setbacks from the ordinary high water level and blufflines without a variance, when consistent with Sections 3.1.3(i) and (j), provided that:

(A) The structure existed on the date the structure setbacks were established;

(B) A thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;

(C) The deck is constructed primarily of wood and is not roofed or screened;

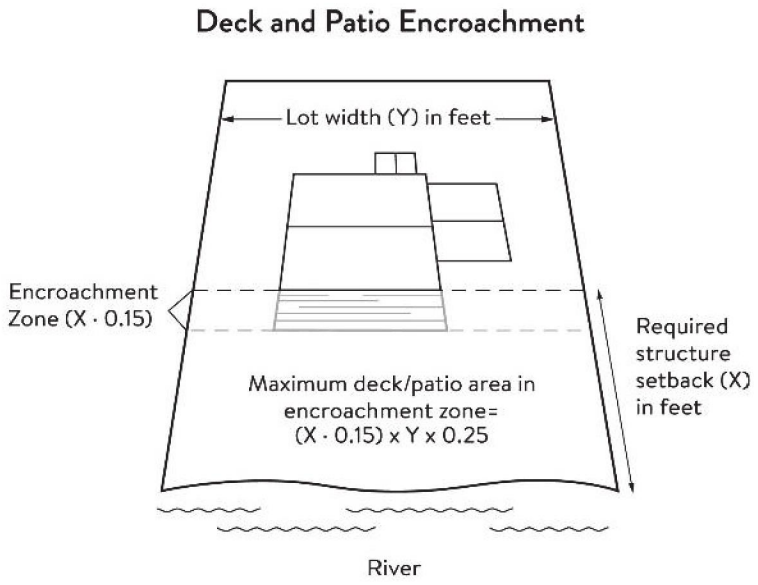
(D) The deck or patio does not extend into the bluff impact zone;

(E) The encroachment of the deck or patio into the required setback area does not exceed 15 percent of the required structure setback;

(F) The area of the deck or patio that extends into the required setback area occupies no more than 25 percent of the total area between the required setback and 15 percent using the below formula, as shown in Figure 7:

[required structure setback depth (feet) x 0.15 x lot width at setback (feet) x 0.25 = maximum total area]

Figure 7. Deck and Patio Encroachment




**(6) Off-premise and directional signs**

(A) Off-premise adverting signs must:

i. Meet required structure placement and height standards in Sections 3.1.3(f)(2) and (3).

ii. Not be readily visible

(B) Directional signs for patrons arriving at a business by watercraft must comply with the following standards:

i. They must be consistent with Minnesota Statutes, Section 86B.115.

ii. Only convey the location and name of the establishment and the general types of goods and services available, if located in a shore impact zone.

iii. Be no greater than ten feet in height and 32 square feet in surface area; and

iv. If illuminated, the lighting must be fully shielded and be directed downward to prevent illumination out across the river to the sky.

(C) Fences. Fences between principal structures and the river are allowed provided that fences are:

i. Not higher than six feet;

ii. Not located within the Bluff Impact Zone and the Shore Impact Zone;

iii. Not located in the regulatory floodplain.

**(7) Lighting**

(A) Lighting shall be fully shielded and directed away from the river.

(B) Uplighting is prohibited.

### (h) Performance Standards for Public Facilities

#### (1) Purpose

To establish design standards for public facilities that are consistent with best management practices and that minimize impacts to primary conservation areas, public river corridor views and other resources identified in the MRCCA plan.
Public facilities serve the public interest by providing public access to the Mississippi River corridor or require locations in or adjacent to the river corridor and therefore require some degree of flexibility.

#### (2) General Design Standards

All public facilities must be designed and constructed to:

(A) Minimize visibility of the facility from the river to the extent consistent with the purpose of the facility;

(B) Comply with the structure placement and height standards in the underlying zoning district, except as provided in Sections 3.1.3(f) and 3.1.3(l).

(C) Be consistent with the vegetation management standards in Section 3.1.3(i) and the land alteration and storm water management standards in Section 3.1.3(j), including use of practices identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004-0001, where applicable;

(D) Avoid primary conservation areas, unless no alternative exists. If no alternative exists, then disturbance to primary conservation areas must be avoided to the greatest extent practicable, and design and construction must minimize impacts; and

(E) Minimize disturbance of spawning and nesting times by scheduling construction at times when local fish, birds, and other wildlife are not spawning, nesting, or breeding.

#### (3) Right-of-way maintenance standards.

Right-of-way maintenance must comply with the following standards:

(A) Vegetation currently in a natural state must be maintained to the extent feasible;

(B) Where vegetation in a natural state has been removed, native plants must be planted and maintained on the right-of-way; and

(C) Chemical control of vegetation must be avoided when practicable, but when chemical control is necessary, chemicals used must be in accordance with the regulations and other requirements of all state and federal agencies with authority over the chemical's use.

**(4) Crossings of public water or public land.**

Crossings of public waters or land controlled by the commissioner are subject to approval by the commissioner according to Minnesota Statutes, Sections 84.415 and 103G.245.

**(5) Public utilities.**

Public utilities must comply with the following standards:

(A) High-voltage transmission lines, wind energy conversion systems greater than five megawatts, and pipelines are regulated according to Minnesota Statutes, chapter 216E, 216F, and 216G respectively; and

(B) If overhead placement is necessary, utility facility crossings must minimize visibility of the facility from the river be hidden from view and follow other existing right of ways as much as practicable.

(C) The appearance of structures must be as compatible as practicable with the surrounding area in a natural state with regard to height and width, materials used, and color.

(D) Wireless communication facilities, according to Section 3.1.3(e).

**(6) Public transportation facilities.**

Public transportation facilities shall comply with structure placement and height standards in Section 3.1.3(f). Where such facilities intersect or about two or more MRCCA districts, the least restrictive standards apply. Public transportation facilities must be designed and constructed to give priority to:

(A) Providing scenic overlooks for motorists, bicyclists, and pedestrians;

(B) Providing safe pedestrian crossings and facilities along the river corridor;

(C) Providing access to the riverfront in public ownership; and

(D) Allowing for use of the land between the river and the transportation facility.

**(7) Public recreational facilities.**

Public recreational facilities must comply with the following standards:

(A) Buildings and parking associated with public recreational facilities must comply with the structure placement and height standards, and use standard in Section 2 and Section 4, respectively;

(B) Roads and driveways associated with public recreational facilities must not be placed in the bluff or shore impact zones unless no other placement alternative exists. If no alternative exists, then design and construction must minimize impacts to shoreline vegetation, erodible soils and slopes, and other sensitive resources.

(C) Trails, access paths, and viewing areas associated with public recreational facilities and providing access to or views of the Mississippi River are allowed within the bluff and shore impact zones if design, construction, and maintenance methods are consistent with the best management practice guidelines in Trail Planning, Design, and Development Guidelines.

i. Hard-surface trails are not allowed on the face of bluffs with a slope exceeding 30 percent. Natural surface trails are allowed, provided they do not exceed eight feet in width.

ii. Trails, paths, and viewing areas must be designed and constructed to minimize:

a. Visibility from the river;

b. Visual impacts on public river corridor views; and

c. Disturbance to and fragmentation of primary conservation areas.

(D) Public water access facilities must comply with the following requirements:

i. Watercraft access ramps must comply with Minnesota Rules, Parts6115.0210 and 6280.0250; and

ii. Facilities must be designed and constructed consistent with the standards in Design Handbook for Recreational Boating and Fishing Facilities.

(E) Public signs and kiosks for interpretive or directional purposes are allowed in the bluff or shore impact zones, provided they are placed and constructed to minimize disturbance to these areas and avoid visual impacts on public river corridor views. If illuminated, the lighting must be fully shielded and be directed downward.

(F) Public stairways lifts, and landings must be designed as provided in Section 3.1.3(g)(4)(C).

### (i) Vegetation Management

#### (1) Purpose

To establish standards that sustain and enhance the biological and ecological functions of vegetation; preserve the natural character and topography of the

MRCCA; and maintain stability of bluffs and steep slopes and ensure stability of other erosion-prone areas.

**(2) Applicability**

The vegetation management regulations in this Section supersede yard maintenance and yard cover ordinances elsewhere in city code for the following locations within the MRCCA Overlay:

(A) Shore impact zones

(B) Areas within 50 feet of a wetland or natural drainage way;

(C) Bluff impact zones;

(D) Areas of native plant communities; and

(E) Significant existing vegetative stands identified in the MRCCA plan.

**(3) Activities allowed without a vegetation permit.**

(A) Maintenance of existing lawns, landscaping and gardens;

(B) Removal of vegetation in emergency situations as determined by the City of Brooklyn Center;

(C) Right-of-way maintenance for public facilities meeting the standards Section 3.1.3(h)(3);

(D) Agricultural and forestry activities meeting the standards of Sections 3.1.3(e)(2)(A) and 3.1.3(e)(2)(C);

(E) Selective vegetation removal, provided that vegetative cover remains consistent with the management purpose of the MRCCA District, including:

i. Vegetation that is diseased or hazardous, and/or dead or dying trees that do not provide bird or wildlife habitat;.

ii. To prevent the spread of diseases or insect pests;

iii. Individual trees less than 4 inches (dbh) in circumference and shrubs; and

iv. For removal of invasive non-native species.

**(4) Activities allowed with a vegetation permit.**

(A) Only the following intensive vegetation clearing activities are allowed with a vegetation permit:

i. Clearing of vegetation that is dead, diseased, dying, or hazardous;

ii. Clearing to prevent the spread of diseases or insect pests;

iii. Clearing to remove invasive non-native species.

iv. Clearing to prepare for restoration and erosion control management activities consistent with a plan approved by the City.

v. The minimum necessary for development that is allowed with a building permit or as an exemption under Section 2.

vi. Removal of healthy trees over 4 inches (dbh).

**(B) General Performance Standards.**

The following standards must be met, in addition to a restoration plan under Section 3.1.3(i) in order to approve a vegetation permit:

i. Development is sited to minimize removal of or disturbance to natural vegetation;

ii. Soil, slope stability, and hydrologic conditions are suitable for the proposed work as determined by a professional engineer;

iii. Clearing is the minimum necessary and designed to blend with the natural terrain and minimize visual impacts to public river corridor views and does not remove any healthy trees 4 inches or more (dbh) in circumference;

iv. Vegetation removal activities are conducted so as to expose the smallest practical area of soil to erosion for the least possible time and to avoid bird migration and nesting seasons; and

v. Any other condition determined necessary to achieve the purpose of this section.

**(5) Prohibited activities.**

All other intensive vegetation clearing is prohibited.

**(6) Vegetation restoration plan.**

(A) Development of a vegetation restoration plan and reestablishment of natural vegetation is required:

i. For any vegetation removed with a permit under Section 3.1.3(i)(4);

ii. Upon failure to comply with any provisions in this section; or

iii. As part of the planning process for subdivisions as provided in Section 3.1.3(k)

**(B) Restoration Plan Performance Standards.**

i. The vegetation restoration plan must satisfy the application submittal requirements in this Chapter and:

ii. Vegetation must be restored in one or more of the following restoration priority areas:

a. Stabilization of erodible soils Areas with soils showing signs of erosion, especially on or near the top and bottom of steep slopes and bluffs;

b. Restoration or enhancement of shoreline vegetation Shoreline areas within 25 feet of the water with no natural vegetation, degraded vegetation, or planted with turf grass;

c. Revegetation of bluffs or steep slopes visible from the river Areas on steep slopes and bluffs that are visible from the river with no natural vegetation, degraded vegetation, or planted with turf grass; or

d. Other approved priority opportunity area, including priorities identified in the MRCCA plan, if none of the above exist.

iii. Include vegetation that provides suitable habitat and effective soil stability, runoff retention, and infiltration capability. Vegetation species, composition, density, and diversity must be guided by nearby patches of native plant communities and by Native Vegetation Establishment and Enhancement Guidelines;

iv. Any highly erodible soils disturbed during removal and/or restoration must be stabilized with deep-rooted vegetation with a high stem density;

v. Vegetation removed must be restored with native vegetation to the greatest extent practicable. The area (square feet) of the restored vegetation should be similar to that removed to the greatest extent practicable.

vi. For restoration of removed native plant communities, restored vegetation must also provide biological and ecological function equivalent to the removed native plant communities. The area (square feet) of the restored vegetation should be equivalent to that removed;

vii. Be prepared by a qualified individual; and

viii. Include a maintenance plan that includes management provisions for controlling invasive species and replacement of plant loss for three years.

(C) A certificate of compliance will be issued after the vegetation restoration plan requirements have been satisfied.

### (j) Land Alteration Standards and Stormwater Management

#### (1) Purpose

To establish standards that protect water quality from pollutant loadings of sediment, nutrients, bacteria, and other contaminants; and maintain stability of bluffs, shorelines, and other areas prone to erosion.

#### (2) Land Alteration Permit

(A) Within the bluff impact zone, land alteration is prohibited, except for the following which are allowed by permit.

i. Erosion control consistent with Section 3.1.3(j)(6);

ii. The minimum necessary for development that is allowed as an exception under Section 3.1.3(l); and

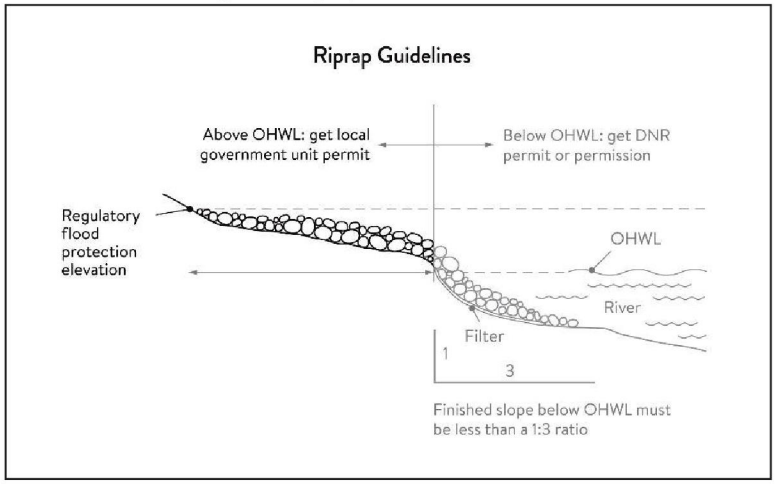
iii. Repair and maintenance of existing buildings facilities.

(B) Within the water quality impact zone, land alteration that involves more than five cubic yards of material or affects an area greater than 500 square feet requires a permit.

#### (3) Rock riprap, retaining walls, and other erosion control structures

(A) Construction, repair, or replacement of rock riprap, retaining walls, and other erosion control structures located at or below the OHWL must comply with Minnesota Rules, Parts 6115.0215, subpart 4, and 6115.0216, subpart 2. Work must not proceed until approved by the commissioner. See Figure 8.

Figure 8. Riprap Guidelines




(B) Construction or replacement of rock riprap, retaining walls, and other erosion control structures within the bluff impact zone and the water quality impact zone are allowed with a permit consistent with provisions of Section 3.1.3((j)(6) provided that:

i. If the project includes work at or below the OHWL, the commissioner has already approved or permitted the project.

ii. The structures are used only to correct an established erosion problem as determined by the City.

iii. The size and extent of the structures are the minimum necessary to correct the erosion problem and are not larger than the following, unless a professional engineer determines that a larger structure is needed to correct the erosion problem:

a. Retaining walls must not exceed five feet in height and must be placed a minimum horizontal distance of ten feet apart; and

b. Riprap must not exceed the height of the regulatory flood protection elevation.

(C) Repair of existing rock riprap, retaining walls, and other erosion control structures above the OHWL does not require a permit provided it does not involve any land alteration under Section 3.1.3(j)(2).

### (4) Stormwater Management

(A) Impervious surfaces of lots must not exceed 25 percent of the lot area

(B) In the bluff impact zone, storm water management facilities are prohibited, except by permit if:

i. There are no alternatives for storm water treatment outside the bluff impact zone on the subject site;

ii. The site generating runoff is designed so that the amount of runoff reaching the bluff impact zone is reduced to the greatest extent practicable;

iii. The construction and operation of the facility does not affect slope stability on the subject property or adjacent properties; and

iv. Mitigation based on the best available engineering and geological practices is required and applied to eliminate or minimize the risk of slope failure.

(C) In the water quality impact zone, development that creates new impervious surface, as allowed by exemption in 3.1.3(l), or fully reconstructs existing impervious surface of more than 10,000 square feet requires a storm water permit or approved storm water plan. Multipurpose trails and sidewalks are exempt if there is down gradient vegetation or a filter strip that is at least five feet wide.

(D) In all other areas, storm water runoff must be directed away from the bluff impact zones or unstable areas.

**(5) Development on steep slopes.**

Construction of structures, impervious surfaces, land alteration, vegetation removal, or other construction activities are allowed on steep slopes if:

(A) The development can be accomplished without increasing erosion or storm water runoff;

(B) The soil types and geology are suitable for the proposed development; and

(C) Vegetation is managed according to the requirements of Section 3.1.3(i).

**(6) Conditions of land alteration permit approval.**

(A) Temporary and permanent erosion and sediment control measures retain sediment onsite consistent with best management practices in the Minnesota Stormwater Manual;

(B) Natural site topography, soil, and vegetation conditions are used to control runoff and reduce erosion and sedimentation;

(C) Construction activity is phased when possible;

(D) All erosion and sediment controls are installed before starting any land disturbance activity;

(E) Erosion and sediment controls are maintained to ensure effective operation;

(F) The proposed work is consistent with the vegetation standards in Section 3.1.3(i); and

(G) Best management practices for protecting and enhancing ecological and water resources identified in Best Practices for Meeting DNR General Public Waters Work Permit GP 2004- 0001.

**(7) Compliance with other plans and programs. All development must:**

(A) Be consistent with Minnesota Statues, chapter 103B, and local water management plans completed under chapter 8410;

(B) Meet or exceed the wetland protection standards under Minnesota Rules, chapter 8420; and

(C) Meet or exceed the floodplain management standards under Minnesota Rules, Parts 6120.5000 – 6120.6200

**(k) Subdivision and Land Development Standards**

**(1) Purpose**

(A) To protect and enhance the natural and scenic values of the MRCCA during development or redevelopment of the remaining large sites

(B) To establish standards for protecting and restoring biological and ecological functions of primary conservation areas on large sites; and

(C) To encourage restoration of natural vegetation during development or redevelopment of large sites where restoration opportunities have been identified in MRCCA Plans.

**(2) Applicability.**

(A) The design standards in this section apply to subdivisions, planned unit developments and master- planned development and redevelopment of land involving five or more acres for contiguous parcels that abut the Mississippi River and ten or more acres for all other parcels, including smaller individual sites within the following developments that are part of a common plan of development that may be constructed at different times:

i. Subdivisions;

ii. Planned unit developments; and

iii. Master-planned development and redevelopment of land.

(B) The following activities are exempt from the requirements of this section:

i. Minor subdivisions consisting of three or fewer lots;

ii. Minor boundary line corrections;

iii. Resolutions of encroachments;

iv. Additions to existing lots of record;

v. Placement of essential services; and

**(3) Application materials.**

Project information listed in Section 3.1.3(c)(6)(E) must be submitted for all proposed developments.

**(4) Design standards.**

(A) Primary conservation areas, where they exist, must be set aside and designated as protected open space in quantities meeting the following as a percentage of total parcel area:

i. CA-RN District: 20%;

ii. **CA-SR District: 10% if the parcel includes native plant communities or provides feasible connections to a regional park or trail system, otherwise no requirement.**

(B) If the primary conservation areas exceed the amounts specified in Section 3.1.3(k)(4), then protection of native plant communities and natural vegetation in riparian areas shall be prioritized.

(C) If primary conservation areas exist but do not have natural vegetation (identified as restoration priorities in the MRCCA Plan), then a vegetation assessment must be completed to evaluate the unvegetated primary conservation areas and determine whether vegetation restoration is needed. If restoration is needed, vegetation must be restored according to Section 3.1.3(i)(6)(B).

(D) If primary conservation areas do not exist on the parcel and portions of the parcel have been identified in the MRCCA plan as a restoration area, vegetation must be restored in the identified areas according to Section 3.1.3(i)(6)(B) and the area must be set aside and designated as protected open space.

(E) Storm water treatment areas or other green infrastructure may be used to meet the protected open space requirements if the vegetation provides biological and ecological functions.

(F) Land dedicated for public river access, parks, or other open space or public facilities may be counted toward the protected open space requirement.

(G) Protected open space areas must connect open space, natural areas, and recreational areas, where present on adjacent parcels, as much as possible to form an interconnected network.

**(5) Permanent protection of designated open space.**

(A) Designated open space areas must be protected through one or more of the following methods:

i. Public acquisition by a government entity for conservation purposes;

ii. A permanent conservation easement, as provided in Minnesota Statutes, Chapter 84C;

iii. A deed restriction; and

iv. Other arrangements that achieve an equivalent degree of protection.

(B) Permanent protection methods must ensure the long-term management of vegetation to meet its biological and ecological functions, prohibit structures, and prohibit land alteration, except as needed to provide public recreational facilities and access to the river.

**(l) Exemptions**

**(1) Purpose**

To provide exemptions to structure placement, height and other standards for specific river or water access dependent facilities as provided in Minnesota Statutes 116G.15.

**(2) Applicability**

(A) Uses and activities not specifically exempted must comply with this section. Uses and activities exempted under shore impact zone and bluff impact zone must comply with the vegetation management and land alteration standards in Sections 3.1.3(i) and 3.1.3(j).

(B) Uses and activities in Section 3.1.3(l)(3) are categorized as:

i. Exempt – E. This means that the use or activity is allowed;

ii. Exempt if no alternative - (E). This means that the use or activity is allowed only if no alternatives exist; and

iii. Not Exempt - N. This means that a use or activity is not exempt and must meet the standards of this Unified Development Ordinance.

**(3) Use and activity exemption classification**

| A. General Uses and Activities | | | | | |
|---|---|---|---|---|---|
| Use or Activity | Setbacks | Height Limits | SIZ | BIZ | Applicable Standards with which the use or activity must comply |
| Industrial and utility structures requiring greater height for operational reasons (such as elevators, refineries and railroad signaling towers) | N | E | N | N | Structure design and placement must minimize interference with public river corridor views. |
| Barns, silos, and farm structures | N | E | N | N | |
| Bridges and bridge approach roadways | E | E | E | (E) | Section 3.1.3(h) |
| Wireless communication towers | E | | N | N | Section 3.1.3(e)(2)(F) |
| Chimneys, church spires, flag poles, public monuments, and mechanical stacks and similar mechanical equipment | N | E | N | N | |
| Historic properties and contributing properties in historic districts | E | E | E | E | Exemptions do not apply to additions or site alterations to historic buildings or structures |

## B. Public Utilities

| Use or Activity | Setbacks | Height Limits | SIZ | BIZ | Applicable Standards with which the use or activity must comply |
|---|---|---|---|---|---|
| Electrical power facilities | E | E | E | (E) | Section 3.1.3(h) |
| Essential services (other than storm water facilities) | E | E | E | (E) | Section 3.1.3(h) |
| Storm water facilities | E | N | | (E) | Section 3.1.3(j) |
| Wastewater treatment | E | N | E | (E) | Section 3.1.3(h) |
| Public transportation facilities | E | N | (E) | (E) | Section 3.1.3(h) |

## C. River Dependent Uses

| Use or Activity | Setbacks | Height Limits | SIZ | BIZ | Applicable Standards with which the use or activity must comply |
|---|---|---|---|---|---|
| Shoreline facilities | E | N[1] | E | (E) | Section 3.1.3(e)(2)(E). Exemptions do not apply to buildings, structures, and parking areas that are not part of a shoreline facility |
| Private roads and conveyance structures serving river-dependent uses | E | N[1] | E | (E) | Section 3.1.3(e)(2)(E) |

*[1] River-dependent commercial, industrial and utility structures are exempt from height limits only if greater height is required for operational reasons.*

## D. Public Recreational Facilities

| Use or Activity | Setbacks | Height Limits | SIZ | BIZ | Applicable Standards with which the use or activity must comply |
|---|---|---|---|---|---|
| Accessory structures, such as monuments, flagpoles, light standards, and similar park features | E | E | (E) | (E) | Section 3.1.3(h); within BIZ, only on slopes averaging less than 30%. Exemptions do not apply to principal structures. |
| Picnic shelters and other open-sided structures | E | N | (E) | N | Section 3.1.3(h) |
| Private roads and conveyance structures serving river-dependent uses | E | N[1] | E | (E) | Section 3.1.3(e)(2)(E) |
| Parking lots | (E) | N | (E) | (E) | Only within 20 feet of toe of bluff; not on face of bluff; and must not affect stability of bluff |
| Roads and driveways | (E) | N | | | Section 3.1.3(h) |

| | | | | | |
|---|---|---|---|---|---|
| Natural-surfaced trails, access paths, and viewing areas | E | N | E | E | Section 3.1.3(h) |
| Hard-surfaced trails and viewing platforms | E | N | E | (E) | Section 3.1.3(h); within BIZ, only on slopes averaging less than 30% |
| Water access ramps | E | N | E | (E) | Section 3.1.3(h) |
| Public signs and kiosks for interpretive or directional purposes | E | N | E | (E) | Section 3.1.3(h) |

## E. Private Residential and Commercial Water Access and Use Facilities

| Use or Activity | Setbacks | Height Limits | SIZ | BIZ | Applicable Standards with which the use or activity must comply |
|---|---|---|---|---|---|
| Private roads serving 3 or more lots | (E) | N | N | (E) | Section 3.1.3(f); in BIZ, only on slopes averaging less than 30%. Exemption does not apply to private roads serving fewer 3 lots or to private driveways and parking areas |
| Access paths | E | N | E | E | Section 3.1.3(f) |
| Water access ramps | E | N | E | N | Section 3.1.3(f) |
| Stairways, lifts, and landings | E | N | E | N | Section 3.1.3(f) |
| Water-oriented accessory structures | E | N | E | N | Section 3.1.3(f) |
| Patios and decks | E | N | N | N | Section 3.1.3(f)(5) |
| Directional signs for watercraft (private) | E | N | E | N | Section 3.1.3(f); exemption does not apply to off-premise advertising signs |
| Temporary storage of docks, boats, and other equipment during the winter months | E | N | E | N | |
| Erosion control structures, such as rock riprap and retaining walls | E | N | E | (E) | Sections 3.1.3(j)(2)(E) and 3.1.3(j)(2)(F) |
| Flood control structures | E | N | E | (E) | Section 3.1.3(j) |

# Section 4: Use Regulations

## 4.1 Explanation of table of permitted uses.

### 4.1.1 Use Table Explanation

Table 4.2 below lists the principal uses within all zoning districts except for the overlay zoning districts. The uses permitted in overlay districts shall be guided by the underlying base zoning district, but are controlled by applicable overlay district requirements.

### 4.1.2 Organization of table

Table 4.2.1 organizes uses by use category, and use type.

(a) **Use categories.**

The use categories provide a systematic basis for assigning present and future land uses into broad general classifications (e.g., household living, commercial, etc.). .

(b) **Use types.**

The use categories are organized into specific use types based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions.. The use types identify the specific uses that are considered to fall within characteristics identified in the broader use category. For example, one-family or two-family are some of the specific use types that fall under the "household living" use category.

(c) **Symbols in table.**

The symbols used in Table 4.2.1 are defined as follows:

(1) **Permitted uses (P).**

A "P" in a cell indicates that a use type is allowed by-right in the respective zoning district subject to compliance with the use-specific standards set forth in the final "use-specific standards" column of Table 4.2. Permitted uses are subject to all other applicable standards of this UDO.

(2) **Accessory uses (A).**

An "A" in a cell indicates that a use type is allowed as an accessory use in the respective zoning district. An accessory use is one that is incidental and subordinate to the principal use on the same lot. If a use is permitted in this Section as a principal use, it is also allowed as an accessory use.

(3) **Conditional uses (C).**

A "C" in a cell indicates that a use type is allowed as a conditional use in the respective zoning district subject to compliance with the use-specific standards set forth in the final "use-specific standards" column of Table 4.2 and approval of

a conditional use permit in accordance with the UDO. Conditional uses are subject to all other applicable standards of this UDO.

(4) **Interim Uses (I).**

An "I" in a cell indicates that a use type is allowed as an interim use in the respective zoning district subject to compliance with the use-specific standards set forth in the final "use-specific standards" column of Table 4.2 and approval of an Interim Use Permit in accordance with the UDO. Interim uses are subject to all other applicable standards of this UDO.

(5) **Prohibited uses ( ).**

A blank cell indicates that the listed use type is prohibited in the respective zoning district.

(d) **Use-specific standards.**

The "use-specific standards" column of Table 4.2 cross-reference standards that are specific to an individual use type and are applicable to that use in all districts unless otherwise stated in the use-specific standards.

(e) **Unlisted uses.**

If a use is not listed in Table 4.2, it shall be considered a Prohibited use, unless the City Council determines that the use is substantially similar in nature and potential impacts on the surrounding community as an existing use in the use table.

(f) **Uses allowed by statute or rule.**

If a provision in Minnesota statute or rule expressly requires a city to allow a certain use or facility as a permitted or conditional use within a residential district, the use or facility shall be allowed as provided in law up to the number of people indicated in the particular statute or rule, unless a larger number is allowed in the district under this UDO.

## 4.2 Allowed Use Table

### 4.2.1 Table 4.2.1 Allowed Use Table

| P = Permitted use, C = Conditional use, I = Interim Use, A = Accessory Use | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| **RESIDENTIAL USES** | | | | | | | | | | | | | | |
| **Household Living** | | | | | | | | | | | | | | |

| P = Permitted use, C = Conditional use, I = Interim Use, A = Accessory Use | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Dwelling, one family | P | P | | | | | | | | | | | | |
| Dwelling, two family | | P | | | | | | | | | | | | |
| Townhouse or Condominium Single Family Attached Dwelling Units | | | P | | | P | P | | P | | | | | |
| Dwelling, live/work | | | | | | C | C | P | P | A | C | | | 4.3.1(a) |
| Dwelling, multiple family | | | | P | P | P | P | P | P | | | | | |
| Accessory dwelling unit (ADU) | A | A | | | | | | | | | | | | 4.3.3 |
| Accessory structures including but not limited to, detached garages, carports, gazebos, sheds, patios, decks, porches, amateur radio equipment, etc. for use by the occupants of the principal use | A | A | A | A | A | A | A | A | A | | | | | 4.4 |
| Playground equipment and recreation installations, including private swimming pools and sport courts | A | A | A | A | A | A | A | A | A | | | | | |
| Licensed Day Care Facilities (12 and fewer children) or Licensed Group Family Day Care Facilities (14 and fewer children) | P | P | P | | | P | P | | P | | | | | 4.3.2(c) |
| Licensed Day Care Facilities (13 and greater children) or Licensed Group Family Day | | | | C | C | C | C | C | C | | | | | 4.3.2(c) |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Care Facilities (15 and greater children) | | | | | | | | | | | | | | |
| The renting of not more than two sleeping rooms in the principal building by a resident family, provided adequate off-street parking is provided | **A** | **A** | | | | | | | | | | | | |
| **Group Living** | | | | | | | | | | | | | | |
| Nursing homes | | | **C** | **C** | **C** | **C** | **C** | | | | | | | |
| Assisted living homes | | | **C** | **C** | **C** | **C** | **C** | **C** | **C** | | | | | |
| Licensed Residential Facility (6 and fewer person) | P | P | **P** | | | **P** | **P** | | **P** | | | | | |
| Licensed Residential Facility (7 and greater person) | | | | **C** | **C** | **C** | **C** | **C** | **C** | | | | | |
| **PUBLIC, INSTITUTIONAL, AND CIVIC USES** | | | | | | | | | | | | | | |
| **Community and Cultural Facilities** | | | | | | | | | | | | | | |
| Community Center | | | | | | **C** | **C** | **C** | **C** | **C** | | | | |
| Funeral and crematory services | | | | | | | | **C** | | **C** | | | | |
| Cemetery | **C** | | | | | | | | | | | | | |
| Public Building | **C** | **C** | **C** | **C** | **C** | **C** | **C** | **C** | **C** | **C** | **C** | **C** | **C** | |
| | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Libraries and art galleries | | | | | | P | P | P | P | P | P | | | |
| Places for religious assembly | C | C | | | | | | | | C | | C | | |
| **Educational Facilities** | | | | | | | | | | | | | | |
| Nonresidential educational uses including Area Learning Centers (ALC), post secondary schools, business schools, trade schools and the like, but excluding public and private elementary and secondary schools | | | | | | | C | C | P | P | P | | | |
| Public and private elementary and secondary schools offering a regular course of study | C | C | | | C | | | | | | | | | |
| Accessory educational structures serving public and private elementary and secondary schools offering a regular course of study | I | I | | | I | | | | | | | | | 4.4.8 |
| **Healthcare Facilities** | | | | | | | | | | | | | | |
| Medical and health uses | | | | | | P | P | P | P | P | P | | | |
| Care Centers and Convalescent Homes | | | C | C | C | C | C | C | C | | | | | |
| **COMMERCIAL USES** | | | | | | | | | | | | | | |
| **Agricultural and Animal Uses** | | | | | | | | | | | | | | |
| Animal hospitals | | | | | | P | P | P | P | P | P | | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Commercial Animal Establishment | | | | | | | | | | P | P | P | | |
| Urban Agriculture, Commercial | | | | | | C | C | C | C | C | C | C | C | 4.3.2(b) |
| Urban Agriculture, non-commercial | A | A | A | A | A | A | A | A | A | | | | P | |
| **Eating, Drinking, and Lodging** | | | | | | | | | | | | | | |
| Brewpub, micro-winery, and micro-distillery | | | | | | P | P | P | P | P | P | P | | |
| Clubrooms and lodges | | | | | | C | C | C | C | C | | | | |
| Drive-thru eating establishments | | | | | | | C | C | | C | | | | 4.4.2(c) |
| Eating establishments | | | | | | P | P | P | P | P | P | A | | |
| Banquet, Event, or Conference Facility | | | | | | | C | C | C | C | A | | | |
| Hospitality lodging and associated uses | | | | | | | C | C | C | C | C | | | |
| **Entertainment and Recreation** | | | | | | | | | | | | | | |
| Adult uses | | | | | | | | | | | C | | | 4.3.3(e) |
| Amusement center (indoor) | | | | | | A | A | C | P | C | | | | 4.3.2(e) |
| Amusement center (outdoor) | | | | | | | C | C | C | C | | | | 4.3.2(e) |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Golf courses and essential accessory buildings | | | | | | | | | | | | | P | |
| Indoor Recreation Fitness center or club, Indoor | | | | | | C | P | P | P | P | C | | | 4.3.2(d) |
| Public recreational uses of a noncommercial nature | P | P | P | P | P | P | P | P | P | P | P | P | P | |
| **Commercial Uses** | | | | | | | | | | | | | | |
| Business to business services | | | | | | P | P | P | P | P | P | P | | |
| Financial institutions including, but not limited to, full-service banks and savings and loan associations | | | | | | | P | P | P | P | | | | |
| Stand alone ATMs | | | | | | | A | A | A | A | | | | |
| Pawn shops | | | | | | | | | | C | | | | |
| Sauna and massage establishments | | | | | | | A | A | A | A | | | | |
| Office | | | | | | P | P | P | P | P | P | P | | |
| Personal services | | | | A | A | P | P | P | P | P | | | | |
| Contractor's Offices | | | | | | | | | | C | P | P | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| A real estate office for the purpose of leasing or selling apartment units in the development in which it is located | | | | A | A | A | A | A | A | | | | | |
| Allowable Home occupations (not to include Conditional Home Occupations) | A | A | A | A | A | A | A | A | A | | | | | 4.4.2 (d) |
| Conditional Home Occupations | C | C | C | C | C | C | C | C | C | | | | | 4.4.2 (d) |
| Other uses similar in nature, as determined by the City Council | C | C | C | C | C | P | P | P | P | P | P | P | P | 4.3.2 |
| **Retail Sales** | | | | | | | | | | | | | | |
| General Indoor Retail Sales, Large | | | | | | | | P | P | P | A | | | |
| General Indoor Retail Sales, Small | | | | | | P | P | P | P | P | A | A | | 4.4.5 |
| Groceries and related products | | | | | | P | P | P | P | P | P | | | |
| Retail sale of building and construction materials | | | | | | | | | | P | A | A | | |
| Retail sale of tires, batteries, and automobile accessories and marine craft accessories | | | | | | | | A | | P | A | A | | 4.3.3(a) |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Outdoor display and sale of merchandise | | | | | | | A | A | A | A | A | | | 4.4.5 |
| The compounding, dispensing, or sale (at retail) of medical drugs, devices, or supplies. | | | | | | A | A | A | A | A | A | | | |
| **Vehicles and Equipment** | | | | | | | | | | | | | | |
| Automobile and truck rental and leasing | | | | | | | C | | | C | | P | | 4.3.3(a) |
| Automobile and truck repair and service station | | | | | | | C | C | C | C | P | P | | 4.3.3(a) |
| Car wash | | | | | | | A | A | | P | A | A | | |
| Gasoline stations | | | | | | | C | | | C | C | | | |
| Private fuel pumps | | | | | | | | | | A | A | A | | |
| Public transportation terminals | | | | | | | P | P | P | C | P | | | |
| Sale of motor vehicles and marine craft at retail | | | | | | | | | | C | | | | 4.3.3(a) |
| Off-site dealership vehicle storage | | | | | | | | | | I | I | I | | 4.4.8 |
| Bus garage facilities | | | | | | | | | | | | C | | 4.3.3(a) |
| Truck terminals or exchange stations | | | | | | | | | | | | C | | |
| Bicycle Sharing Station | | | | | | A | A | A | A | A | A | | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Electrical Vehicle Charging Station | | | A | A | A | A | A | A | A | A | A | A | A | |
| **Energy Collection and Communications Technologies** | | | | | | | | | | | | | | |
| Solar Collector, Building-Mounted | A | A | A | A | A | A | A | A | A | A | A | A | A | |
| Solar Collector, Ground-Mounted | CA | CA | CA | CA | CA | CA | CA | CA | CA | CA | CA | CA | C | |
| Wind Energy System, Small Ground-Mounted | CA | CA | CA | CA | CA | CA | CA | CA | CA | CA | CA | CA | CA | |
| Wind Energy System, Small Roof-Mounted | A | A | A | A | A | A | A | A | A | A | A | A | A | |
| Telecommunications facilities and towers | C | C | C | C | C | C | C | C | C | C | C | C | C | 4.3.3(b) |
| Satellite receive-only antenna | A | A | A | A | A | A | A | A | A | A | A | A | A | 4.3.3(d) |
| **Manufacturing and Processing** | | | | | | | | | | | | | | |
| Manufacturing, assembly, and processing of products | | | | | | | | | | | P | P | | |
| Wholesale trade | | | | | | | | | | | P | P | | |
| Artisan Production and Sales | | | | | | P | P | P | P | P | P | P | | |
| Foundries | | | | | | | | | | | C | C | | |
| Laundering, dry cleaning, and dyeing | | | | | | | | | | P | P | P | | |
| Textile mills and mill products | | | | | | | | | | | C | P | | |

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|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Residential | | | | | Commercial/ Mixed Use | | | | Nonresidential | | | | Use-Specific Standards |
| | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O | |
| Outdoor storage and display of materials, equipment, and products accessory and necessary to a principal or permitted use | | | | | | | | | | | CA | A | | 4.4.6 |
| **Storage, Distribution, or Warehouse** | | | | | | | | | | | | | | |
| Storage of raw materials, work in process and inventory, provided such storage is completely within enclosed buildings | | | | | | | | | | | A | A | | |
| Warehousing and Distribution | | | | | | | | | | | P | P | | |
| Outdoor storage and display of materials, equipment, and products accessory and necessary to a principal and permitted use. | | | | | | | | | | | CA | A | | |
| **Planned Unit Development** | | | | | | | | | | | | | | |
| Planned Unit Development | C | C | C | C | C | C | C | C | C | C | C | C | C | 8.3 |

## 4.3 Use Specific Standards

### 4.3.1 Residential Uses

(a) **Dwelling, Live/Work**

(1) **Not more than three people may be engaged in the making, servicing, or selling of goods, or provision of personal and professional services, within a single unit.**

(2) **At least one person must reside in the dwelling unit where the non-residential activity or activities occur.**

(3) **The residential unit shall be located above or behind the non-residential areas of the structure.**

(4) **In cases where the commercial activity is occurring within the dwelling unit, it shall not exceed 50 percent of the gross floor area of the dwelling unit.**

(5) **Signs are limited to not more than two non-illuminated wall or window signs not exceeding 10 square feet in total area.**

(6) **The work activities shall not adversely impact the public health, safety, or welfare of adjacent properties.**

### 4.3.2 Commercial Uses

(a) **Animal hospitals/veterinary clinics. Except in the TOD, MX-N1, and MX-N2, outdoor facilities, such as dog kennels or runs, are allowed with a conditional use permit and are subject to the following standards:**

(1) **Such use shall be incidental to the animal hospital use and used for the short-term boarding of animals; and**

(2) **The applicant has demonstrated that the outdoor facility will not negatively impact neighboring properties through the use of screening or buffering.**

(b) **Urban Agriculture**

(1) **Structures**

(A) **Cold frames are limited to a maximum height of two feet and shall be located at least 10 feet from any lot line where the abutting lot has an occupied residential use.**

(B) **Greenhouses and hoop houses are limited to a maximum height of 10 feet, shall be located at least 10 feet from any lot line where the abutting lot has an occupied residential use, and may not cover more than 25 percent of the rear lot.**

(C) **Agricultural stands may be located on commercially zoned properties provided they are limited to a maximum height of 10 feet, and are located at least 10 feet from any property lot line, and outside of the clear view triangle.**

(2) **Operational Standards**

(A) **Retail sales of produce grown on the property are permitted provided that all sales tax and other applicable licenses and permits for sale are obtained and maintained by the seller**

(B) **The site drainage and maintenance shall prevent water, fertilizer, or any other product from draining onto adjacent property that is not part of the contiguous land in common use.**

(C) **Refuse and compost area shall be enclosed at ground level to be rodent-resistant and compost piles shall not exceed four feet in height.**

(D) **No outdoor work activity that involves power equipment or generators may occur between sunset and sunrise.**

(3) **Soil Quality**

(A) **Food products may be grown in soil native to the site if the applicant can provide documentation to the City that a composite sample of the native soil, consisting of no less than five individual samples, has been tested for lead content and the lead content in the soil is determined to be at or below the residential screening levels for soil exposure, direct-contact for lead established by the State of Minnesota; and either:**

i. **Proof through maps, deeds, prior permits, or a combination of those sources that the site has only been used for residential or agricultural activities in the past; or**

ii. **A composite sample of the native soil, consisting of no less than five individual samples, has been tested for metal content using the US EPA 3050B, 3051, or a comparable method and that the metals arsenic, cadmium, mercury, molybdenum, nickel, selenium, and zinc are determined to be at or below the residential screening levels for soil exposure, direct-contact established by the State of Minnesota. If metal content in soil exceed established thresholds, food products may only be grown in raised beds filled with clean top soils.**

a. As an alternative to meeting the standards in Subsection (A) above, food products may be grown in clean soil brought to the site without completing a soil test of the soil native to the site.

(c) **Group Day Care Facilities**

(1) **In the case of group day care facilities, outside recreational facilities are required, and shall be appropriately separated from the parking and driving areas by a wood fence not less than four feet in height; or a Council approved substitute; shall be located contiguous to the day care facility; shall not be located in any yard abutting a major thoroughfare unless buffered by a device set forth in Section 5.6; shall not have an impervious surface for more than half the playground area; and shall be a minimum of 50 square feet square feet per child in attendance unless otherwise noted in Minnesota Rules, part 9502.0425, subpart 2.**

(2) **Group day care facilities shall be permitted where noted in Section 4.2, provided that such developments, in each specific case, are demonstrated to be:**

(A) **Compatible with existing adjacent land uses as well as with those uses permitted in the zoning district generally.**

(B) **Complementary to existing adjacent land uses as well as to those uses permitted in the zoning district generally.**

(C) **Of comparable intensity to permitted zoning district land uses with respect to activity levels.**

(D) **Planned and designed to assure that generated traffic will be within the capacity of available public facilities and will not have an adverse impact upon those facilities, the immediate neighborhood, or the community.**

(E) **Traffic generated by other uses on the site will not pose a danger to those served by the day care use.**

(3) **Group day care facilities shall be allowed as an accessory use to places of religious assembly and educational uses, as noted in Section 4.2, and shall demonstrate provisions as outlined in 4.3.2(c)**

(4) **When required, group day care facilities shall be licensed by the Minnesota Department of Human Services pursuant to a valid license application. A copy of said license and application shall be submitted annually to the City.**

(d) **Fitness center or club, Indoor**

(1) **Fitness centers or club uses shall not abut an R1, R2, or R3 district, including abutment at a street line.**

(e) **Amusement Centers (indoor and outdoor)**

(1) **Amusement centers shall not abut an R1, R2, or R3 district, including abutment at a street line.**

### 4.3.3 Non-Residential Uses

(a) **Vehicles and Equipment Uses**

The following requirements are intended to minimize adverse functional and aesthetic conditions of abutting and adjacent land uses, which may result from operation of automobile service stations adjacent and that the use:

(1) No vehicle and equipment use constructed after the adoption of this ordinance, shall be constructed on a parcel which abuts an R1, R2, or R3 district including abutment at a street line. For the purpose of this paragraph, a parcel which adjoins another parcel at one corner will be deemed to abut.

(2) No driveway curb opening will be permitted within 40 feet of the intersection of the property lines of a corner use site. The maximum right angle width of any driveway shall be thirty feet at the property line. No driveway shall be located within 50 feet of another driveway at the property line on the same use site, or be flared outward on the boulevard in such a way as to encroach upon the boulevard or abutting property.

(3) Provisions shall be made for an unobstructed area free of all vehicles, pumps, signs, displays or other materials, which tend to obscure vision where the use site is at the intersection of two streets. The unobstructed area shall be bounded by the street right-of-way lines abutting the lot and a straight line joining points on such street lines, 50 feet from the point of intersection of the street right-of-way lines. This is not intended to preclude one identification sign which is 10 feet or more above the street grade level and is supported by a pedestal 12 inches or less in diameter.

(4) Facilities for chassis and gear lubrication must be enclosed within the principal building. Vehicle washes may be located in a separate building on the site provided that the materials and exterior treatment for the wash building shall be of the same level of quality as for the principal building. No merchandise may be displayed for sale outside the principal building except within four feet of the building or in pump islands unless enclosed by a structure compatible with the building. No discarded trash, parts, or tires may be stored outside the building unless enclosed by a durable structure compatible with the design of the principal building.

(5) Any required buffer or screening area shall be so constructed and maintained as to keep the beam of automobile headlights from shining into abutting properties.

(6) The following activities are prohibited:

(A) Except for the vehicles owned by the business owner and employees used for personal use as well as motor vehicles for sale on permitted sales lots, all motor vehicles must be stored in an enclosed structure. Motor vehicles which are being serviced may be parked in an appropriate outdoor location on the premises for a maximum period of 48 hours at any one time.

(B) Body work and painting may take place as accessory to the primary service use.

(7) The lawful use of land for any vehicle or equipment use existing at the time of the adoption of this Unified Development Ordinance may be continued even if such use does not conform to the above Section 4.3.3(a) shall apply to all exterior additions, alterations, accessory buildings and signs erected or constructed after the effective date of this Unified Development Ordinance.

(8) The owner and lessee shall be jointly and severally responsible for seeing that the above regulations are observed.

(b) Telecommunications Towers and Telecommunications Facilities

The following regulations are intended to protect residential areas from potential adverse impacts of telecommunications towers and facilities, to promote and encourage shared use or co-location of telecommunications towers and antenna support structures, and to avoid potential damage to property caused by these facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed when no longer used:

(1) **No telecommunications tower or facility shall be built, erected or constructed upon any parcel of land in the zoning districts where conditionally permitted unless a building permit has been issued by the City's Building Official.**

(2) **Telecommunications towers are exempt from the maximum height restrictions of the districts where they are located; however, these towers shall not be permitted to exceed the height authorized in the airport safety zones established for the Crystal Airport.**

(3) **Co-location requirements**

All telecommunications towers erected, constructed or located within the city shall comply with the following requirements.

**(A) A proposal for a new telecommunications 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.

(B) 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. Telecommunications towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(4) Telecommunications towers are prohibited on property in which the use includes the storage, distribution, or sale of volatile, flammable, explosive or hazardous materials such as LP gas, propane, gasoline, natural gas, and corrosive or dangerous chemicals.

(5) All telecommunications towers shall be setback on all sides a distance equal to the setback requirement for accessory structures in the applicable zoning district. Said towers may not be located in a front yard or side corner yard between a principal structure and a public street.

(6) All telecommunications towers must be designed and certified by an Engineer to be structurally sound and, at minimum, in conformance with the Minnesota State Building Code and all other construction standards set forth by City regulation and Federal and State law.

(7) Telecommunications towers shall be separated from residentially zoned lands by a minimum distance of twice the height of the proposed tower.

(8) Telecommunications towers shall not be artificially lighted except when required by the Federal Aviation Administration (FAA).

(9) Telecommunications towers not requiring FAA painting or marking shall have an exterior finish of stealth design.

(10) Any fences constructed around or upon parcels containing telecommunications towers, antenna support structures or telecommunications facilities shall be fully opaque, but otherwise constructed in accordance with screening requirements in the applicable zoning district unless more stringent fencing requirements are required by FCC regulations. No barbed or razor wire fencing is allowed.

(11) Landscaping on parcels containing telecommunications towers, antenna support structures or telecommunications facilities must be in accordance with the landscape point system. Utility buildings and structures accessory to a tower must be designed to blend in with the surrounding environment and to meet setback requirements as provided for in the applicable zoning district. Ground mounted equipment must be screened from view by suitable vegetation or opaque fence. No barbed or razor wire fencing is allowed.

(12) No telecommunications tower, or portion thereof, shall be used for the posting of signs or advertising other than required signs. Said signs must be in compliance with the Section 6 of this Unified Development Ordinance.

(13) All telecommunications towers, telecommunications facilities and antenna support structures shall at all times be kept and maintained in good condition, order and repair so that the same shall not be a danger to the public.

(14) Any telecommunications facilities which are not attached to a telecommunications tower may be permitted as an accessory use to any antenna support structure at least 75 ft. tall regardless of the zoning restrictions applicable to the zoning district where the structure is located. The telecommunications facility and antenna support structure must comply with the provisions of the Minnesota State Building Code. No such structure or facility shall be built, constructed or erected without first having obtained a building permit from the building official.

(15) Telecommunications facilities are permitted upon City-owned water towers provided an approved lease agreement with the City has been executed and a building permit from the Building Official has been obtained.

(16) Any telecommunications tower, telecommunications facility and/or antenna support structure that is not used for telecommunications purposes for one year shall be deemed abandoned and the property owner shall remove the tower facility and/or antenna in the same manner. If the owner fails to remove the tower facility and/or antenna after one year, it may be removed by the City with costs of such removal assessed against the property owner of the site.

(c) Amateur Radio Towers.

(1) Amateur radio towers shall only be allowed in the rear yard and made of unpainted metal or other visually unobtrusive material.

(d) Satellite Receive-Only Antennas (SROA):

(1) Satellite receive-only antennas (SROA), as defined in Section 9.2, shall be a permitted accessory use in all districts, subject to the standards of this Section.

(2) SROAs located in residential districts shall not exceed one (1) meter in diameter. SROAs located in all other districts shall not exceed two (2) meters in diameter.

(3) Advertising shall not be placed on SROAs.

(4) Freestanding SROAs:

(A) In all districts, no SROA shall be placed within any required front yard.

(B) In all districts, SROAs shall be subject to the same setback requirements in rear or side yards which would apply to other accessory structures within the district.

(C) No antenna shall be placed less than twenty feet (20') from a public street right of way. All such antennas shall be securely anchored.

### (5) Roof-mounted SROAS

**(A) Every SROA mounted on a roof shall be subject to the normal height limits of the zoning district in which it is located and shall comply with any applicable requirements of the UDO and the Building Code.**

## (e) Adult Uses

### (1) Findings and Purpose

Studies conducted by the Minnesota Attorney General, the American Planning Association, and cities such as Saint Paul, Minnesota; Indianapolis, Indiana; Hopkins, Minnesota; Ramsey, Minnesota; Minnetonka, Minnesota; Rochester, Minnesota; Phoenix, Arizona; Los Angeles, California; and Seattle, Washington have studied the impacts that adult establishments (referred to in the UDO as adult uses) have in those communities. These studies have concluded that sexually oriented uses have adverse impacts on the surrounding neighborhoods. These impacts include increased crime rates, lower property values, increased transiency, neighborhood blight, and potential health risks. Based on these studies and findings, the City Council concludes:

(A) **Adult uses and adult establishments are understood as defined in Section 9.2 of the UDO.**

(B) **Adult uses have adverse secondary impacts of the types set forth above.**

(C) **The adverse impacts caused by adult uses tend to diminish if such establishments are governed by geographic, licensing, and health requirements.**

(D) **It is not the intent of the City Council to prohibit adult uses from having a reasonable opportunity to locate in the city.**

(E) **Minnesota Statutes, Section 462.357, allows the City to adopt regulations to promote the public health, safety, and general welfare.**

(F) **The public health, safety, and general welfare will be promoted by the City adopting regulations governing sexually oriented uses.**

(G) Adult establishments 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.

(H) Adult establishments can be used as fronts for prostitution and other criminal activity. The experience of other cities indicates that the proper management and operation of such businesses can, however, minimize this risk, provided the owners and operators of such facilities are regulated by licensing or other procedures.

(I) The risk of criminal activity and/or public health problems can be minimized through a regulatory scheme as prescribed herein.

(2) Definitions. The following words, terms and phrases, when used in this Section, shall have the meanings ascribed to them in Section 9.2, except where the context clearly indicates a different meaning.

(3) **Adult establishments may be located only as allowed by Section 4.2 of this code, and with the following restrictions:**

(A) **No adult use may be allowed within 500 ft of the R1, R2, or R3 district, as measured from the two nearest property lines.**

(B) **Only one adult use may be allowed per block face.**

(4) **Minnesota Statutes Section 617.242 shall not apply in the City.**

## 4.4 Accessory Uses and Structures

This subsection authorizes accessory uses and structures that are incidental and customarily subordinate to principal uses. The intent of this subsection is to allow accessory uses while not creating adverse impacts on surrounding uses.

### 4.4.1 General Provisions

(a) **Accessory structures shall only be constructed concurrent with or after the construction of the principal building on the same site. No more than two accessory structures may be constructed on the same lot.**

(b) **Uses and structures that are accessory to a conditional principal use shall be permitted in accordance with this subsection, without requiring a conditional use permit amendment, unless specifically required as a condition of the conditional use permit approval.**

(c) **Accessory structures are not permitted within the front and corner required setback.**

(d) **The total ground coverage of all accessory structures shall not exceed the ground coverage of the principal building.**

(e) **No accessory structure, unless it is connected to the principal building, shall be erected, altered, or moved, within six feet of the principal building or another accessory structure, as measured from exterior wall to exterior wall.**

(f) **Unless otherwise indicated in this UDO, accessory structures must be set back at least five (5) feet from an interior side or rear lot line.**

(g) **Any accessory structure that may be used for the parking or storage of motor vehicles shall:**

(1) **Have a floor constructed of poured concrete in accordance with standards approved by the city engineer and building official;**

(2) **Include a driveway connecting it to a public right of way; and**

(3) **Not be constructed of the following materials: fabric, canvas, concrete block, cloth, plastic sheets, tarps, unfinished or corrugated metal, exposed plywood, particle board, or similar materials.**

(4) **Shall be architecturally compatible with the principle structure**

(h) **Small accessory structures such as arbors, retaining walls, benches, doghouses, garden decorations, trellises and firewood cribs are exempt from the provisions of this UDO, but cannot be located in public rights-of-way.**

### 4.4.2 Accessory uses

(a) **Assembly or gathering space.**

Adequate parking shall be provided for both the assembly or gathering space and the principal use on the property.

(b) **Accessibility ramps.**

Accessibility ramps are subject to the following standards:

(1) **To reduce visibility, accessibility ramps shall, to the extent practicable, be located to the side or rear of the building;**

(2) **If an accessibility ramp is located in the front of the building, the ramp run shall not exceed four feet in width leading to an entrance landing and handrails not more than three feet in height and not more than 50 percent opaque; and the entrance landing shall not exceed 36 square feet in area.**

(c) **Drive-through facilities.**

Drive-through facilities are subject to the following standards:

(1) **The establishment is served by arterial, collector, or municipal state aid streets and such pedestrian facilities as are necessary to accommodate the traffic generated by the facility. The city council may require the applicant to provide a traffic study prepared by a professional engineer for the proposed use, and may base its findings of fact on said study or other information related to potential traffic impacts on the street system and adjacent land uses;**

(2) **Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 100 feet of any residential dwelling unit, and shall not be audible at levels greater than those established as provided in the Brooklyn Center city code,**

(3) **To the maximum extent feasible, all drive-through elements including, but not limited to, menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the most visually inconspicuous area of the property that does not cause unnecessary negative impacts to residential properties, and shall not cross, interfere with, or impede any public right-of way; and**

(4) **A opaque fence or vegetative screen of six feet in height shall be installed and maintained along any property line abutting a property used for residential purposes. Such screen shall also lessen the negative impact of vehicle headlights on adjacent properties.**

(d) **Home businesses**

(1) **The purpose of this standard is to accommodate residents who desire to start home businesses while ensuring that said businesses:**

**(A) Are compatible with residential activity and do not adversely impact the character of the surrounding residential area;**

**(B) Are secondary and incidental to the residential use of the dwelling unit;**

**(C) Do not adversely affect the health, safety or welfare of other persons residing in the area.**

(2) **Review and approval. A conditional use permit is required for all Conditional Home Occupations.**

(3) **Types of Home Occupations**

**(A) *Allowable Home Occupations.***

Allowable Home Occupations are a type of home businesses that City Council has found do not adversely affect the health, safety or welfare of other persons residing in the area. External impacts generated from this use are typically insignificant.

**(B) *Conditional Home Occupations.***

Conditional Home Occupations are a type of home business that the City Council has found to have external impacts on the surrounding residential area which are potentially significant. All Conditional Home Occupations shall require approval of a conditional use permit pursuant to Section 7.7 of this Unified Development Ordinance.

(4) **Standards**

**(A) Health, safety, and welfare.**

Home businesses must not endanger the health, safety or welfare of the community by reason of blight, noise, smoke, dust, odor, glare, vibration, fire hazard, increased vehicular traffic including deliveries, unsanitary or unsightly conditions, or similar conditions that have a reasonable likelihood of disturbing the peace, comfort, repose or quiet enjoyment of the indoor and outdoor spaces of neighboring residential properties. Activity that produces light, glare, noise, odor, dust, smoke or vibration perceptible beyond the boundaries of the premises and distinguishable from neighboring residential uses is prohibited. Toxic, explosive, flammable, radioactive or other restricted materials used, sold, or stored on the site in connection with the home enterprise must conform to the Unified Development Ordinance and Uniform Fire Code for residential uses.

**(B) Use of accessory buildings or garages.**

i. **Allowable Home Occupations. No Allowable Home Occupation shall involve the use of any accessory structure.**

ii. **Conditional Home Occupations. No Conditional Home Occupation shall use more than one accessory structure and such structure must be a permitted use under Section 4.2 of the Unified Development Ordinance.**

**(C) Equipment**

i. **Allowable Home Occupations. No Allowable Home Occupation shall involve the use of equipment other than that customarily found in a residential dwelling unit.**

ii. **Conditional Home Occupations. A Conditional Home Occupation may use equipment not customarily found in a residential dwelling unit.**

**(D) Primary residence requirement**

The owner of the home business must use the dwelling unit as the person's primary residence.

**(E) Employees**

i. **Allowable Home Occupations. No Allowable Home Occupation shall involve the employment on the premises of persons who are not members of the family residing on the lot.**

ii. **Conditional Home Occupations. No Conditional Home Occupation shall employ or contract with more than one person who is not an occupant of the dwelling, at any one time.**

**(F) Client visits**

i. **Allowable Home Occupations. The total number of clients upon the premises must not exceed six clients per day and must not exceed two clients at any one time.**

ii. **Conditional Home Occupations. The Planning Commission may determine the number and intensity of client visits per day and time.**

**(G) Traffic congestion and parking**

i. **Allowable Home Occupations. No Allowable Home Occupation shall cause traffic congestion on the lot containing the Allowable Home Occupation or on the streets adjacent thereto.**

ii. **Conditional Home Occupations. No Conditional Home Occupation shall cause traffic congestion on the streets adjacent thereto. A Conditional Home Occupation may store and/or park off-street up to one commercial vehicle that is accessory and necessary to the approved on-site business, provided that the commercial vehicle is licensed and operable and is designated within vehicles classes 1-4 only, as defined by the Minnesota Department of Transportation in their official vehicle classification scheme.**

**No automobile parking related to the Conditional Home Occupation shall be permitted on the street provided, however, that upon a finding that the conditional home occupation is not feasible without on street parking, the City Council may authorize parking on the street based upon a consideration of Section 5.5 and of the following:**

a. The amount of the applicant's street frontage.
b. The rights of adjacent residents to park on the street.
c. Preservation of the residential character of the neighborhood.

**(H) Exterior displays, window displays, and signage**

Exterior display, exterior signage, advertisement, or other exterior indication of a home business is prohibited. No items may be displayed in windows which are for sale on the premises.

**(I) Deliveries and pick-ups**

Home businesses may receive up to four deliveries and pick-ups per day for the receiving or shipping of goods produced or used on site. This allotment is in

addition to the number of allowed client visits determined by this Unified Development Ordinance and/or the City Council.

**(J) Authorization and Enforcement**

The Zoning Administrator shall make the final determination as to whether a proposed home business constitutes and Allowable Home Occupation or a Conditional Home Occupation.

(e) **Swimming pools and hot tubs.**

Swimming pools and hot tubs are subject to the following standards:

(1) **A permit is required before work can commence on any in-ground swimming pool.**

(2) **No portion of a swimming pool or hot tub may be located less than 5 feet from any side or rear property line, nor in front of any principal structure. In-ground pools shall not be located within six feet (6') of any principal structure or frost footing.**

(3) **No filtering unit, pump, heating unit, or other noise making equipment shall be located less than ten feet from any lot line, or 20 feet from any principal structure on an adjacent property.**

(4) **Underground utility lines may not be located under or within 15 feet of any pool, unless otherwise approved by the zoning administrator. Utility connections for pool lighting and accessories are permitted if installed in accordance with the City electrical code.**

(5) **All outdoor pool lighting shall be directed toward the pool, and away from adjacent properties.**

(6) **Pool water shall be maintained in a suitable manner to avoid health hazards of any type.**

(7) **A fence or similar screening at least four (4) feet in height but no greater than six (6) feet in height shall surround any outdoor swimming pools. Any fence opening must be equipped with a self-closing gate. Fences and gates shall not have an opening greater than five inches at the bottom. For an aboveground pool, where the combined heights of the pool and deck/railing is four (4) feet or greater above grade, and access points to the pool are provided with self-closing, lockable, self-latching gates, a separate fence shall not be required. Latches must be located on the inside (pool side) of the fence.**

(8) **A ground-level deck at least 2 feet in width, measured from the pool water's edge, shall completely surround any below ground pool.**

(9) **All swimming pools must be installed in conformance with all other applicable city and state laws.**

### 4.4.3 Accessory dwelling units.

In the case of Accessory Dwelling Units (ADUs), defined in Section 9.2, the following standards apply:

(a) **The following types of ADUs are permitted as accessory uses in the R1 and R2 zoning districts, or any zoning district in which residential uses are permitted and contains an existing single-family home. Accessory dwelling units are not permitted in conjunction with two-family dwellings, townhomes/rowhomes or multiple-family dwellings.**

(1) **Internal – ADUs located within the structure of the main house, for example, a converted basement or attic.**

(2) **Attached – ADUs which share one or more walls with the primary house, commonly constructed as additions or conversions of attached garages**

(3) **Detached – Freestanding ADUs typically built as backyard structures, detached garage conversions, same-level additions to a detached garage, or above-garage units. This type of ADU is the most visible.**

(b) **All ADUs shall be designed to be compatible with neighborhood character.**

(c) **Primary owner occupancy is required on the lot, in either the principal structure or the ADU. Properties on which an ADU is located shall have filed a deed restriction requiring the property to remain homesteaded.**

(d) **The accessory dwelling unit shall not be sold independently of the principal residential dwelling and may not be a separate tax parcel.**

(e) **ADUs shall not be required to obtain a rental license from the City.**

(f) **No more than one ADU shall be permitted per parcel.**

(g) **ADUs must comply with the building code for the zoning district of which it is built within.**

(h) **The combined lot coverage of the principal structure and all accessory structures shall not exceed 45 percent of the parcel.**

(i) **The square footage of an ADU shall not be less than 200 square feet.**

(j) **A detached ADU may be erected within the accessory structure setbacks for the zoning district which the principal structure occupies. A detached ADU shall be considered an Accessory structure and shall comply with all the necessary requirements of that type.**

(k) **A detached ADU shall not exceed 16 feet in height.**

(l) **One off-street parking space is required per each ADU on the same lot.**

### 4.4.4 Fuel pumps, private use.

Private fuel pumps for use by commercial businesses are allowed, provided that the current business, or its successor business, only uses the fuel pumps for its vehicles and equipment and does not allow them to be used by the general public. For the purposes of this UDO, private fuel pumps do not include those fuel pumps in use by a vehicle fuel sales business as allowed in

### 4.4.5 Outdoor sales.

Outdoor sales are subject to the following standards:

(a) **Retail establishments.**

(1) **The service, sale, display or rental area is hard surfaced and clearly designated on the site as being limited to the specific, approved area; and**

(2) **The sales area does not exceed 40% of the gross floor area of the principal use excluding basement storage areas, 20% of the area of the property, or 6,000 square feet, whichever is less;**

(b) **Vehicle fuel sales.**

The sales and display of merchandise is limited to the walkway adjacent to the building, but a minimum of five feet of the walkway shall be clear of merchandise to allow for safe pedestrian movement.

(c) **Tent or sidewalk sales on private property. Tent or sidewalk sales on private property are subject to the following standards:**

(1) **A minimum of five feet of the sidewalk shall be clear of merchandise to allow for safe pedestrian movement;**

(2) **The property shall contain an area that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, or traffic movements. Tents shall not be located in the public right-of-way;**

(3) **The applicant shall demonstrate that adequate off-street parking is provided for patrons. If applicable, consideration shall be given to the parking needs of other occupants on the same property; and**

(4) **Hours of operation for the sale are limited to between 8 a.m. and 9 p.m. and merchandise shall only be displayed during that time; and**

(5) **Tents shall be maintained in good repair. Any tent that is potentially dangerous or in disrepair shall be removed or repaired.**

### 4.4.6 Outdoor Storage and Display of Materials in I and MX-B districts

Outdoor storage and display of materials, equipment, and products accessory and necessary to a principal or permitted use may be permitted in the MX-B and I Districts with as an accessory use, subject to the following standards:

(a) **The items for outdoor storage or sales display area shall be effectively screened from view from adjacent public rights-of-way or adjacent properties by a solid wall or fence constructed of wood, masonry or other durable materials, or a combination of fence, berm and landscaping.**

(b) **In properties zoned MX-B only, allowable areas used for outdoor storage or display areas on an individual site shall not exceed fifteen percent (15%) of the gross floor area of the principal building.**

(c) **Outdoor storage or sales display area shall not be located within any front yard abutting a public right-of-way, or within the buffer setback areas as defined under Section 5.1.**

(d) **Height of stacked or stored materials or equipment in the storage area shall not exceed the height of the screening.**

(e) **Outdoor areas shall not be used for the storage of junk or inoperable vehicles, trash, debris, or any nuisance items as defined in the UDO.**

(f) **The storage of hazardous liquids, solids, gases or wastes is strictly prohibited, unless authorized by the city's Building Official and Fire Chief.**

(g) **The outdoor storage area shall not be within or interfere with designated parking or drive aisles areas required by UDO Section 5.5.**

(h) **Any new or additional lighting installed to illuminate the storage area must be down-cast, cut-off style light fixtures, with a photometric plan.**

(i) **The storage area shall consist of a concrete or bituminous surface. The property owner or responsible tenant shall keep the outdoor storage areas free of refuse, trash, debris, weeds, and waste fill.**

(j) **Any storage or placement of materials outside of the designated area shall be a violation of the City Code.**

(k) **A detailed site plan specifically delineating the storage area, including the landscaping and lighting plans for said areas, must be submitted to the City Planner for approval.**

4.4.7 **Outdoor storage or display of materials in all other districts.**

(a) **In all districts with the exception of I and MX-B, all storage, display, service, repair or processing shall be conducted wholly within an enclosed building. For lots abutting an R1-R3 district, such structures shall not be conducted closer than twenty (20) feet from the adjacent residential property.**

(b) **Semi-trailers and other portable storage containers may not be used for the out of door storage of materials, equipment, merchandise, inventory, etc.**

(c) **The outdoor display of merchandise, without a temporary use permit, during business hours on a private pedestrian walkway located contiguous to the primary building is not prohibited by this Section.**

(d) **This requirement shall not apply to the out of door storage and display of new and used motor vehicles or marine craft for which a conditional use permit has been issued. Neither shall the requirement apply to the out of door retail sale of food at drive-thru eating establishments for which a conditional use permit has been issued. Temporary outdoor storage and display of merchandise may be allowed by Temporary Use Permit pursuant to Section 4.4.9 of this UDO.**

(1) **Solar energy systems.**

Solar energy systems are subject to the following standards:

**(A) Visibility.**

**i. Building-mounted solar energy systems shall be designed to be flush-mounted with the roof when facing a public rights-of-ways other than an alley.**

**ii. Building-integrated photovoltaic systems shall be allowed regardless of visibility, provided the building component in which the system is integrated meets all required setback or other standards for the district in which the building is located.**

a. Feeder lines. Any electric lines accompanying a solar energy system, other than those attached to on- site structures by leads, shall be buried within the subject parcel; and

b. Abandonment. A solar energy system that is allowed to remain in a nonfunctional or inoperative state for a period of twelve consecutive months, and which is not brought in operation within the time specified by the city, shall be presumed abandoned and shall constitute a public nuisance that may be removed by the City and the costs thereof certified as a special assessment against the owner of the property on which the abandoned solar energy system was located.

(2) **Ground mounted.**

Ground-mounted solar energy systems are not allowed in the MX-N1, MX-N2, MX-C, or TOD Districts. When permitted, ground-mounted solar energy systems shall be considered Accessory Structures and all requirements apply

(3) **Tennis and other recreational courts.**

Noncommercial outdoor tennis and other recreational courts are subject to the following standards:

(A) Court fencing shall comply with the requirements as provided in Section 5.6.9.

(B) Court lighting shall not exceed a height of 20 feet, measured from the court surface. The lighting shall be directed downward and shall only illuminate the court.

### 4.4.8 Interim Uses

(a) **The following use types may be allowed as interim uses in the, subject to the standards set in paragraph (b):**

(1) **Accessory educational structures serving public and private elementary and secondary schools offering a regular course of study**

(2) **Off-Site dealership vehicle storage**

(b) **Procedures and conditions for the approval of interim use permits:**

(1) **Interim use permits will be issued in accordance with the procedures and subject to the conditions stated in Section 7.8.**

(2) **At the time of granting such a permit the City Council shall specify a date or event that can be identified with certainty by which the interim use must be terminated and the structure(s) shall be removed from the site. In any event, however, such interim use shall not continue beyond any date when the Council, or any other governmental body having the power of eminent domain, adopts a resolution approving acquisition of the property by eminent domain, or the zoning of the property is changed to any classification under which the interim use is no longer permitted.**

(3) **The City Council may impose any conditions on such interim use which it deems necessary or expedient to protect the public health, safety or welfare or to assure that permission for the interim use will not impose additional costs on the public if it is necessary or expedient to take the property in the future. No such permit shall be issued unless the applicant first agrees in writing to the imposition of any such conditions.**

(4) **In addition to any other conditions which may be imposed by the City Council, the following restrictions shall apply:**

(A) Applicable lot standards and sign regulations shall be observed.

(B) A landscape and parking plan for the property shall be submitted and approved by the Council.

(C) Unless approved by the Council pursuant to this Section and Section 7.8, no new buildings may be erected on the property and no existing buildings maybe expanded while the interim use continues.

(D) Temporary classrooms may be used for classrooms only and may not be used for storage or converted to another use.

(E) **The total square footage of both temporary and permanent classrooms on any one site shall not exceed allowable district or use standards as outlined in Sections 2.3 and 4.3, unless otherwise allowed by the Zoning Administrator as outlined in Section 7.8.**

### 4.4.9 Temporary Uses and Structures

(a) **Purpose.**

This subsection allows for the establishment of certain temporary uses and structures of limited duration, provided that such uses or structures do not negatively affect adjacent properties, and provided that such uses or activities are discontinued upon the expiration of a set time period. Temporary uses and structures shall not involve the construction or alteration of any permanent building or structure. The regulations of this subsection are not applicable to special events that are otherwise subject to leases, permits, or other forms of permission that are duly established between the special event organization and the city.

(b) **General provisions.**

The table at Section 4.4.9(f) lists the temporary uses allowed within all zoning districts except for the overlay zoning districts. The uses permitted in overlay districts shall be guided by the underlying base zoning district, but are controlled by applicable overlay district requirements.

(c) **Unlisted uses.**

If an application is submitted for a use that is not listed in the table at Section 4.4.9(f) the Zoning Administrator is authorized to classify the new or unlisted use, with consultation from appropriate City departments, into an existing use type that most closely fits the new or unlisted use. If no similar use determination can be made, the Zoning Administrator shall refer the use to the Planning Commission, who may initiate an amendment to the text of this UDO to clarify where and how the use should be permitted.

(d) **Use-specific standards.**

The "use-specific standards" column of the table at Section 4.4.9(f) cross-reference standards that are specific to an individual use type and are applicable to that use in all districts unless otherwise stated in the use-specific standards.

(e) **Temporary Use permit application.**

Application for permission to engage in a temporary use shall be made to the City. The applicant shall set forth their name, address, the location of the temporary use, the duration of the temporary use, the hours of the temporary use, the nature of the proposed use and shall submit a map or diagram describing the layout of the temporary use. The Zoning Administrator may require further information as will enable them to determine whether the temporary use meets the standards of this ordinance. The Zoning Administrator may, subject to the appeal provisions of this UDO, refuse to issue a temporary use permit; provided, however, that the reasons for refusal shall be stated in writing to the applicant, and the applicant shall be notified of the appeal provision.

### (f) Permitted Temporary Uses Table

| Permitted Temporary Uses and Structures | | | | | | | |
|---|---|---|---|---|---|---|---|
| Use Category and Use Type | Construction Dumpster | Garage/ Yard Sale | Outdoor Dining* | Outdoor Sales* | Portable Storage Container | Mobile food units | Signs, Temporary |
| **R1** | P | P | | | | | P |
| **R2** | P | P | | | | | P |
| **R3** | P | P | | | | | P |
| **R4** | P | P | | | | | P |
| **R5** | P | P | | | | | P |
| **MX-N1** | P | | P | P | P | P | P |
| **MX-N2** | P | | P | P | P | P | P |
| **MX-C** | P | | P | P | P | P | P |
| **TOD** | P | | P | P | P | P | P |
| **C** | P | | P | P | P | P | P |
| **MX-B** | P | | P | P | P | P | P |
| **I** | P | | P | P | P | P | P |
| **O** | | | | | | | P |
| | | | | | | | |
| **Allowable Duration (per site)** | One year, or duration of construction whichever is less | Maximum of three consecutive days, four times per calendar year | 6 months per site per calendar year | 6 months per site per calendar year | 9 months per calendar year, taken consecutively or apart | N/A | See sign code |
| **Use Specific Standards in Section:** | 4.4.9(g)(1) | 4.4.9(g)(2) | 4.4.9(g)(3) | 4.4.9(g)(4), 4.4.5 | 4.4.9(d) | 4.4.9(g)(7) | See sign code |

*Outdoor seating for eating establishments or outdoor sales areas for retail establishments may be permitted as a permanent use with a conditional use permit.

### (g) Use-specific standards for temporary uses and structures.

#### (1) Construction dumpsters.

Construction dumpsters are subject to the following standards:

(A) On private property, the dumpster must be stored on an improved hard surface if located in front of the site, or it shall be located to the side or rear of the site, but away from principal buildings on adjacent properties, to the extent practical. The zoning administrator, upon written request, may grant extensions to the maximum duration permitted.

(B) For the purposes of construction operations, dumpster may be of both the soft-sided or hard-sided varieties.

(2) **Garage or yard sales.**

Garage or yard sales are subject to the following standards:

(A) Hours of operation for the garage or yard sale are limited to between 8:00 a.m. and 9:00 p.m.; and

(B) Garage or yard sale signs identifying the location and times of a sale may be placed on the property at which the sale is to be conducted or on the property of others with their consent. Such signs shall not exceed 4 square feet in area per side; shall not be placed on or attached to any public property or utility pole; shall not be placed within the clear view triangle as required in the UDO, Section 9.2; and must be removed within 24 hours of the time stated on such sign for the conclusion of the sale.

(3) **Outdoor seating for cafes or restaurants.**

Outdoor seating for cafes and restaurants is subject to the following standards:

(A) An outdoor dining area may be allowed accessory and incidental to a restaurant with indoor eating area on the same site provided that the outdoor eating area shall comply with the parking requirements in this UDO

(B) Outdoor dining areas shall be designated on a site plan submitted for the Temporary Use Permit application

(C) If no grade separation is provided between vehicular traffic and the outdoor dining area, permanent railings or fencing shall be provided around the dining area. If the outdoor dining area is adjacent to a sidewalk or other facility that is closed to vehicular traffic, no railing or fencing shall be required unless it is a required condition of the establishment's liquor license;

(D) Umbrellas, or other protective elements, that shelter diners from the elements shall be secured so as not to create a hazard;

(E) Enclosing an outdoor dining area either by a permanent roof or to expand the existing structure shall meet all the requirements of a building within the applicable zoning district; and

(F) Within the TOD and N-MX districts, outdoor dining may encroach into setback areas or the public right-of-way, provided that the sidewalk remains clear to a width of five feet.

(4) **Seasonal agricultural sales.**

Seasonal agricultural sales are subject to the following standards:

i. **The property contains an area that will support the proposed temporary sale of products without encroaching into or creating a negative impact on existing vegetated areas, open space, landscaping, or traffic movements;**

ii. **The applicant shall demonstrate that adequate off-street parking is provided for the duration of the sale. If applicable, consideration shall be given to the parking needs of other occupants on the same property; and**

iii. **The sale of goods shall not occur within the public right-of-way.**

iv. **Hours of operation. The hours of operation of the seasonal sale of agricultural products shall be between the hours of 8:00 a.m. and 9:00 p.m., or the same hours of operation as the principal use on the same lot, whichever is more restrictive.**

(5) **Portable storage containers.**

Portable storage containers are subject to the following standards:

**(A) On private property, the container shall be placed on a paved surface.**

**(B) Containers on properties used for residential only:**

i. **The container is associated with an open building permit that is making progress towards completion, or allowed in any other case for up to 30 days.**

ii. **Emergency situations (acts of god, fire, flood, tornado and high-speed winds, and other similar events) to provide temporary storage of articles, goods, or commodities.**

a. Storage containers are allowed on a residential property a total of 90 days, taken consecutively or apart, within one calendar year.

i. This limit may be extended with approval from the zoning administrator.

**(C) Containers on properties that are mixed-use, commercial, or non-residential**

i. **Storage containers do not require a permit if:**

a. The container is associated with an open building permit that is making process towards completion.

b. Emergency situations (acts of god, fire, flood, tornado and high-speed winds, and other similar events) to provide temporary storage of articles, goods, or commodities

**(D) Storage containers require a Temporary Use Permit if:**

i. **The storage container is intended for seasonal use**

ii. **The number of permits is limited to one permit per businesses, per calendar year, based on the year it was issued. There is no limit on the number of containers requested within one permit.**

iii. The permit and use of storage container(s) are limited to a total of 9 months, taken consecutively or apart within one (1) calendar year.

# Section 5: Development Standards and Incentives

## 5.1 Dimensional Standards Summary

| Dimensional Standards | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Lot Dimensions (Minimum, only for lots created after the effective date) | | | | | | | | | | | | |
| **Zoning Districts** | **R1** | **R2** | **R3** | **R4** | **R5** | **MX-N1** | **MX-N2** | **MX-C** | **TOD** | **C** | **MX-B** | **I** | **O** |
| Lot area (Sq. ft/unit). | 9,500 (Interior) 10,500 (Corner) | 7,600 (One-family Interior), 8,500 (one-family corner), 5,000 (two-family) | 4,000 | 2,200 | 1,400 | -- | -- | Minimum 2 Acres Contiguous Parcel For Residential Use | 2000 ft perimeter (max) | -- | -- | -- | -- |
| Density (Units/acre) | 3-5 | 3-10 | 5-15 | 10-25 | 20-31 | 15-31 | 15-31 | 10-60 | 31 – 130 | -- | -- | -- | -- |
| Maximum size of individual non-residential use | -- | -- | -- | -- | -- | 7,500 | 7,500 | -- | -- | -- | -- | -- | -- |
| Lot width (Interior) | 75 | 60 (one-family) 75 (two-family | 25 | 100 | 100 | -- | -- | 100 | -- | 100 | 100 | 100 | -- |
| Lot width (Corner) | 90 | 75 (one-family) 90 (two-family) | 25 | 100 | 100 | -- | -- | 100 | -- | 100 | 100 | 100 | -- |
| **Setbacks (Principal Structure)** | | | | | | | | | | | | | |
| Front build-to line | -- | -- | -- | -- | -- | 5-20 | 5-20 | -- | 0-10 | -- | -- | -- | -- |
| Front (Interior) | 35 | 35 | 35 | 35 | 35 | NA | NA | 10 | NA | 35 | 35 | 35 | -- |
| Secondary Front (Corner) | 15 | 15 | 15 | 35 | 35 | 5-20 | 5-20 | 10 | 0-10 | 35 | 35 | 35 | -- |
| Side (Interior) | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 | 10 - 50 | 10 | 10 | 10 | -- |
| Rear | 25 | 20 | 40 | 40 | 40 | 20 | 10 | 20 | 10 - 50 | 40 | 25 | 25 | -- |
| **Additional Standards** | | | | | | | | | | | | | |
| Impervious surface coverage (maximum) | -- | -- | -- | -- | 80% | 80% | 80% | 80% | 85% | 80% | -- | -- | -- |
| Primary structure height (maximum) | 25 | 25 | 35 | 40 | 48 | 48 | 48 | NA | NA | 40 | NA | 48 | -- |

| Dimensional Standards | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | Lot Dimensions (Minimum, only for lots created after the effective date) | | | | | | | | | | | | |
| Zoning Districts | R1 | R2 | R3 | R4 | R5 | MX-N1 | MX-N2 | MX-C | TOD | C | MX-B | I | O |
| Accessory structure height (maximum) | 16 | 16 | 16 | 16 | 16 | 20 | 20 | 20 | 20 | 16 | 16 | 16 | -- |
| Accessory structure setback, Interior side or rear (minimum) | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 | 5 |
| Accessory structure setback, corner side or front (minimum) | Not Allowed, unless less than required lot width, then 15 | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A |

## 5.2 General Site and Building Standards for All Districts Except R1 and R2

### 5.2.1 Building Form

(a) **Buildings shall be designed with a base, a middle, and a top, created by variations in detailing, color, and materials. A single-story building need not include a middle. The building form should consider the following characteristics:**

(1) **The base of the building should include elements that relate to the human scale, including doors and windows, texture, projections, awnings, and canopies.**

(2) **Articulated building tops may include varied rooflines, cornice detailing, dormers, gable ends, step backs of upper stories, and similar methods.**

(b) **Building design shall provide consistent architectural treatment on all building walls. All sides of a building must display compatible materials, although decorative elements and materials may be concentrated on street-facing facades.**

### 5.2.2 Façade Treatment

No blank walls are permitted to face public streets, walkways, or public open space. Street-facing facades shall incorporate offsets in the form of projections and/or recesses in the facade plane. Open porches and balconies are encouraged on building fronts. In addition, at least one of the following design features shall be applied on a street-facing facade to create visual interest:

(a) **Dormer windows or cupolas**

(b) **Recessed entrances**

(c) **Covered porches or stoops**

(d) **Bay windows with a minimum 12-inch projection from the facade plane**

(e) **Eaves with a minimum 6 inch projection from the facade plane**

(f) **Changes in materials, textures, or colors**

(g) **Facades greater than 40 feet in length shall be visually articulated into smaller intervals by one or a combination of the following techniques:**

(1) **Stepping back or extending forward a portion of the facade**

(2) **Variations in texture, materials, or details**

(3) **Division into storefronts**

(4) **Stepbacks of upper stories, or**

(5) **Placement of doors, windows, and balconies**

### 5.2.3 Building Materials

All exterior wall finishes on any building must be a combination of the following materials:

(a) **No less than 60% face brick; natural or cultured stone; pre-colored or factory stained or stained on site textured pre-cast concrete panels; textured concrete block; stucco; glass; fiberglass; or similar materials and no more than 40% pre-finished metal, cor-ten steel, copper, premium grade wood with mitered outside corners (e.g., cedar redwood, and fir), or fiber cement board**

(b) **Under no circumstances shall sheet metal aluminum, corrugated aluminum, asbestos, iron plain or painted, or plain concrete block be acceptable as an exterior wall material on buildings within the city.**

(c) **Other materials of equal quality to those listed, may be approved by the Community Development Department.**

### 5.2.4 Permitted Encroachments

The following shall not be considered as encroachments on setback requirements:

(a) Retaining walls, fences, and patios are allowed to encroach up to the property line provided they meet all other provisions of this UDO.

(b) Ramps and landings providing handicapped accessibility may encroach up to the property line, provided the requirements in Section 2.2 of this UDO are met.

(c) Recreation equipment, such as play structures, trampolines, seasonal swimming pools, basketball hoops, and other similar features may encroach into required interior side and rear setbacks provided they are no closer than three (3) feet from the property lines.

(d) Uncovered decks may encroach up to six (6) feet into the required front setback provided all of the following provisions are met:

(1) The entire encroachment, including stairs and attachments, must not exceed 100 square feet in area;

(2) The deck provides access to the main entrance of the principal dwelling;

(3) The floor of the deck is no higher than the threshold of the main entrance to the principal dwelling;

(4) The underside of the deck, when viewed from the street, must be screened with a decorative lattice, skirt board, landscaping or combination of materials to at least fifty percent (50%) opaque; and

(5) The deck must be constructed with quality materials, maintained in in good condition, and architecturally compatible with the principal dwelling to the greatest extent reasonably possible.

(e) Enclosed or Unenclosed Porches may encroach up to ten feet (10') into the front setback provided all of the following provisions are met:

(1) The porch must maintain a minimum 25-foot setback from the front lot line; 10-foot setback from a side interior lot line; and 20-foot setback from any street corner side-yard lot line, with steps and/or accessibility ramps excluded from this provision

(2) The width of the porch shall not exceed 20-feet along the front edge of the dwelling, and the maximum allowable size of the porch shall not exceed 200 sq. ft. in area;

(3) The floor of the porch is no higher than the threshold of the main entrance;

(4) Enclosed porches may be not be erected or converted to four-season, year-round use;

(5) In cases where a corner lot dwelling has separate front-door entrances on each street-side, only one porch encroachment is allowed;

(6) The underside of the porch must be screened with a decorative lattice, skirt board, landscaping or combination of materials, which is at least fifty percent (50%) opaque when viewed from the street; and

(7) All new elements and features of the porch, including the roof, must be architecturally compatible with the principal dwelling.

(f) **Other conditions not considered as encroachments on yard setback requirements include:**

| Additional Conditions for Permitted Encroachments | | | | |
|---|---|---|---|---|
| **Condition Description** | **Front Yard** | **Side Yard (Interior)** | **Rear Yard** | **Additional Standards** |
| Principal building cornices, canopies, eaves, gutters, and other similar features | 30 inches | 30 inches | 30 inches | Shall not be closer than 24 inches from any lot line |
| Principal building chimneys, flues, vents, and other similar features | 30 inches | 30 inches | 30 inches | Shall not be more than 5 feet in width<br>Shall not be closer than 24 inches from any lot line |
| Principal building window wells and bay windows | 36 inches | 36 inches | 36 inches | Shall not be closer than 24 inches from any lot line |
| Principal building entry vestibules | 6 feet | -- | -- | Shall not be more than 8 feet in width, or more than 1 story in height |
| Principal building balconies | 6 feet | -- | -- | Must be 7 feet or more above grade |
| Fire escapes attached to the principal building | 4.5 feet | 4.5 feet | -- | |
| Landings, steps, uncovered decks, and other similar features | 6 feet | 3 feet, but not be closer than 5 feet from the side lot line | 6 feet | Shall not be located more than 30 inches off the ground<br><br>A railing enclosure no more than three (3) feet in height may be placed around such landing or uncovered deck, unless prior approval for a greater height is granted by the Building Official |

(g) **Interior side yard setback requirements may be waived in Mixed-use, Commercial and Industrial districts where abutting property owners wish to abut along a common wall built along the property line.**

## 5.3 Operating and Maintenance Standards

### 5.3.1 Security Systems and Devices

(a) For the purpose of providing a reasonable amount of safety and general welfare for persons occupying multiple family dwellings, an approved security system shall be provided to control access at each multiple family building hereafter constructed. The security system shall consist of locked building entrances or foyer doors, and locked doors leading from hallways into individual dwelling units. Dead-latch type locks shall be provided with lever knobs (or door knobs) on the inside of building entrance doors and with key cylinders on the outside of building entrance doors. Building entrance door latches shall be of a type that are permanently locked from the outside and permanently unlocked from the inside.

(b) Every door that is designed to provide ingress or egress for a dwelling unit within a multiple family building shall be equipped with an approved lock that has a deadlocking bolt that cannot be retracted by end pressure; provided, however, that such doors shall be openable from the inside without the use of a key or any special knowledge or effort.

## 5.4 Exterior Lighting

### 5.4.1 Lighting standards

(a) Lighting shall be designed and arranged to restrict direct illumination and glare onto abutting parcels.

(b) Mitigative measures shall be employed to limit glare and spill light to protect neighboring parcels and to maintain traffic and pedestrian safety on public streets and sidewalks. Illumination cast from lighting of the subject parcel shall not exceed one (1) footcandle as measured from the centerline of a public street or residential property line. These measures shall include lenses, shields, louvers, prismatic control devices and limitations on the height and type of fixtures. (Amended, Bill 2009-1)

(c) Flickering or flashing lights shall not be permitted.

(d) Direct off-site views of the light source shall not be permitted except for globe and/or ornamental light fixtures. Globe and ornamental fixtures shall only be used if the developer can demonstrate that off-site impacts stemming from direct views of the bulb are mitigated by the fixture design and/or location.

(e) Lights under the canopy of a gasoline dispensing station or similar structure shall not be directly visible from a public street or another property. Such lights shall either be recessed into the underside of the canopy or screened from view with shields.

(f) Poles within landscaped areas and plazas shall have a maximum height of 20 feet, measured from grade. Poles within these areas may be set on pedestals no more than eight (8) inches in height.

(g) Poles in parking lots shall have a maximum height of 24 feet measured from finished grade.

(h) **Lighting fixtures mounted directly on structures shall be permitted when utilized to enhance specific architectural elements or to help establish scale or provide visual interest, except as otherwise noted in Subdivisions 9 and 10. (Amended, Bill 2009-1)**

(i) **"Wall packs" shall be permitted only in loading and service areas and shall be down-lit. (Amended, Bill 2009-1)**

(j) **Shielded illuminators or fixtures shall be permitted to light building mounted signage, building facades, or pedestrian arcades if they are integrated into a building's architectural design.**

(k) **Lighting should highlight entrances, art, terraces and special landscape features.**

(l) **If installed, exterior lighting shall meet the functional needs of the use, without adversely affecting adjacent properties, neighborhoods or public uses, as determined by the City. Specific requirements are listed below; however, the City reserves the right to adjust these requirements based on concerns regarding safety, security and/or impacts on surrounding properties. Illumination measurements shall be taken by positioning the meter horizontally at ground level.**

(m) **Site lighting should provide consistent levels of illumination, avoiding pockets of very high or low levels of illumination.**

Open-air parking lots (including the roof level of multi-level parking structures):

| Minimum | Maximum | Maximum Uniformity Ratio |
|---|---|---|
| 0.2 fc | 4.0 fc | 20:1 |

Primary building entrances/exits and along pedestrian pathways:

| Multifamily residential | Commercial/Industrial |
|---|---|
| Minimum: 5.0 fc within five (5) feet of the entrance/exit | Minimum: 10.0 fc within five (5) feet of the entrance/exit |

## 5.5 Parking and Driveways

### 5.5.1 Traffic and parking studies

(a) **In review of a project or application, the City may require, at the developer's expense, submission of a traffic and/or parking analysis that is prepared by a traffic engineer. Such analysis shall assess the potential impact of a proposed project on roadways, intersections, and/or on-site parking and circulation.**

(b) **If a traffic study indicates that a proposed project or use will have significant impact on the existing service levels of roadways and intersections, the City may require a "traffic management plan" to mitigate traffic impacts. Such plan may include travel demand management strategies, use of transit facilities, or other appropriate measures to reduce traffic congestion. Such plan may also necessitate improvements to road systems. The developer shall be responsible for installation and expense of necessary road system improvements and pedestrian facilities, and any such improvements shall be constructed and installed according to City specifications.**

(c) **Off-Street Loading**

(1) **In connection with any use which is to be established or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space on the basis of the following minimum requirements:**

(d) **Minimum number of berths required for retail commerce, wholesale commerce, manufacturing, and warehousing:**

| Sq. Ft. of Aggregate Gross Floor Area | Minimum Required Number of Berths |
|---|---|
| Under 10,000 | 0 |
| 10,000 to 25,000 | 1 |
| 25,000 to 40,000 | 2 |
| 40,000 to 100,000 | 3 |
| 100,000 to 250,000 | 4 |
| Each additional 200,000 | 1 |

(e) **Minimum number of berths required for other uses – Space adequate for the convenient and uncongested loading and unloading of materials.**

(f) **Location – All loading berths shall be 25 feet or more from the intersection of two street right-of-way lines. Loading berths shall not occupy any yard requirement bordering a street.**

(g) **Size – The first berth required shall not be less than 12 feet in width and 50 feet in length. Additional berths shall not be less than 12 feet in width and 25 feet in length. All loading berths shall maintain a height of 14 feet or more.**

(h) **Access – Each loading berth shall be located so as to provide convenient access to a public street or alley in a manner which will least interfere with traffic.**

(i) **Accessory Uses – Any area designated as a required loading berth or access drive so as to comply with the terms of this Unified Development Ordinance shall not be used for storage of goods or inoperable vehicles nor shall such area be included as a part of the area necessary to meet the off-street parking area.**

### 5.5.2 Off-Street Parking Requirements

(a) **Off-street parking and loading space shall be provided in all multi-family residential, mixed-use, commercial, and industrial districts in accordance with the requirements of this Unified Development Ordinance.**

(b) **A development may reduce the required off-street parking spaces by up to fifty percent when it can be demonstrated, in a parking-traffic study, prepared consistent with city standards, that use of transit or demand management programs, special characteristics or customer, client, employee or resident population will reduce expected vehicle use and parking space demand for their development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and city parking requirements.**

(c) **Considerations may include the presence of shared parking, district parking, or on-street parking that is available for the use of the development during regular usage hours**

### 5.5.3 Shared parking.

(a) **Except for one and two-family dwellings, a portion of the required parking spaces may be located on an adjacent property if the parking area complies with the standards in this subdivision and is authorized in accordance with the approval of a Conditional Use Permit.**

(b) **Shared parking is encouraged and permitted if the multiple uses that the shared parking will benefit can cooperatively establish and operate the facilities.**

(c) **The applicant shall have the burden of proof for reduction of the total number of parking spaces and shall document and submit information substantiating their request. Shared parking may be approved if:**

(1) **A sufficient number of spaces is provided to meet the highest demand of the participating uses;**

(2) **Evidence has been submitted by the parties operating the shared parking facility, to the satisfaction of the zoning administrator, documenting the nature of uses and the times when the individual uses will operate so as to demonstrate the lack of potential conflict between them;**

(3) **The shared parking spaces will not be located in excess of 800 feet from the further most point of the space to the front door, or other viable building entrance as approved by the zoning administrator, of the use they are intended to serve;**

(4) **Accessory off-site parking shall be located such that pedestrian traffic will not be required to cross a major thoroughfares as defined in Section 9.2.**

(5) **A shared parking agreement is submitted and reviewed as to form by the city attorney that provides:**

(A) For the rights of the respective parties to use the shared parking areas in a manner adequate to accommodate multiple users or that parking spaces will be shared at specific times of the day (i.e., one activity uses the spaces during daytime hours and another activity uses the spaces during evening hours);

(B) Assigned roles and responsibilities as to maintenance of the shared parking area;

(C) Evidence of deed restrictions or other recorded covenants that ensure that the spaces will be properly maintained during the life of the development; and

(6) **The approved shared parking agreement shall be filed with the application for a zoning certificate or site plan and shall be recorded at Hennepin County in a manner as to encumber all properties involved in the shared parking agreement; and**

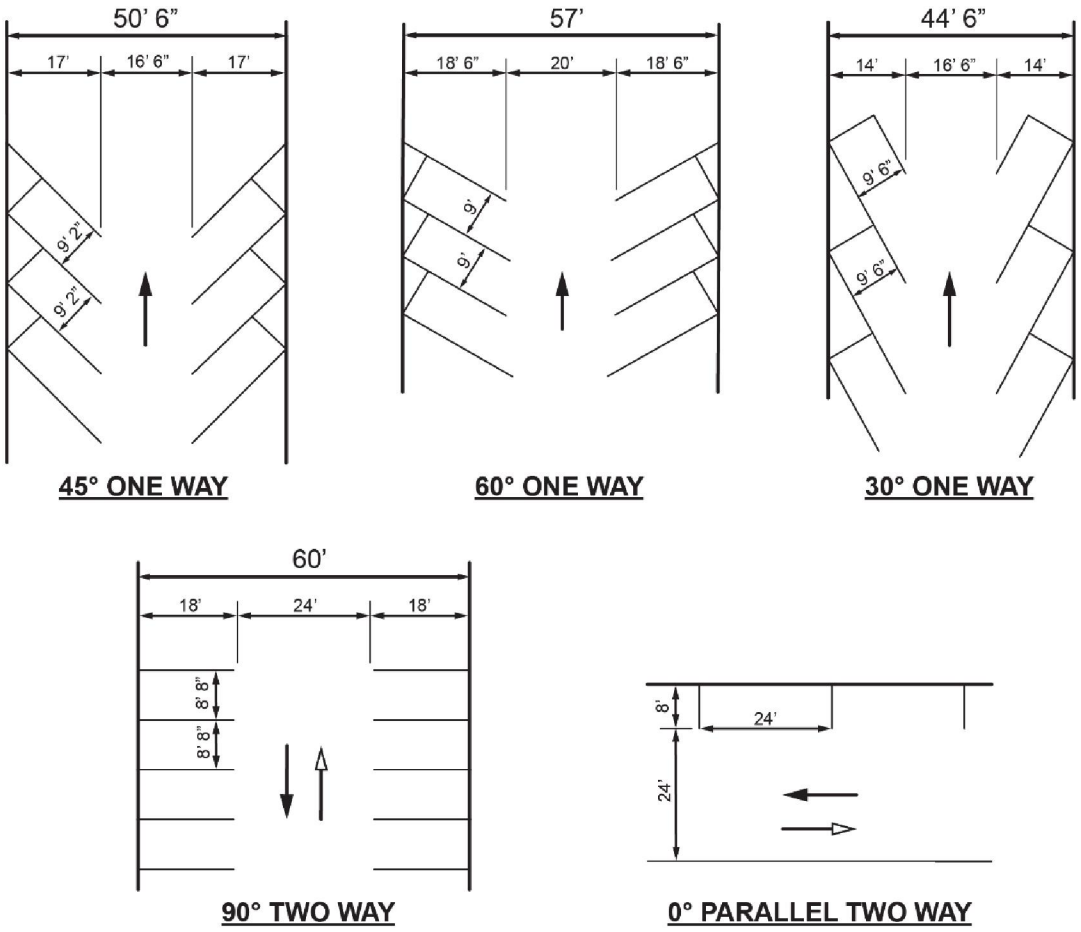
(7) **No zoning certificate will be issued until proof of recordation of the agreement is provided to the zoning administrator.**

(8) **Site improvements to ensure adequate lighting and pedestrian access between the shared parking and primary use may be required as a condition of approval by the City Council.**

### 5.5.4 Parking Space Standards

(a) **The following minimum parking standards are hereby established for all districts other than R1 and R2:**

| Angle | Space Width | Two Space Lengths Plus One Center Aisle | |
|---|---|---|---|
| | | Curb to Curb | With Curb Overlap |
| 90° (Two-way) | 8'8" | 19.5+19.5+24.0=63'0" | 18.0+18.0+24.0=60'0" |
| 60° (One-way) | 9'0" | 20.0+20.0+20.0=60'0" | 18.5+18.5+20.0=57'0" |
| 45° (One-way) | 9'2" | 18.0+18.0+16.5=52'6" | 17.0+17.0+16.5=50'6" |
| 30° (One-way) | 9'6" | 15.0+15.0+16.5=46'6" | 14.0+14.0+16.5=44'6" |
| 0° (Parallel) | 8'0" wide by 24'0" long, with 24'0" aisle | | |




(b) **An accurate, dimensioned parking layout which complies with the foregoing shall be submitted for approval with a site plan, and parking arrangements shall thereafter comply with such layout. Parking spaces shall be clearly designated by lines painted upon the surface of the parking area.**

### 5.5.5 Access to Parking Space

Access to off-street areas shall be restricted to driveways 30 feet or less in width. No two driveways on any single parcel of land in a business or industrial district shall be less than 50 feet apart at the property line.

### 5.5.6 Required Parking Spaces

The minimum and/or maximum number of required off-street parking spaces for the following uses shall be as shown in the following tables. Where no required minimum number of required parking spaces is specifically listed for a individual use, the Zoning Administrator shall determine the minimum number of required off-street parking spaces. The Zoning Administrator shall co

nsider functional similarities between uses where a parking requirement is listed in the UDO and the proposed use in determining the parking requirement.

(a) **Residential**

| **Use** | **Minimum** |
|---|---|
| One- and Two-Family Dwellings | 2 spaces per unit |
| **Use** | **Maximum** |
| Multiple Family | 2 spaces per unit |
| Licensed Residential Homes | 3 parking spaces for every 5 beds offered for residential purposes per adult resident.<br><br>3 spaces per 4 children residents for foster homes and children's homes. |

(b) **Commerce (Retail and Service/Office)**

| **Use** | **Maximum** |
|---|---|
| Eating and Drinking Places | Two spaces for every four seats, and one space for every two employees on the average maximum shift.<br><br>In drive-in establishments, consumption of food and beverages typically takes place outside the principal structure within the parking area on the parcels, as well as inside the structure. Parking spaces for designated for drive-in customers shall not be credited as a part of the off-street parking area needed to serve the sales operation conducted within the buildings.<br><br>Business establishments containing drive-through facilities, including restaurants and financial institutions, shall provide a motor vehicle stacking area for vehicles on the site. A minimum of six (6) vehicle spaces per lane shall be provided. The vehicle stacking area shall not extend beyond the street right of way line and shall be delineated in such a manner that vehicles waiting in line will not interfere with nor obstruct the primary driving, parking and pedestrian facilities on the site |

| | |
|---|---|
| Automobile Service Stations | Three spaces for each enclosed bay plus one space for each day shift employee plus a minimum of two spaces for service vehicles and one additional space for each service vehicle over two in number. |
| Other retail stores or centers and financial institutions | Maximum allowable spaces are determined by the building's Gross Floor Area (GFA) as follows:<br><br>Less than 10,000 sq. ft. = 3 spaces per 1,000 sq. ft.<br><br>Greater than 10,000 sq. ft. = 4 spaces per 1,000 sq. ft<br><br>In multi-tenant retail centers, no additional parking spaces beyond those allowed by the retail formula shall be required of restaurant uses which altogether occupy not more than 15% of the gross floor area of the center. The parking formula for eating and drinking establishments shall apply proportionately to the seats and employees occupying space in the center over and above 15% of the gross floor area |
| Motels and Hotels | Two spaces for each unit plus one space for each employee on any one shift. |
| Bowling Establishments | Five spaces for each lane. Additional parking for food and refreshment facilities shall be determined according to requirements for Eating and Drinking establishments above. |
| Medical and dental clinics | Three spaces for each doctor or dentist, plus one space for every two employees or one space for each 150 square feet of gross floor area, whichever is the greater. |
| Office Buildings, exclusive of those specific uses otherwise listed in this section | Required spaces are determined by the building's Gross Floor Area (GFA) as follows:<br><br>3 spaces for every 1,000 sq. ft. of GFA |
| Other commercial uses, excluding wholesale | One space for each 200 square feet of gross floor area. |
| Indoor Recreation | Twenty spaces for the first 1,000 sq. ft. of gross building floor area, plus one space per 300 sq. ft. of |

| | |
|---|---|
| | gross floor area in excess of 1,000 sq. ft. plus two (2) spaces per outside tennis court. |

### (c) Industry and Wholesale

| Use | Minimum |
|---|---|
| Industry and Wholesale | One space for every two employees based upon maximum planned employment during any work period or one space for each 800 square feet of gross floor area whichever requirement is greater. In the event the latter requirement is greater, adequate land area shall be provided for the required off-street parking area, but improved space need only be provided according to the employees ratio. |

### (d) Miscellaneous

| Use | Minimum |
|---|---|
| Places of public assembly such as houses of worship, theatres, auditoriums (other than school auditoriums) mortuaries, stadiums, arenas, dance halls | One space for every three seats. Places of public assembly located in a retail shopping center complex of 50,000 square feet or more, exclusive of the place of public assembly, may have one space for every four seats |
| Nursing Care Homes | 1 space for every 4 beds plus 1 space for every 2 employees and 1 space for each staff doctor |
| Hospitals | One space for every two beds plus one space for every two employees and one space for each staff doctor. |
| Uses not covered by this list | Spaces as required for the most similar use as determined by the Zoning Administrator. |

### 5.5.7 Surfacing, Drainage, and Curbing for All Districts Except R1 and R2

(a) Open off-street driving and parking areas shall be improved with a minimum of two inches of hot mixed paver laid bituminous mat, or a comparable concrete slab, placed over a well compacted subgrade and gravel base. The base gravel shall conform to the Minnesota Highway Department specifications for Class 5 gravel.

(b) Drainage plans shall be submitted to and approved by the City Engineer; drainage shall be discouraged across sidewalks or driveways. The perimeters of all driving and parking areas shall be bounded by cast in place concrete curb and gutter which conforms with the Minnesota Highway Department Type "B-612". Other shapes of concrete curb and gutter may be permitted providing the design provides an equal cross-sectional area and is approved in writing by the City Engineer. The concrete used for curbing shall conform to the current City specifications.

### 5.5.8 Surfacing, Drainage, and Curbing for R1 and R2 Districts

(a) Driveways and parking lots shall be constructed so as to provide drainage from the garage to the street or storm sewer system unless an alternative method is approved by the City Engineer.

(b) Off-street parking areas and driveways must be paved with concrete, plant mixed bituminous surface (i.e., asphalt), brick, stone or form concrete pavers, or equivalent material. Such surfacing shall be approved by the City Engineer and maintained in good repair.

### 5.5.9 Curb cuts

(a) There shall only be one curb cut for each residential lot having curb and gutter. Approval of a new or second curb cut shall require that the original curb cut be closed and the driveway removed and the curb cut repaired at the applicant's expense.

(b) No curb cuts shall be made which will impair proper street drainage or cause ingress and egress from properties to constitute a hazard to traffic if so determined by the City Engineer.

(c) The existing curb shall be removed in complete whole sections. No cutting, sawing or breaking of the existing curb shall be allowed, except for blacktop curbs. Joints between the existing curb and the new entrance shall be made at the existing joints in the in-place curb.

(d) Any portion of the existing pavement structure disturbed during the curb cut work shall be repaired with similar materials of equal or greater structural capacity. Repair limits shall be defined by right angle saw cuts so oriented to provide the least noticeable surface patch.

(e) On existing streets, improved with curb and gutter, the period between removing the in-place curb and constructing the new entrance shall not exceed seventy-two (72) hours.

### 5.5.10 Joint Parking Facilities

With respect to development complexes, the required parking facilities to serve two or more uses may be located on the same lot or in the same structure, provided that:

(a) **The total number of parking spaces furnished shall not be less than the sum of the separate requirements for each use.**

(b) **With respect to separate individual establishments, the City Council may approve the joint use of common parking facilities under the following conditions:**

(1) **The building or use for which application is made to utilize the off-street parking facilities provided by another building or use shall be located within 800 feet of such parking facilities; and shall not be separated by a building or use with which it does not share parking facilities in the manner prescribed by this Unified Development Ordinance.**

(2) **The applicant shall show and the City Council must determine that there is no substantial conflict in the principal operating hours and parking demands of the two buildings or uses contemplating joint use of off-street parking facilities.**

(3) **A properly drawn legal instrument providing for joint use of off-street parking facilities, duly approved by the City Council as to form and manner of execution shall be filed as an easement encumbrance upon the title of the property.**

### 5.5.11 Minimum Parking Reduction

A development may reduce the required off-street parking spaces up to fifty (50) percent, as approved by the City Council, when it can be demonstrated that:

(a) **In a parking-traffic study, prepared consistent with city standards, that use of transit or demand management programs, special characteristics or customer, client, employee or resident population will reduce expected vehicle use and parking space demand for their development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and city parking requirements.**

(b) **Considerations may include the presence of shared parking, district parking, or on-street parking that is available for the use of the development during regular usage hours**

### 5.5.12 Commercial Vehicles Parked in R1 and R2 Districts

For each dwelling unit, off-street parking of not more than one licensed and operable commercial motor vehicle is permitted provided that:

(a) **Any such vehicle must be operated by a resident of that dwelling unit.**

(b) **Such parking is only permitted in a garage, driveway or improved hard surface in accordance with the requirements of the UDO Section 2.2 for R1 and R2 districts.**

(c) **Only class 1-4 vehicles may occupy off-street parking space in R1 and R2 districts, as defined by the Minnesota Department of Transportation's vehicle classification scheme.**

(d) **Under no circumstances shall a semi-truck or tractor-trailer combination be parked or stored off-street in an R1-R4 District.**

### 5.5.13 Parking Lot Landscaping

(a) **Off-street open parking facilities that accommodate more than 6 cars shall include landscaping adjacent the lot, to the extent of at least 3 percent the total surface area of all impervious parking facility area.**

(b) **For parking lot islands, a minimum of one deciduous tree shall be provided per island, unless:**

(1) **The parking lot island is used for stormwater management**

(2) **The parking lot contains less than 40 spaces**

(3) **The parking island is located within a structured parking facility**

### 5.5.14 Parking Lot Screening

All open off-street parking areas having more than six parking spaces and all off-street loading and unloading spaces shall be effectively screened from any abutting residential lots by:

(a) **a solid wall or opaque fence six feet high, or by such other device as may be approved by the City Council.**

(b) **The screening device shall not extend within 10 feet of any street right-of-way.**

(c) **Such off-street parking and loading areas within any yards which abuts along a street which is residentially zoned on the side opposite shall be screened from street view by a screening device as approved by the City Council.**

(d) **Other landscaping requirements as outlined in Section 5.6.**

## 5.6 Landscaping, Screening, and Fences

### 5.6.1 Landscape plans

(a) **Except for R1 and R2, a landscape plan must be submitted:**

(1) **With any application for new development;**

(2) **With any application for additions or modifications to existing development that physically impacts existing landscaping or screening; or**

(3) **When changes are made to an existing landscaping or screening plan on file with the city.**

### 5.6.2 Landscaping Requirements Generally

For all districts, any lot area that is not devoted to the building site, driveways, sidewalks, off-street loading or parking facilities, or similar elements, is considered the landscape planting area. This area shall be planted and maintained with grass, shrubs, trees, or similar vegetation and/or treatments typically found in landscaping. In addition, all districts must adhere to the following landscape standards:

(a) **Projects that require a landscape plan, shall submit a unified landscape plan that creates a consistent character within the site, complementing the project scale, and attempting to maintain a coherent landscape character with adjacent sites.**

(b) **Landscape plans are expected to be coordinated with any and all lighting plans, as details in Section 5.4**

(c) **Any natural screening such as hedges or trees shall maintain at least a 50 percent screening opacity throughout the year.**

(d) **To promote species diversity and resilience, no more than 40% of the total number of trees may be of the same species**

(e) **When possible, existing mature trees should either be preserved, or reused during the construction process.**

(f) **Landscape vegetation should use native and resilient plant types when possible, in order to promote landscape resiliency and reduce site maintenance requirements.**

(g) **Where landscaping is required, soil shall be provided that does not include substandard fill, gravel, sand, or contaminated materials.**

(h) **When installed landscape materials include a ball or burlap, they shall be installed so that the ball and burlap does not extend above the immediate grade at installation.**

(i) **In order to preserve and promote the public safety, landscape materials shall not be located in a manner that in their mature state, they interfere with safe pedestrian sight lines, and does not conflict with overhead leads or utility lines.**

(j) **In order to preserve and promote the public safety, nothing shall be erected, placed, planted, maintained, or allowed to grow on a corner lot of any district in a manner that materially impedes the vision withing the Clear View Triangle. Certain objects may remain in the Clear View Triangle if, based on city engineering judgment and discretion, there are other circumstances that limit or minimize risk at the intersection.**

(k) **Berms or similar mounding features shall use proper and adequate plant materials to mitigate risk of erosion, and when intended to be mowed, the maximum permitted slope is 3:1.**

(l) **The site layout for any non-residential development shall include an underground lawn sprinkler system to facilitate maintenance of site landscaping and green areas.**

### 5.6.3 District Landscaping Requirements

At least 50 percent of the landscape planting area shall include vegetation, and be based on the following systems:

(a) **Minimum landscape requirements for the R2-R3 Districts**

(1) **1 tree per 1000 square feet of landscape planting area**

(2) **1 shrub per 100 square feet of landscape planting area**

(b) **Minimum landscape requirements for the R4-R5, C, MX-B, and I Districts**

(1) **1 tree per 750 square feet of landscape planting area**

(2) **1 shrub per 75 square feet of landscape planting area**

(c) **Minimum landscape requirements for the TOD, MX-N, and MX-C Districts shall be based on the following project value**

| Project Value | Landscape Minimums |
|---|---|
| Below $1,000,000.00 | 2 percent |
| $1,000,000.00—$3,000,000.00 | $20,000.00 + 1 percent of total project value |
| $4,000,000.00—$5,000,000.00 | $40,000.00 + .50 percent of total project value |
| Over $5,000,000.00 value - in excess of $4,000,000.00 | 1 percent + .25 percent of total project value |

(d) **The above systems do no substitute applicable screening and buffer requirements set forth in the UDO under section 5.6.8. Plantings used for screening purposes will be counted as part of the minimum planting requirements, but fulfilling the requirements will not obviate the requirements for screening.**

(e) **Mature existing trees will be counted as part of the minimum planting requirements on the basis of the above system. A consideration equal up to the full landscape planting requirement of a site may be granted by the city for the preservation of large existing plantings.**

### 5.6.4 Landscaping and Parking

Parking shall be landscaped as outlined in sections 5.5.1 – 5.5.2.

### 5.6.5 Landscape Visibility at Intersections

In order to preserve and promote the public safety, nothing shall be erected, placed, planted, maintained, or allowed to grow on a corner lot in any district in such a manner as materially to impede vision within the Clear View Triangle. Certain objects may remain in the Clear View Triangle if, based on engineering judgment and discretion, there are other circumstances that limit or minimize risk at the intersection.

### 5.6.6 Landscaping Exceptions

The zoning administrator may approve the substitution or reduction of landscape requirements, materials, applicable area, or other standards as outlined in section 5.6.2-5.6.4, provided one or more of the following conditions exists:

(a) **The application will provide a site and landscape plan of exceptional design, including amenities such as outdoor public space, public seating, bike or pedestrian facilities, and/or a transit shelter that will enhance the area.**

(b) **The application will provide landscape plan of exceptional design that is more consistent with the design of the site, and/or the surrounding area.**

(c) **The application will provide a site plan that is more consistent with the surrounding character.**

(d) **Existing site conditions, including plant, topography, or screening of the site and its surroundings make the required landscaping or screening unnecessary.**

(e) **The required landscaping or screening will hinder delivery and/or service access necessary to the operation of the use.**

(f) **The required landscaping and/or screening may reduce pedestrian surveillance or sightlines of the site, or obstruct views of traffic, or conflict with the Clear View Triangle.**

### 5.6.7 Landscape Maintenance

All approved landscaping shall be kept well maintained and in good repair.

### 5.6.8 Screening

Perimeter screening should be designed as required, to provide a visual buffer between incompatible uses.

(a) Screening shall be included in the following circumstances:

(1) Along the perimeter of off-street parking with more than six parking spaces, and abutting an R1-R5 or MX-N district.

(2) Along the lot lines of any I or MX-B district located adjacent to an R1-R5, or MX-N district, and along any lot line that faces across a street from an R1-R5 or MX-N district.

(3) Along the lot lines of any principle or accessory structure in any commercial, mixed use, industrial, or TOD district located adjacent to an R1 or R2 residential district.

(4) Along the perimeter of telecommunications towers

(b) Screening standards

(1) Required screening can be achieved with fences, hedges, or similar landscaping elements.

(2) All required screening shall have a minimum height of five feet above grade, and be architecturally complimentary of the principle building. When possible, the screening should also be visually cohesive with abutting lots.

(3) Required screening shall be located within the lot occupied by the use or structure to be screened. No screening shall be located in the public right of way, unless otherwise approved by the zoning administrator.

(4) All required screening plans shall be submitted alongside required landscape plans.

(5) Any vegetative screening such as hedges or trees shall maintain at least a 50 percent screening opacity throughout the year when the planting reaches maturity.

(c) Rooftop Mechanical Equipment: As viewed from ground levels at a variety of locations, all mechanical equipment located on the roof of a structure must be screened by a raised parapet; or with comparable and compatible exterior building materials.

(1) A raised parapet or other architectural feature that is an integral part(s) of the building may be required as screening for rooftop mechanical equipment or to soften rooftop views.

(2) Screening for rooftop mechanical equipment must incorporate similar architectural features of the building and/or be constructed of a material and color compatible with other elements of the building.

(3) Incidental rooftop equipment deemed unnecessary to be screened by the Zoning Administrator or designee must be of a color to match the roof or the sky, whichever is more effective.

(4) Metal cabinets used to enclose and protect rooftop mechanical equipment must not substitute as screening.

(d) **Ground Mounted Mechanical Equipment: All ground mounted mechanical equipment accessory to the principal structure over thirty inches (30") or greater than twelve (12) cubic feet shall be screened from public views, except for lots containing one and two family dwellings. Acceptable screening materials must be similar to or compatible in design and color with those used on the principal structure.**

### 5.6.9 Fences

Fences may be erected, placed, or maintained along or adjacent to a lot line. The fence owner shall be responsible for properly locating all property lines before fence construction.

(a) **Permit required**

(1) **For fences located in any district which are six (6) feet in height or greater, a permit is required before any work may commence.**

(b) **Fence standards**

(1) **Allowable height**

**(A) Front yard. No fence shall exceed four (4) feet in height at the front property lines.**

**(B) Rear and side yards. No fence shall exceed six (6) feet in height at the side and rear property lines.**

**(C) No fence shall encroach within the Clear View Triangle, unless otherwise permitted by the Zoning Administrator.**

(2) **Permitted materials**

**(A) Fences shall be constructed of wood, metal, bricks, masonry or other similar materials, designed for permanent fencing. Fences constructed of wood shall be resistant to decay. Fences on a single property may not be constructed of more than two different materials. All fence materials shall be uniform in color with the exception of minimal hardware and fasteners, including screws, and gate hinges and latches.**

(3) **Prohibited materials**

**(A) Fences shall not be constructed of electrically charged wire, barbed wire, razor wire, or other similar materials not specifically manufactured for permanent fencing.**

**(B) Any materials not listed here should be considered prohibited unless approval is provided by the Zoning Administrator.**

(4) **Posts and supporting members**

**(A) All fence posts and related supporting members of the fence shall be erected so that the finished side or sides of the fence face the adjacent property or public right-of-way.**

(5) **Maintenance**

**(A) Every fence and retaining wall on or adjacent to residential property shall be kept well maintained and in good repair.**

### 5.6.10 Drainage Ways

No obstruction, diversion, bridging or confining of the existing channel of any natural waterway, or any drainage swale approved as a part of the drainage system of a plat in the municipality through which surface water in time of storms naturally flows upon or across the land, shall be permitted without special permit. Before granting a special permit, the Zoning Administrator shall

first find that the diversion, bridging, etc. will carry the amount of water usually likely to flow. The right is reserved to the municipality as an incident to the development of the municipality, including the construction of streets and gutters, ditches, etc., to cause considerable increases or decreases in the amount of water which would in a state of nature flow into and through such natural water channel or drainage swale.

# Section 6: Signs

## 6.1 General Provisions

### 6.1.1 Purpose

This Section is designed to provide regulations for the erection and maintenance of signs. The general objectives of these regulations are to enhance the health, safety, welfare and convenience of the public and to achieve the following for the City:

(a) **Comprehensive standards, regulations and procedures governing the erection, use or display of devices serving as visual communications;**

(b) **Aesthetic preservation;**

(c) **Preservation of the residential character of residential neighborhoods;**

(d) **Preservation of order and cleanliness;**

(e) **Avoidance of the appearance of clutter;**

(f) **Avoidance of litter and the growth of weeds around signs;**

(g) **Providing necessary visual communications;**

(h) **Preservation and promotion of a pleasant physical environment;**

(i) **Protection of public and private property;**

(j) **Encouraging safety on the roadways by preserving sight lines and reducing distractions to motorists;**

(k) **Reduction of administrative burdens; and**

(l) **Compliance with all federal and state laws requiring content-neutral regulation of signs and promoting freedom of speech and expression.**

### 6.1.2 Procedures

(a) **The Zoning Administrator shall review and make a decision on the application.**

(b) **If the Zoning Administrator approves the application, then a 20% increase above the total sign area on the lot otherwise permitted by this Section is permitted, with the additional area to be allocated as specified by the Zoning Administrator.**

(c) **Permit and Fee**

(1) No sign shall hereafter be erected, re-erected or altered unless a permit for each such sign has been obtained or unless permitted by Section 6.7.

(2) A sign permit shall be required any time the sign area is increased and any time a static message sign is converted to an electronic message sign or vice versa.

(3) Electrical permits shall be obtained for all electric signs.

(4) Applications for a sign permit shall be made in writing upon forms furnished by the Community Development Department. The Community Development Department may require filing of plans or other pertinent information where, in their opinion, such information is necessary to ensure compliance with this Section.

(5) A permit fee, as set forth in the City's approved fee schedule, shall be collected before the issuance of any sign permit when fees are required under this Section.

### 6.1.3 Criteria for approval

An application for a creative sign program shall be approved if the Zoning Administrator determines that it meets the following criteria:

#### (a) Architectural criteria

(1) The sign(s) use or enhance the architectural elements of the building;

(2) The sign(s) are placed in a logical location in relation to the overall composition of the building facade;

(3) The sign(s) are integrated within and do not cover any key architectural features and details of the building facade; and

(4) No sign is larger than 100 square feet.

#### (b) Wall signs

(1) Each wall sign is centered within an area uninterrupted by doors, windows or architectural details.

(2) Each wall sign is designed to be compatible with and relate to the architectural style of the main building or buildings upon the site where the sign is located.

(3) Each wall sign's colors are complementary to the colors of the building on or near where it is to be located.

#### (c) Design quality

The sign(s) as a whole:

(1) Constitute a substantial aesthetic improvement to the site and have a positive visual impact on the surrounding area;

(2) Exhibit imagination, inventiveness and unique design;

(3) Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale, proportion and form; and

(4) Contribute to the image of the City by conveying a distinctive character and convey a strong sense of place.

(5) Do not include any illuminated box signs with clear or translucent sign message surfaces.

#### (d) Multiple signs

Where more than one sign is proposed, all signs have designs that incorporate the following design elements in a compatible and coordinated fashion including:

(1) Letter style of copy;

(2) Components;

(3) Type of construction materials;

(4) Lighting; and

(5) Structural **support (e.g. wall or ground base).**

(e) **Neighborhood impacts**

When evaluating neighborhood impacts, the sign(s) must:

(1) **Constitute a substantial aesthetic improvement to the site and have a positive visual impact on the surrounding area;**

(2) **Provide strong graphic character through the imaginative use of graphics, color, texture, quality materials, scale and proportion; and**

(3) **Do not create adverse impacts on neighboring uses.**

(f) **Sign materials**

The sign(s) maintain attractive and compatible styling so as not to conflict or distract from the architectural character of the area and the choice of materials and the workmanship in the use of the materials conveys both a sense of quality and creativity.

### 6.1.4 Displays on Walls or Structures that Exceed Maximum Sizes

Displays painted on or mounted on fabric affixed to walls or structures that exceed maximum sign area permitted by this Section may be approved by the Planning Division provided that the display:

(a) **Is a form of speech or expression protected by the First Amendment of the U.S. Constitution and/or the Minnesota Constitution;**

(b) **Will be created, constructed, erected, or displayed in a way that is visually distinct from other permitted signs on the property;**

(c) **If located on public property, will activate or enhance a public space or streetscape;**

(d) **Does not exceed the dimensions of any surface upon which it is mounted;**

(e) **Will be treated to address vandalism and exposure to sun;**

(f) **Will not require extensive or repeated maintenance, or the applicant has provided adequate assurance (including financial assurance) that maintenance and repairs will be timely performed;**

(g) **Does not create a threat to public health or safety or to vehicular, bicycle, or pedestrian traffic safety;**

(h) **Does not create noise, sound, light, reflection, glare, shading, flickering, vibration, or odor impacts on nearby properties;**

(i) **Does not impair the performance of required city functions on or around the property.**

(j) **Not be located on residential zoned property; and**

(k) **Not be visible within 125 feet of the sign from a property that is zoned for residential use.**

### 6.1.5 Maintenance

All signs permitted by this Unified Development Ordinance must be:

(a) **Clearly legible;**

(b) **Kept in good repair and free from faded or peeling paint, rust, damaged or rotted supports, framework or other material, broken or missing faces or missing letters.**

(c) **Repaired or removed by the licensee, owner or agent of the owner of the property upon written notice from the Zoning Administrator that the sign does not comply with the provisions of this Section;**

(d) **Removed by the property owner when the occupant of a building or parcel ceases to use the property and abandons the site or building space. If the owner of the property fails to remove all obsolete signs within 90 days after the former occupant vacates the premises, the City shall be entitled to have such signs removed, either by its own forces or by hire of a licensed sign contractor and the cost of such removal shall be assessed against the property. The City shall notify the owner at least 30 days before the City intends to remove the sign.**

## 6.2 Standards Applicable to all Signs

### 6.2.1 Location

(a) **No part of any permanent freestanding sign shall be closer than 10 feet to the side lot line.**

(b) **No part of any freestanding sign shall project over or beyond the property line of the property where the sign is located.**

(c) **Unless set back 10 or more feet from the street right-of-way line, the supporting column(s) of a freestanding sign exceeding 16 feet in area shall not materially impede vision between a height of two-and-a-half and seven-and-a-half feet above the centerline grade of the street. Freestanding signs located within the clear view triangle defined in Section 9.2 shall have a minimum vertical clearance of 10 feet above the centerline grade of the intersecting streets.**

(d) **Wall signs shall be of a uniform design compatible with the exterior appearance of the building.**

(e) **When electrical signs are installed, their installation shall be subject to the City's electrical code.**

### 6.2.2 Lighting

Illuminated signs shall be illuminated by lighting internal to the sign or shall be shielded to prevent light trespass onto adjacent properties or public streets. Signs on the top of office or industrial buildings adjacent to residential districts shall not be illuminated after 10 p.m. or before 6 a.m.

### 6.2.3 Projecting Signs

No projecting sign shall:

(a) **Project more than 96 inches out from the wall where it is attached;**

(b) **Extend above the roof line;**

(c) **Exceed the area of a freestanding sign that is permitted according to Table 5.6.5(c.2).**

## 6.3 Nonconforming Signs

### 6.3.1 Existing conforming signs

(a) **Any legal nonconformity under a previous City Code will also be a legal nonconformity under this Code, so long as the situation that resulted in the legal nonconforming status under the previous Code continues to exist. If a legal nonconformity under the previous Code becomes conforming because of the adoption of this Code, then the situation will no longer be considered nonconforming.**

(b) **Nonconformities will generally be permitted to continue under the provisions of this Code.**

### 6.3.2 Appeals

Any person may appeal any administrative decision authorized by this Section in accordance with the procedures set forth in Section 7.3.

### 6.3.3 Message Substitution

Sign copy or messaging may be changed without additional approvals.

## 6.4 Prohibited Signs

The following types of signs are not permitted in the City:

Signs that, by reason of position, shape or color would interfere with the proper function of a traffic sign or signal.

Signs within the public right-of-way or easement except for government installed signs.

Signs that resemble any official marker erected by a governmental agency or that display such words as “Stop” or “Danger.”

Flashing or rotating signs, including those located indoors, if they are visible from public streets.

Signs that obstruct any window, door, fire escape, stairway or opening intended to provide ingress or egress for any building structure, except for signs in commercial or industrial zoned properties located on the inside glass portions of windows or doors that do not cover more than 20% of any individual pane of glass.

Sign posters that are tacked or posted on trees, fences, utility poles or other similar supports.

Signs painted directly on building walls.

Internally illuminated cabinet signs with clear or translucent sign message surfaces.

Roof-mounted signs or signs that project above the highest point of the building.

Off-premises advertising signs as defined in Section 9.2.

## 6.5 Sign Standard Adjustments and Variances

Adjustments to the requirements and standards for the height, number, type, lighting, area, and/or location of a sign or signs established by this Section may be approved with a Site Plan Review or a Planned Unit Development process. This provision shall not be used to permit dynamic display signage. In order to approve any sign standard adjustment, one of following (1) or (2) criteria shall be satisfied, and the necessary criteria of (3) shall be satisfied:

(1) There are site conditions which require a sign adjustment to allow the sign to be reasonably visible from a street immediately adjacent to the site;

(2) The sign adjustment will allow a sign of exceptional design or a style that will enhance the area or that is more consistent with the architecture and design of the site;

(3) The sign adjustment will not result in a sign that is inconsistent with the purpose of the zoning district in which the property is located or the current land use.

All other adjustments that cannot satisfy the above allowance shall be processed as a variance. The procedure for obtaining a variance from the requirements of this Section are set out in Section 7.10.

## 6.6 On-Premises Signs that Require a Sign Permit

### 6.6.1 Residential (R1 through R5) Districts

Signs in the R1 through R5 District are permitted with a sign permit as follows:

**Table 6.6.1: R1 – R5 On-Premises Signs**

| *Type of Residence* | *Number and Type of Signs Permitted* | *Maximum Size of Sign(s) Permitted* | *Exceptions (if any)* |
|---|---|---|---|
| In R1, R2 and R3 District in structures where a permitted home occupation is being conducted | One freestanding or wall sign per dwelling | Two and half square feet in area and six feet in height | If located along a major thoroughfare, as defined in Section 9.2, maximum area is six square feet |
| Multiple family dwelling buildings with up to 36 units | Two wall signs per building | 25 square feet in area if located on a lot abutting an R1, R2, or R3 district, provided the sign does not face an R1, R2, or R3 lot containing a single or two-family dwelling | 40 square feet in area if located in a zone district other than R1, R2, or R3 |
| Multi-establishment in R3 through R5 Districts with at least 37 dwelling units | | Freestanding: 25 square feet in area and 10 feet in height<br>Wall: 40 square feet in area | If there is only one freestanding sign and no wall signs erected, then maximum area is 36 square feet |

### 6.6.2 Mixed Use Districts (MX-N1, MX-N2, TOD-Edge, TOD-Core)

(a) **Wall signs and projecting signs in the Mixed Use Districts are permitted as follows:**

**Table 5.6.5(b.1): Mixed Use On-Premises Signs**

| *Type of Establishment or Enterprise* | *Number and Type of Signs Permitted* | *Maximum Size of Sign(s) Permitted* | *Exceptions (if any)* |
|---|---|---|---|
| Individual establishment or multistory office building | A wall or projecting sign on each wall | 10% of the aggregate area of the wall supporting the signs | If the building front is articulated, total sign area may be measured based on the entire area of the front facing wall |

| Table 5.6.5(b.1): Mixed Use On-Premises Signs | | | |
|---|---|---|---|
| *Type of Establishment or Enterprise* | *Number and Type of Signs Permitted* | *Maximum Size of Sign(s) Permitted* | *Exceptions (if any)* |
| Multi-establishment | Each establishment may have wall or projecting signs on each of its exterior walls | 10% of the aggregate area of the wall supporting the signs | When no signs are erected on any establishment, then the aggregate of the establishments may have a wall or projecting sign on each wall identifying the tenants collectively or identifying the complex so long as the areas of each sign does not exceed 10% of the area of the wall supporting it |
| Multi-establishment with at least 37 dwelling units | Two freestanding signs or wall signs | Freestanding: 25 square feet in area and 10 feet in height<br>Wall: 40 square feet in area | If there is only one freestanding sign and no wall signs erected, then maximum area is 36 square feet |

(b) **Freestanding signs in the Mixed Use Districts are permitted as follows:**

| Table 5.6.5(b.2): Mixed Use On-Premises Signs | | | |
|---|---|---|---|
| *Type of Establishment or Enterprise* | *Number and Type of Signs Permitted* | *Maximum Size of Sign(s) Permitted* | *Exceptions (if any)* |
| Individual establishment or multistory office building | One freestanding sign | 72 square feet in area and 20 feet in height | When the building abuts two or more collector or arterial streets, one freestanding sign with a maximum area of 108 square feet may be erected along each street frontage |
| Multi-establishment | In addition to freestanding signs otherwise permitted by this Section, one freestanding sign per street frontage | 145 square feet in area and 15 feet in height | None |

(c) **Canopy signs in the Mixed Use Districts are permitted if the following conditions are met:**

(1) **The canopy structure complies with all minimum building setback standards applicable to the principal structure.**

(2) **The canopy structure is attached to the building wall and is deemed by the Building Official to be an integral part of the building.**

(3) **The primary function of the canopy is to provide an outside cover or shelter for pedestrians as opposed to automobiles.**

(4) **The sign does not extend or project above the top of the canopy.**

(5) **The area of the sign does not exceed 10% of the canopy face or elevation that is parallel to the wall where the canopy is attached.**

(6) **All lighting on the underside of the canopy shall be recessed. Under canopy lighting shall be designed to provide an average level of illumination not to exceed 20 foot-candles with a maximum foot-candle reading beneath the canopy not exceeding 30 foot-candles.**

(7) **The sign complies in all other respects with the provisions of this Section for wall signs.**

### 6.6.3 C, MX-B1, and I Districts

(a) **Wall and projecting signs in the C, MX-B1, and I District are permitted as follows:**

| C, MX-B1, I On-Premises Signs | | | |
|---|---|---|---|
| *Type of Establishment or Enterprise* | *Number and Type of Signs Permitted* | *Maximum Size of Sign(s) Permitted* | *Exceptions (if any)* |
| Individual establishment | Wall signs and projecting signs on each wall | Abutting and facing freeway frontage: 15% of the aggregate area of the wall supporting the signs<br>Other: 10% of the aggregate are of the wall supporting the signs | If the building front is articulated, total sign area may be measured based on the entire area of the front facing wall |
| Multistory office building | Wall or projecting signs on each wall | 10% of the area of the wall supporting the sign | If the building front is articulated, total sign area may be measured based on the entire area of the front facing wall |

| C, MX-B1, I On-Premises Signs | | | |
|---|---|---|---|
| *Type of Establishment or Enterprise* | *Number and Type of Signs Permitted* | *Maximum Size of Sign(s) Permitted* | *Exceptions (if any)* |
| Multi-establishment or enclosed shopping center | Wall signs and Projecting signs on each of its exterior walls that does not face an adjacent lot in an R1, R2, or R3 District | Abutting and facing freeway frontage: 15% of the aggregate area of the wall supporting the signs<br>Other: 10% of the aggregate area of the wall supporting the sign. | If the building front is articulated, total sign area may be measured based on the entire area of the front facing wall |

(b) **Freestanding signs in the C, MX-B1 and I Districts**

(1) **One freestanding sign is permitted, or if the establishment has two or more collector or arterial street frontages exceeding 400 feet then one freestanding sign on each street is permitted, provided the maximum size and height complies with the following table:**

| C, MX-B1 and I On-Premises Signs | | |
|---|---|---|
| *Building Gross Floor Area Square Feet* | *Maximum Sign Area Square Feet* | *Maximum Sign Height (above 1st floor) Feet* |
| *5,000 and below* | Abutting and facing freeway frontage: 155<br>Other: 124 | 25 |
| *5,001 – 10,000* | Abutting and facing freeway frontage: 180<br>Other: 155 | 26 |
| *10,001 – 20,000* | Abutting and facing freeway frontage: 210<br>Other: 180 | 28 |
| *20,001 and above* | Abutting and facing freeway frontage: 230<br>Other: 210 | 30 |

**6.6.4 Outdoor sales**

(a) **An additional freestanding sign more than what is allowed in Section 6.6.5(a) is permitted in an individual establishment having a gross building floor area larger than 24,000 square feet and a minimum lot area of four acres or more, when at least 50% of the land is used for outdoor sales.**

(b) **The additional freestanding sign above shall not exceed 125 square feet in area and 24 feet above the first floor of the building and shall be separated from the first freestanding sign by a minimum of 200 feet.**

(c) **An individual establishment is not eligible for an additional freestanding sign under this Subsection if:**

(1) **Any nonconforming signs exist on the premises;**

(2) **The additional sign would be located within 150 feet of residentially zoned property; or**

(3) **It is located on a corner lot and qualifies for an additional freestanding sign under Section 6.6.**

**6.6.5 Wall and freestanding sign tradeoff**

(a) **An individual or clustered establishment may be entitled to one additional freestanding sign if the building owner or a duly authorized agent agrees in writing to forego all permitted wall signs and the additional freestanding sign complies with all applicable standards in this Section.**

**6.6.6 Development complex**

(a) **In addition to other signs permitted by this Section, every multiple building development complex shall be entitled to one additional freestanding sign per street front not to exceed 145 square feet in area and 15 feet in height.**

**6.6.7 Canopy signs in the C, MX-B1 and I District**

Individual and clustered establishments or enterprises and multistory office buildings may have canopy signs, to be considered a type of wall sign, if the following conditions are met:

(a) **The canopy structure complies with all minimum building setback standards applicable to the principal structure.**

(b) **The canopy structure is attached to the building wall and is deemed by the Building Official to be an integral part of the building.**

(c) **The primary function of the canopy is to provide an outside cover or shelter for pedestrians as opposed to automobiles.**

(d) **The sign does not extend or project above the top of the canopy.**

(e) **The sign is placed on the elevation of the canopy that is parallel to the wall where it is attached.**

(f) **The area of the sign for individual and clustered establishments does not exceed 30% of the canopy face or elevation that is parallel to the wall where it is attached. The area of the sign for a multistory office building does not exceed 10% of the canopy face or elevation that is parallel to the wall where it is attached.**

(g) **All lighting on the underside of the canopy shall be recessed. Under canopy lighting shall be designed to provide an average level of illumination not to exceed 20 foot-candles with a maximum foot-candle reading beneath the canopy not exceeding 30 foot-candles.**

(h) **The sign in all other respects is consistent with the provisions of this Section for wall signs.**

### 6.6.8 Gasoline service stations in the C, MX-B1 and I District

(a) **In addition to other signs permitted by this Section, gasoline service stations shall be entitled to a freestanding sign on each pump island. Sign sizes shall not exceed 20 square feet in area and 15 feet in height.**

### 6.6.9 Public Uses (All Districts Where Public Uses Are Permitted)

(a) **Public use freestanding signs**

One freestanding sign not to exceed 36 square feet in area and 10 feet in height is permitted in all Districts where public uses are permitted. An additional freestanding sign is permitted if the use abuts two or more streets. Properties entitled to an additional freestanding sign may erect an additional freestanding sign not to exceed 72 square feet in area and 15 feet in height.

**6.6.10 Public use wall signs**

(a) **One wall sign not to exceed 36 square feet in area is permitted.**

(b) **An additional wall sign not to exceed 10 square feet in area immediately above or beside each public entrance to that part of the building is permitted.**

(c) **Any wall sign that does not exceed three square feet and is not intended to be legible from public streets is permitted.**

**6.6.11 Dynamic Messaging Signs (DMS)**

(a) **DMS, as defined in Section 9.2, are permitted in any District where public uses are permitted in accordance with the provisions in this Section. Notwithstanding Section 4.3.1, a conditional use permit is required for DMS.**

(b) **DMS regulations**

(1) **DMS are permitted on a freestanding sign aligned perpendicular to the adjacent arterial or collector street as specified in the City's Comprehensive Plan.**

(2) **The message must remain constant for at least five seconds.**

(3) **The sign may not remain blank for longer than one second in between message changes.**

(4) **The area may not exceed an equivalent of 50% of each sign face area.**

(5) **The sign shall be located no closer than 50 feet from any residential dwelling.**

(6) **Signs within 500 feet of a residential dwelling that face a residence shall display a static message between the hours of 9:00pm and 7:00am.**

(7) **The sign may not flash, blink, rotate, spin, contain full motion video or create any other distraction to motorists.**

(8) **If the sign malfunctions, it must automatically turn black.**

(9) **Lighting intensity shall not exceed 5,000 nits in daytime and 500 nits at nighttime.**

(10) **The sign must have dimming technology that automatically adjusts its brightness in direct correlation with ambient light conditions. Brightness shall not exceed 0.3 foot-candles above ambient light as measured from a preset distance depending on the sign size, as indicated in Table 5.6.5(d).**

Table 5.6.5(d) – DMS Sign Measurement Distance for Brightness Measurement Calculation = Sign Area x 100

| *Area of Sign in Square Feet* | *Measurement Distance in Feet* |
|---|---|
| *10 – 30* | 55 |
| *31 – 60* | 75 |
| *61 – 90* | 95 |
| *91 – 100* | 100 |

## 6.7 Temporary Signs that Require a Permit

### 6.7.1 Temporary freestanding signs

Temporary freestanding signs that do not meet the standards of Section 6.8.2 may be approved as follows:

(a) **One temporary sign not to exceed 100 square feet in area per side or 200 square feet for a two-sided sign with a height not to exceed 12 feet is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued.**

(b) **A maximum of eight off-premises signs per applicant located within two miles, measured along the shortest public street right-of-way, of a property is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued. Each sign may not exceed 16 square feet per side or 32 square feet for a two-sided sign with a height not to exceed 12 feet. Each sign must be a minimum of 600 feet from another temporary off-site sign.**

**6.7.2 Portable signs;**

(a) **Portable signs in residential districts shall not exceed six feet in height and 10 square feet in area.**

(b) **Portable signs in nonresidential districts shall not exceed 12 feet in height and 40 square feet in area.**

**6.7.3 Banners**

(a) **Up to up to 2 banners may be displayed provided they do not exceed a total of 30 square feet each in size and are displayed for no more than 60 days in aggregate per calendar year.**

(b) **The banners must be affixed to a building or in compliance with lot and setback requirements and obtain a temporary sign permit.**

**6.7.4 Pennants, streamers, balloons, stringers or similar attention attracting devices**

(a) **Pennants, streamers, balloons and similar attention attracting devices are permitted for no more than 60 days in aggregate per calendar year with a temporary sign permit.**

(b) **The devices must be affixed to a building or other stationary structure, and my not obstruct pedestrian or traffic flow. The devices may not be located within the public right-of-way or affixed to any publicly-owned facility.**

(c) **Rotating beams, beacons or flashing illuminations or those that do not remain stationary;**

(d) **Roof signs;**

**6.7.5 Special On-Premises Sign Program**

(a) **Purpose**

The special on-premises sign program allows property owners and businesses to propose creatively designed signs that:

(1) **Encourage signs of high-quality materials and workmanship;**

(2) **Encourage signs of unique design that exhibit a high degree of imagination and inventiveness; and**

(3) **Provide a process for the application of creatively designed signs that make a positive visual contribution to the overall image of the City, while mitigating the impacts of large or unusually designed signs.**

## 6.8 Signs that May be Erected without a Permit

No sign permitted by this Section may be erected or maintained in the public right-of-way or easement unless the sign does not exceed six square feet in area and is set back at least 10 feet from the back of the curb or improved edge of a roadway and set back at least two feet from the improved edge of a trail or sidewalk and outside of the clear view triangle defined in Section 9.2.

### 6.8.1 Permanent Signs

The following types of permanent signs are permitted without need to first obtain a sign permit from the City:

(a) **Traffic control signs, railroad crossing signs and temporary safety or emergency signs.**

(b) **Any freestanding sign that is oriented primarily for viewing by persons travelling within the lot (and not from a public street or right-of-way), that does not exceed 10 square feet in size and does not exceed four feet in height.**

(c) **One sign not to exceed 10 square feet per each commercial or industrial zoned property at the point of ingress to the property that may be viewed from the public street or right-of-way.**

(d) **One sign not to exceed six square feet in area on residential zoned property, with the consent of the property owner, not including illuminated signs.**

(e) **Flags that are located on residential zoned property that do not exceed 20 square feet in size and are mounted on a pole that does not exceed 35 feet in height or the maximum height permitted in the zoning district where the lot is located, whichever is less.**

(f) **Flags that are located on commercial or industrial zoned property that do not exceed 50 square feet in size and are mounted on a pole that does not exceed 50 feet in height or the maximum height permitted in the zoning district where the lot or property is located, whichever is less.**

### 6.8.2 Temporary Signs

The following types of temporary signs are permitted without need to first obtain a sign permit from the City:

(a) **Any sign located on residential zoned property erected for less than nine consecutive days that does not exceed two square feet in area. One additional temporary sign per frontage, not to exceed six square feet in area and three feet in height, is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued. One additional temporary sign per street frontage, not to exceed six square feet in area and three feet in height, is permitted during any time when all or a portion of the property is actively listed for sale or lease.**

(b) **Any sign located on commercial or industrial zoned property erected for less than 14 consecutive days in a calendar year that does not exceed 48 square feet in area and four feet in height. One additional temporary sign per street frontage, not to exceed 48 square feet in area and eight feet in height, is permitted during any time between when a building permit is issued and when a certificate of completion or certificate of occupancy is issued. One additional temporary sign per street frontage, not to exceed 48 square feet in area and eight feet in height, is permitted during any time when all or a portion of the property is actively listed for sale or lease.**

(c) **Signs or posters painted on or attached to the inside of a display window, including illuminated signs, but excluding flashing signs, so long as the signs or posters do not cover more than 20% of any individual pane of glass.**

(d) **Decorative banners attached to or hung from light standards or similar structures provided they are no larger than 16 square feet in area.**

(e) **Bench signs provided they are installed and maintained by a person, firm or corporation licensed by the City Council.**

(f) **All non-commercial signs must be removed within 10 days following the state general election in accordance with Minnesota Statute 211B.045.**

(g) **All signs permitted by this Section must be constructed of durable, non-fading materials and shall be securely mounted to avoid displacement off the property by wind or weather.**

# Section 7: Administration

## 7.1 Zoning Administrator

### 7.1.1 Appointment

The city manager shall appoint a zoning administrator to administer and enforce this UDO.

### 7.1.2 Authority.

In addition to the authorities set forth in this UDO, the zoning administrator is authorized to perform the following duties for the City:

(a) **Accept applications, determine their completeness, and identify what additional information is required to make an application complete;**

(b) **Process and issue permits once they have been approved in accordance with this UDO;**

(c) **Issue notices of denial;**

(d) **Create reports with recommendations on zoning matters for the Planning Commission and the City Council;**

(e) **Provide for notices required under this UDO;**

(f) **Conduct inspections as may be needed;**

(g) **Administer and issue notices under Minnesota Statutes, section 15.99;**

(h) **Enforce this UDO through the issuance of violation notices, cease and desist orders, and correction orders as may be needed; and**

(i) **Perform such other duties and responsibilities as identified in this UDO or as may otherwise be needed to administer this UDO as directed by the City Manager.**

## 7.2 Planning Commission

### 7.2.1 Establishment.

A Planning Commission of seven members is hereby established and continued as a planning agency advisory to the City Council. The Planning Commission shall have the powers and duties conferred upon it by statute, charter, ordinance or resolution.

### 7.2.2 Rules and Procedures.

The rules and procedures of the Planning Commission shall be those established by resolution of the City Council, including, but not limited to, specific duties, composition, officers, member qualifications, removal, terms, conflicts of interest, compensation, and neighborhoods/district, and in accordance with bylaws approved by the City Council.

### 7.2.3 City Council Action.

The City Council may conduct a public hearing and take final action on an application without a recommendation from the Planning Commission if the Planning Commission

does not conduct a public hearing or forward a recommendation on an application to the City Council within sufficient time to allow the City Council to consider and act on the application within the applicable statutory timeline.

## 7.3 Board of Adjustments and Appeals

### 7.3.1 Board of Adjustments and Appeals.

Pursuant to Minnesota Statutes, section 462.354, the city of Brooklyn Center Board of Adjustments and Appeals is hereby established for the City. The City's Planning Commission shall serve as the Board of Adjustments and Appeals for the City. Pursuant to Minnesota Statutes, section 462.354, subdivision 2, the decisions of the Board of Adjustments and Appeals are advisory to the City Council, which will make all final decisions.

### 7.3.2 Duties of the board.

The Board of Adjustments and Appeals shall have the following duties:

(a) Hear and make recommendations with respect to appeals from any order, decision, or determination made by an administrative officer in the enforcement of this UDO, where it is alleged that some error as provided for in Minnesota Statutes, Section 462.357, subd. 6(1).

(b) Hears requests for variances from literal provisions of this UDO in accordance with the provisions of Minnesota Statutes, section 462.357.

(c) Hear appeals from the denial of a building permit for structures within the limits of a mapped street pursuant to Minnesota Statutes, section 462.359.

## 7.4 Applications

### 7.4.1 Form.

An application must be submitted on the appropriate City form approved by the City Council. Any requests not submitted on an approved form shall not constitute an application for the purposes of this UDO, or Minnesota Statutes, section 15.99, and shall be rejected.

### 7.4.2 Submission.

All applications shall be submitted to the Zoning Administrator or the Zoning Administrator's designee. The Zoning Administrator shall forward applications to the Planning Commission, the Board of Adjustments and Appeals, or the City Council as appropriate and is authorized to schedule and provide notice of hearing on the application if required.

### 7.4.3 Completeness.

An application shall not be deemed complete, and shall immediately be rejected, if it is not accompanied by the required application fee and, if required, an escrow. An application that does not contain all of the information required by this UDO for the

particular type of request, any additional information required on the application form, and any other additional information the Zoning Administrator may reasonably determine is necessary to properly process the application shall be deemed incomplete and shall not be processed until the applicant provides the additional information and materials required to make it complete. The Zoning Administrator shall review and make decisions on the completeness of an application as provided for in Minnesota Statutes, section 15.99. The Zoning Administrator may expressly waive one or more application requirements if the Zoning Administrator determines the information is not required under the particular circumstances.

#### 7.4.4 Minimum Information.

Every application shall, at a minimum, contain the following information:

(a) **The name and address of the applicant;**

(b) **The description of the property to which the application relates, including the property identification number established by the County;**

(c) **The name and address of the owner of the property, if different from the applicant;**

(d) **If the applicant is not the owner, an explanation of the interest which the applicant has in the property; and**

(e) **A showing that all requisite permits, licenses and approvals from the City have been obtained and that the requirements of any other governmental authority have been met.**

#### 7.4.5 Owner Consent.

An application submitted by someone other than the owner of the property shall have the consent of the owner to be considered a complete application.

#### 7.4.6 Accuracy.

No person shall knowingly make a false statement in an application or present inaccurate information to the City. If the City Council determines an approval was issued based, at least in part, on an applicant's false statement or on the presentation of inaccurate information, it may act to revoke or modify the approval. The City Council shall provide the applicant written notice and an opportunity to be heard before acting to revoke or modify the approval.

## 7.5 Public Hearings

#### 7.5.1 Content of Notice.

For all applications for review that are subject to public notice requirements under this UDO or any applicable law or rule, public hearings shall be noticed, scheduled, held, and decided pursuant to this UDO and applicable law. Notices for public hearings, whether by publication or mail, shall, at a minimum:

(a) **Identify the address or location of the property subject to the application and the name of the applicant or the applicant's agent;**

(b) **Indicate the date, time, and place of the public hearing;**

(c) **Describe the land involved by street address, legal description, or the nearest cross street and project area (size);**

(d) **Describe the nature, scope, and purpose of the application or proposal;**

(e) **Identify the location (e.g., city hall) where the public may view the application and related documents;**

(f) **Include a statement that the public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application;**

(g) **Include a statement describing where written comments will be received prior to the public hearing; and**

(h) **If applicable, indicate the date of the city council meeting at which the application will be considered.**

Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a bona fide attempt has been made to comply with applicable notice requirements. Failure of a party to receive written notice shall not invalidate subsequent action.

When the records of the City document the publication, mailing, and posting of notices as required by this section, it shall be presumed that notice of a public hearing was given as required by this section.

### 7.5.2 Timing of Notice.

Unless otherwise expressly provided in state law or this UDO, notice, when required, shall be published in the official newspaper of the City at least ten (10) days prior to the day of the hearing. The notice shall also be posted on the City's website and any social media accounts.

### 7.5.3 Mailed Notice.

When the provisions of state law or this UDO require that notice be mailed, the Zoning Administrator shall prepare and mail the written notice at least ten days before the day of the public hearing to each owner of property situated wholly or partly within 350 feet of the outer boundaries of the subject property.

For the purpose of giving mailed notice, the Zoning Administrator may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the Zoning Administrator and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.

### 7.5.4 Sign Notice.

When a zoning application involves changes in district boundaries affecting an area of five acres or more, a change of a zoning district , or construction or major alteration of a structure, except one and two family dwellings and buildings accessory thereto, the property owner must post a public notice sign in accordance with the following:

(a) **Public notice signs shall be posted on any property subject to the public hearing provisions. Public notice signs shall be installed by the owner of the property for which the public hearing is required.**

(b) **Display Period. Public notice signs shall be installed on the subject property no less than ten days prior to an established public hearing date, and shall be removed no more than seven days following application determination by City Council**

(c) **Public notice signs shall be posted according to the following standards:**

(1) **Number. One sign shall be posted along each public street frontage.**

(2) **Location. Whenever practical, signs shall be set back ten (10) feet from a public street right-of-way and positioned in a manner to best inform the vehicle and pedestrian traffic, without creating a safety hazard.**

(3) **Size and Content. All public notice signs shall be of adequate size and design to be clearly visible and legible to passing vehicles and pedestrians. At a minimum, a public notice sign shall specify the time, date and location of the scheduled public hearing, the general nature of the hearing, and a phone number for the Zoning Administrator for additional information.**

(4) **All sign content, location, and size must be reviewed and approved in writing by the Zoning Administrator.**

#### 7.5.5 Decisions.

If the public hearing is related to a specific application (CUP, variance, etc.) the decision shall be in writing, shall be accompanied by findings based upon the record, and shall be provided to interested parties as required by State statute and City Code and as determined appropriate by the City.

(a) **Shoreland Notice of Decisions. For applications within the Shoreland Districts, notice of decisions shall be conducted as noted in Section 3.2.2 (c)(7) of the Unified Development Ordinance.**

(b) **Floodplain Notice of Decisions. For applications within Floodplain Districts, notice of the decision shall be conducted as noted in Section 3.2.1 of the Unified Development Ordinance.**

(c) **MRCCA Notice of Decisions. For applications within Mississippi River Corridor Critical Area Districts, notice of the decision must be sent to the Commissioner of the Department of Natural Resources pursuant to Minnesota Statutes, Section 1116G.15.**

## 7.6 Site & Building Plan Approval

#### 7.6.1 Applicability.

Without first obtaining site and building plan approval, it shall be a violation of this UDO to do any of the following:

(a) **Construct or erect a new building or add on to an existing building that would result in an increase in gross floor area of all buildings on the lot by more than ten percent;**

(b) **Move a modular housing structure to or within any lot within the City;**

(c) **Expand or change the use of a building or parcel of land or modify a building, accessory structure or site or land feature in any manner which results in a different intensity of use, including the requirement for additional parking;**

(d) **Grade or take other actions to prepare a site for development, except in conformance with a permit or an approved plan; and**

**7.6.2 Remove earth, soils, gravel or other natural material from, or place the same on, a site, except in conformance with a permit or an approved plan.Exceptions**

Except in those cases specifically cited within this Section, the following shall not require a site and building plan approval:

(a) **Construction or alteration of a one-family or two-family residential building or accessory building;**

(b) **Relocation of a modular housing structure to or within any lot in a R1 or R2 zoning district;**

(c) **Enlargement of a building by less than ten percent of its gross floor area, provided that there is no variance required and the Zoning Administrator has conducted an administrative review pursuant to this Section; and**

(d) **Changes in the leasable space of a multitenant building where the change does not intensify the use, require additional parking, or result in an inability to maintain required performance standards as specified in Section 5.**

**7.6.3 Procedure.**

(a) **Application. A site and building plan review application shall be submitted to the Zoning Administrator in accordance with the application criteria of this UDO. If an applicant is submitting a conditional use permit application, the conditional use permit and site and building plan review application shall be reviewed concurrently.**

(b) **Additional Application Requirements. In addition to the application requirements set forth in Section 7.4 of this UDO, a site and building plan approval applicant shall submit the following documents and information when applicable:**

(1) **A survey drawing by a registered engineer or land surveyor showing pertinent existing conditions, accurately dimensioned.**

(2) **A complete set of preliminary architectural and site drawings prepared by a registered architect or engineer showing:**

(A) **An accurately scaled and dimensioned site plan indicating property lines, parking layout including access provisions, designation of locations of possible accessory buildings; landscaping, including trees and shrubbery with indication of species, planting, size and location;**

(B) **Fences or walls or other screening, including height, placement, and type of material;**

(C) **Lighting provisions, including fixture specifications and type, illumination levels, and location;**

(D) **Curbs and gutters;**

(E) **Building floor plans, elevations, sections, and outline specifications, including materials proposed; and**

(F) **Existing and proposed land elevations, drainage provisions, temporary and permanent erosion control provisions, and utility provisions as may be required.**

(3) **Any special studies requested.**

The City Engineer or the Zoning Administrator may request special impact studies when there is evidence that the proposed plan may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include, but are not limited to, traffic, environmental, storm water management, wetland, and utility studies.

(c) **Review and approval.**

(1) **The Zoning Administrator, or their designee, will review and act administratively upon the following types of final site and building plan applications:**

(A) **One and Two-family dwellings;**

(B) **Accessory buildings in R1 and R2 districts;**

(C) **Garages in R1 and R2 districts**

(D) **Parking lots or other site characteristic modifications;**

(E) **New buildings or building additions to un-platted properties that do not exceed 1,000 square feet; and**

(F) **Revisions to previously approved final site and building plans except those that involve:**

i. **Building additions that exceed 5% of the existing floor area for the building or that exceed 10,000 square feet;**

ii. **An increase in the number of dwelling units;**

iii. **Deviations to City Code requirements; or**

iv. **Modifications to any condition of approval adopted by the Planning Commission or City Council. If a revision requires modification to a condition of approval previously adopted by the City Council, the revision must be reviewed by the City Council.**

(2) **In the event that a final site and building plan application is denied by the Zoning Administrator, or their designee, the applicant may appeal the decision as set forth in Section 7.11.**

(3) **The Planning Commission will review and act upon all other types of final site and building plan applications, including those related to an associated conditional use permit, interim use permit, variance, rezoning or Comprehensive Plan amendment application when City Council review is required for the related application.**

(d) **All applications shall first be reviewed by the Zoning Administrator and City staff, and reports concerning the application shall be submitted to the Planning Commission for its consideration (if required) within 30 days of receipt of all material required by this Unified Development Ordinance for review of the application. The Zoning Administrator shall provide the applicant with comments and changes that are required to be in compliance with the provisions of this UDO. The applicant shall be required to submit revised plans and documents incorporating the required changes prior to the Planning Commission meeting.**

(e) **Notice and public hearing. After determining that an application contains all the necessary and required information, the Zoning Administrator shall place the application on the Planning Commission agenda, schedule a public hearing on the proposed request, when required, and notify the public pursuant to Section 7.5 of this UDO.**

(f) **Recommendation by Planning Commission. The Planning Commission shall hear and make a recommendation on the application. If the Planning Commission so desires, it**

**may continue the public hearing and/or table the item to allow for further review, so long as such action is in accordance with Minnesota Statutes, section 15.99. The Planning Commission shall consider the applicable decision criteria of this UDO and shall recommend approval, recommend approval with conditions, or recommend denial of an application, citing the specific reasons therefor.**

(g) **Action by the City Council. The City Council shall consider and make the final decision on the application, acting to approve the request, approve with conditions, or deny the request, citing the specific reasons therefor. The City Council shall adopt findings and shall act upon the application in accordance with Minnesota Statutes, section 15.99.**

(h) **The applicant or their agent shall appear at each meeting of the Planning Commission and City Council during which the application is considered. Furthermore, each applicant shall provide the Planning Commission or the City Council the maps, drawings, plans, records, or other information requested for the purpose of assisting in the recommendation or determination of the application.**

(i) **The City Council may conduct a public hearing and take final action on an application without a recommendation from the Planning Commission if the Planning Commission does not conduct a public hearing or forward a recommendation on an application to the City Council with sufficient time to allow the City Council to consider and act on the application within the applicable statutory timeline.**

(j) **The City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.**

(k) **Appeals. The decision of the City Council is appealable to the district court within 30 days after the date of the decision.**

### 7.6.4 Site and Building Plan Approval Criteria.

No site and building plan review application shall be approved unless it meets the following criteria:

(a) **It fully complies with all applicable requirements of this UDO;**

(b) **It adequately protects residential uses from the potential adverse effects of a non-residential use;**

(c) **It is consistent with the use and character of surrounding properties; and**

(d) **It provides safe conditions for pedestrians or motorists and prevents the dangerous arrangement of pedestrian and vehicular ways.**

### 7.6.5 Amendments.

Approved site and building plans may only be amended upon the review of the proposed amendment as follows:

(a) **Minor Amendments. Minor amendments may be granted for the following proposed changes or modifications that do not require variances, and the proposed changes or modifications, do not, as determined by the Zoning Administrator, significantly intensify the use of the site:**

(1) **Landscape changes;**

(2) **Parking lot configuration changes (not change in number of spaces);**

(3) **Less than 25 percent change in floor area in any one (1) structure;**

(4) **Less than 25 percent change in the approved separation of buildings;**

(5) **Less than 20 percent change in the ground area covered by the project;**

(6) **Less than 20 percent change in the number of residential units; and**

(7) **Less than 20 percent change in the number of parking spaces provided or required.**

Minor amendments shall comply with the criteria set for the above for site and building plan approval. Decisions of the Zoning Administrator may be appealed to the City Council. The Zoning Administrator may determine that a proposed minor amendment is in fact a major amendment and may refer such proposed amendments to the Planning Commission and City Council according to the procedure set forth below with regard to major amendments.

(b) **Major Amendments. Major amendments to a site plan include the following:**

(1) **25 percent or greater change in floor area in any one (1) structure;**

(2) **25 percent or greater change in the approved separation of buildings;**

(3) **Any reduction in the original approved setbacks from property lines if adjacent to one- or two-family residential property;**

(4) **20 percent or greater change in the ground area covered by the project;**

(5) **20 percent or greater change in the number of residential units; and**

(6) **20 percent or greater change in the number of parking spaces provided or required.**

The review of major amendments shall follow the procedure set forth above for the issuance of a new site and building plan approval.

### 7.6.6 Effect of Site and Building Plan Approval.

(a) **Site and building plan approval shall expire one year from the date of approval unless the applicant has applied for and received a building permit.**

(b) **The applicant may request an extension of the expiration date in writing to the Zoning Administrator. The City Council may approve one extension of not more than one year. Such written request shall include the following:**

(1) An explanation of what, if any, good faith efforts have been made to complete the site plan process; and

(2) The anticipated completion date.

(c) **If required as a condition of approval of the site and building plan, the applicant shall sign a development agreement with the City with a supporting financial guarantee that the subject property will be constructed, developed, and maintained in conformance with the applicable plans, specifications and standards.**

## 7.7 Conditional Use Permits

### 7.7.1 Applicability.

Conditional uses are those uses which have been identified, because of their nature, operation, location, special requirements or characteristics, and that may only be allowed in a particular zoning district after submittal of an application, review, and recommendation by the Planning Commission, and approval by the City Council. The Conditional Use Permit process regulates the location, magnitude, and design of conditional uses consistent with the Comprehensive Plan, and the regulations, purposes, and procedures of this Unified Development Ordinance.

### 7.7.2 Procedure.

(a) **Application submittal. The applicant shall submit an application, in accordance with Section 7.4 of this UDO, to the Zoning Administrator.**

(b) **Review by the Zoning Administrator and City Staff. The Zoning Administrator may consult with other City staff on the application. The Zoning Administrator shall provide the applicant with comments and changes that are required to be in compliance with the provisions of this UDO. The applicant shall be required to submit revised plans and documents incorporating the required changes prior to the Planning Commission meeting.**

(c) **Notice and public hearing. After determining that an application contains all the necessary and required information, the Zoning Administrator shall place the application on the Planning Commission agenda, schedule a public hearing on the proposed request, and notify the public pursuant to Section 7.5 of this UDO.**

(d) **Preparation of staff report. The Zoning Administrator or City staff shall prepare a staff report providing an analysis of the proposal and a recommendation. The report shall consider comments from other City staff in formulating the recommendation. The written report shall be forwarded to the Planning Commission for its consideration.**

(e) **Recommendation by Planning Commission. The Planning Commission shall hear and make a recommendation on the application. If the Planning Commission so desires, it may continue the public hearing and/or table the item to allow for further review, so long as such action is in accordance with Minnesota Statutes, section 15.99. The Planning Commission shall consider the applicable decision criteria of this UDO and shall recommend approval, recommend approval with conditions, or recommend denial of an application, citing the specific reasons therefor.**

(f) **Action by the City Council. The City Council shall consider and make the final decision on the application, acting to approve the request, approve with conditions, or deny the request, citing the specific reasons therefor. The City Council shall adopt findings and shall act upon the application in accordance with Minnesota Statutes, section 15.99.**

(g) **The applicant or their agent shall appear at each meeting of the Planning Commission and City Council during which the application is considered. Furthermore, each applicant shall provide the Planning Commission or the City Council the maps, drawings, plans, records, or other information requested for the purpose of assisting the recommendation or determination of the application.**

(h) **The City Council may conduct a public hearing and take final action on an application without a recommendation from the Planning Commission if the Planning Commission does not conduct a public hearing or forward a recommendation on an application to the City Council with sufficient time to allow the City Council to consider and act on the application within the applicable statutory timeline.**

(i) **The City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.**

(j) **Appeals. The decision of the City Council is appealable to the district court within 30 days after the date of the decision.**

### 7.7.3 Conditional Use Permit Criteria.

A conditional use permit may not be granted by the City Council unless the following criteria have been satisfied:

(a) The conditional use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO;

(b) The establishment, maintenance, or operation of the conditional use will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals or comfort;

(c) The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

(d) The establishment of the conditional use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district;

(e) Adequate measures have been or will be taken to provide ingress, egress, and parking so designed as to minimize traffic congestion in the public streets;

(f) Impacts such as noise, hours of activity, and exterior lighting have been sufficiently addressed to mitigate negative impacts on nearby uses; and

(g) The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

### 7.7.4 Standards for Conditional Use Permits in the Floodplain (FP), Shoreland (SL) and Mississippi River Critical Corridor Area (CA).

(a) Specific standards for conditional uses in the Floodplain (FP) overlay district are found in Sections 3.1.1(d)(3), 3.1.1(d)(4), 3.1.1(f)(3), and 3.1.1(j)(4).

(b) Specific standards for conditional use permits in the Shoreland (SL) overlay district are found in Section 3.2.2(c)(5).

(c) Specific standards for conditional use permits in the Mississippi River Critical Corridor Area (CA) are found in Section 3.2.3(c)(4).

### 7.7.5 Conditions and Restrictions.

The Planning Commission may recommend, and the City Council may impose, such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the conditional use as deemed necessary for the protection of the public interest and to secure compliance with requirements specified in this Unified Development Ordinance. In all cases in which conditional use permits are granted, the City Council may require such evidence and guarantees as it may deem necessary as part of the conditions stipulated in connection therewith.

### 7.7.6 Amendments.

Approved conditional use permits may only be amended upon the review of the proposed amendment as follows:

(a) **Minor Amendments. A minor amendment may be granted for proposed changes or modifications which are determined by the Zoning Administrator to not have a significant effect on required parking, required yards, floor area ratios, ground floor area ratios, signage, building height, density, covenants or agreements required by the original conditional use permit.**

(b) **Major Amendments. Major amendments shall include all changes that are not classified as minor amendments above and shall require an amended conditional use permit and all procedures shall apply as if a new permit were being issued.**

### 7.7.7 Revocation.

(a) **A violation of any condition set forth in a conditional use permit shall be a violation of this UDO, and failure to correct said violation within the time period established by the City Council or no later than thirty (30) days of written notice from the Zoning Administrator may result in the revocation of the permit.**

(b) **Prior to revoking a conditional use permit, the City Council shall provide the permittee at least ten (10) days' written notice of a hearing to be held by the City Council regarding the revocation of the conditional use permit.**

(c) **If, at the conclusion of the hearing, the City Council determines the violation or violations have not been corrected, it may revoke the conditional use permit and record notice of the revocation against the affected property. As an alternative to immediately revoking the conditional use permit, the City Council may issue a corrective order that, if not fully complied with by the date or dates set out in the order, shall cause the conditional use permit to be revoked without further action by the City Council. The City shall provide the permittee written notice of a revocation or a copy of a corrective order if one is issued. Once revoked, all uses allowed by the conditional use permit shall immediately cease.**

### 7.7.8 Filing and Recording of Approved Conditional Use Permit.

The resolution approving a conditional use permit or an amended conditional use permit shall include the legal description of the property for which the permit was issued and a list of any conditions set forth by the City Council as part of the approval of the conditional use permit. A certified copy of the resolution shall be filed and recorded by the applicant with the Hennepin County Recorder-Registrar of Titles within 60 days of approval of the resolution.

#### 7.7.9 Resubmission.

No application for a conditional use permit which has been denied by the City Council shall be resubmitted for a period of twelve (12) months from the date of the final determination by the City Council; except that the applicant may set forth in writing newly discovered evidence of change of condition upon which they rely to resubmit at an earlier time.

#### 7.7.10 Existing Uses.

All uses existing at the time of adoption of this UDO that now require a conditional use permit may continue in the same manner of operation as the use did upon the effective date of this UDO. Any enlargement, structural alteration or intensification of use shall require a conditional use permit as provided for above. Additional reasonable conditions may be imposed for the continuation of such use in accordance with the hearing provisions as set forth in Section 7.5 of this UDO.

#### 7.7.11 Effect of Conditional Use Permit Approval.

(a) **A conditional use permit shall authorize a particular conditional use on a specific parcel for which it was approved. A change of use from one permitted conditional use to another shall require a new application and approval pursuant to this section.**

(b) **If a site plan was approved as part of the conditional use permit, the permit shall expire one year from the date of approval unless the applicant has applied for and received a building permit. The applicant may request an extension of the expiration date in writing to the Zoning Administrator. The City Council may approve one extension of not more than one year. Such written request shall include the following:**

(1) **An explanation of what, if any, good faith efforts have been made to complete the site plan process; and**

(2) **The anticipated completion date.**

(c) An approved conditional use may continue in operation, regardless of ownership or ownership changes, provided the use meets all the standards and conditions of approval.

## 7.8 Interim Use Permits

#### 7.8.1 Applicability.

Interim uses are allowed temporarily by an interim use permit which is subject to certain conditions and expiration on a particular date, until the occurrence of a particular event, or until this UDO no longer allows the use. A use allowed by an interim use permit shall be consistent with the City's Comprehensive Plan and be compatible with surrounding uses. Conditions may be applied to the issuance of the permit and a periodic review of the permit may be required. Upon the expiration of a permit, all activities associated with the use allowed by the permit shall cease until a new permit is applied for and granted by the City.

### 7.8.2 Procedure.

(a) Application submittal. The applicant shall submit an application, in accordance with Section 7.4 of this UDO, to the Zoning Administrator.

(b) Additional Application Requirements. In addition to the application requirements set forth in Section 7.4 of this UDO, an interim use permit application shall be accompanied by development plans of the proposed use including the following documentation and information as may be deemed necessary by the Zoning Administrator. The Zoning Administrator, on a case-by-case basis, may waive certain items in writing:

(1) The scale of maps submitted shall be appropriately scaled in accordance with the size and scope of the project. The number of maps and reports to be submitted shall be specified by the Zoning Administrator. All maps shall be reduced and included in the applicable reports;

(2) Certificate of Survey;

(3) A site plan drawn to scale showing the following information:

(A) Existing Conditions. Property lines and dimensions, building location and setbacks, dimensions of buildings, curb cuts, driveways, access roads, parking, off-street loading areas, septic systems, and wells.

(B) Proposed Conditions. Property lines and dimensions, building location and setbacks, building dimensions, curb cuts, driveways, access roads, parking, off-street loading areas and any other proposed improvements; and

(4) A landscaping plan with the following information:

(A) Existing vegetation, proposed plantings, plant schedule including information about the plant size, quantity, type and root condition and ground cover;

(5) Grading, Drainage and Erosion Control Plan;

(6) Soil Conditions;

(7) Building Floor Plans;

(8) Building Elevations, noting exterior materials;

(9) General Location Map;

(10) Principal land uses within 200 feet of the property;

(11) Proof of ownership in the form of Abstract of Title, Certificate of Title, Attorney's Legal Opinion, unrecorded documents where applicant will acquire legal or equitable ownership;

(12) Type of business or activity and proposed number of employees;

(13) Primary and secondary septic systems and well locations;

(14) Aerial photograph of site area;

(15) An analysis or evaluation of the impact of the proposed use on the health, safety, and general welfare on the occupants of the surrounding lands;

(16) A proposed plan for mitigation of any impacts on the health, safety, and general welfare on the occupants of the surrounding lands and the City; and

(17) Such other materials as may be required by the Zoning Administrator.

(c) Review by the Zoning Administrator and City Staff. The Zoning Administrator may consult with other City staff on the application. The Zoning Administrator shall provide the applicant with comments and changes that are required to be in compliance with the provisions of this UDO. The applicant shall be required to submit revised plans and documents incorporating the required changes prior to the Planning Commission meeting.

(d) Notice and public hearing. After determining that an application contains all the necessary and required information, the Zoning Administrator shall place the application on the Planning Commission agenda, schedule a public hearing on the proposed request, and notify the public pursuant to Section 7.5 of this UDO.

(e) Preparation of staff report. The Zoning Administrator or City staff shall prepare a staff report providing an analysis of the proposal and a recommendation. The report shall consider comments from other City staff in formulating the recommendation. The written report shall be forwarded to the Planning Commission for its consideration.

(f) Recommendation by Planning Commission. The Planning Commission shall hear and make a recommendation on the application. If the

Planning Commission so desires, it may continue the public hearing and/or table the item to allow for further review, so long as such action is in accordance with Minnesota Statutes, section 15.99. The Planning Commission shall consider the applicable decision criteria of this UDO and shall recommend approval, recommend approval with conditions, or recommend denial of an application, citing the specific reasons therefor.

(g) Action by the City Council. The City Council shall consider and make the final decision on the application, acting to approve the request, approve with conditions, or deny the request, citing the specific reasons therefor. The City Council shall adopt findings and shall act upon the application in accordance with Minnesota Statutes, section 15.99.

(h) The applicant or their agent shall appear at each meeting of the Planning Commission and City Council during which the application is considered. Furthermore, each applicant shall provide the Planning Commission or the City Council the maps, drawings, plans, records, or other information requested for the purpose of assisting the recommendation or determination of the application.

(i) The City Council may conduct a public hearing and take final action on an application without a recommendation from the Planning Commission if the Planning Commission does not conduct a public hearing or forward a recommendation on an application to the City Council with sufficient time to allow the City Council to consider and act on the application within the applicable statutory timeline.

(j) The City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

(k) Appeals. The decision of the City Council is appealable to the district court within 30 days after the date of the decision.

### 7.8.3 Interim Use Permit Criteria.

An interim use permit may not be granted by the City Council unless the following criteria have been satisfied:

(a) The interim use will be in accordance with the general objectives, or with any specific objective, of the City's Comprehensive Plan and this UDO;

(b) The date or event that will terminate the use can be identified with certainty;

(c) Permission of the use will not impose costs on the public if it is necessary for the public to take the property in the future;

(d) The applicant agrees to all conditions placed on the permit;

(e) In determining whether the proposed use is in harmony with the general objectives of this UDO and the City's Comprehensive Plan, the Planning Commission and City Council shall consider:

(1) The impact of the proposed use on the health, safety and general welfare of the occupants of the surrounding lands.

(2) Existing and anticipated traffic conditions, including parking facilities on adjacent streets and lands.

(3) The effect of the proposed use on utility and school capacities.

(4) The effect of the proposed use on property values and scenic views in the surrounding area.

(5) The effect of the proposed use on the Comprehensive Plan.

(6) The ability of the proposed use to meet the standards of the Unified Development Ordinance.

(7) The effects of the proposed use on groundwater, surface water and air quality.

(8) That the proposed use is allowed with an interim use permit in the designated zoning district in which it is proposed.

#### 7.8.4 Acceptance and Compliance.

An applicant undertaking the use allowed by an interim use permit issued by the City shall be deemed acceptance by the applicant of the conditions imposed on the permit. The use allowed by an interim use permit shall conform to the applicable sections of this UDO.

#### 7.8.5 Length of Interim Use.

Any use permitted under the terms of any interim use permit shall be established and conducted in conformity to the terms of such permit and of any conditions designated in connection therewith. Interim use permits shall remain in effect until they expire on the date or occurrence of the event identified in the permit, or until this UDO no longer allows the use within the district. The City shall be notified in writing within ten (10) days of the transfer

of the land which is subject to an interim use permit. Said notice shall be provided by the seller of said land and shall include notification of the buyers, name, address, telephone number, and certification that the seller has provided the buyer with a copy of the interim use permit and the notice to the City.

#### 7.8.6 Revocation.

(a) A violation of any condition set forth in an interim use permit shall be a violation of this UDO, and failure to correct said violation within the time period established by the City Council or no later than thirty (30) days of written notice from the Zoning Administrator may result in the revocation of the permit.

(b) Prior to revoking an Interim Use Permit, the City Council shall provide the permittee at least ten (10) days written notice of a hearing to be held by the City Council regarding the revocation of the Interim Use Permit.

(c) If, at the conclusion of the hearing, the City Council determines the violation or violations have not been corrected, it may revoke the interim use permit. As an alternative to immediately revoking the interim use permit, the City Council may issue a corrective order that, if not fully complied with by the date or dates set out in the order, shall cause the interim use permit to be revoked without further action by the City Council. The City shall provide the permittee written notice of a revocation or a copy of a corrective order if one is issued. Once revoked, all uses allowed by the interim use permit shall immediately cease.

#### 7.8.7 Records of Interim Uses.

(a) The City will not file a copy of an interim use permit with the County Recorder or Registrar of Titles.

(b) The City shall maintain a record of all interim use permits issued including information on the use, location, conditions imposed by the City, time limits, review dates, expiration date or event, and such other information as may be appropriate.

(c) Two copies of as built plans must be submitted to City upon completion.

#### 7.8.8 Amended Interim Use Permits.

Amended interim use permits shall be requests for changes in conditions of the existing permit. An amended interim use permit application shall be

administered in a manner similar to that required for a new interim use permit.

#### 7.8.9 Expiration of Interim Use Permits.

An application for a new interim use permit for a property for which an interim use permit was issued may be submitted before, and in anticipation of, the expiration of the then current interim use permit.

#### 7.8.10 Resubmission.

No application for an interim use permit for a particular use on a particular parcel of land shall be resubmitted for a period of six (6) months from the date of the denial of the previous application.

#### 7.8.11 Existing Uses.

All uses existing at the time of adoption of this UDO that now require an interim use permit may continue in the same manner of operation as the use did upon the effective date of this Ordinance. Any enlargement, structural alteration or intensification of use shall require an interim use permit as provided for above. Additional reasonable conditions may be imposed for the continuation of such use in accordance with the hearing provisions as set forth in Section 7.5 of this UDO.

#### 7.8.12 Effect of Interim Use Permit.

(a) An interim use permit shall authorize a particular interim use on a specific parcel for which it was approved. A change of use from one permitted interim use to another shall require a new application and approval pursuant to this section.

(b) If a site plan was approved as part of the interim use permit, the permit shall expire one year from the date of approval unless the applicant has applied for and received a building permit. The applicant may request an extension of the expiration date in writing to the Zoning Administrator. The City Council may approve one extension of not more than one year. Such written request shall include the following:

(1) An explanation of what, if any, good faith efforts have been made to complete the site plan process; and

(2) The anticipated completion date.

## 7.9 Land Disturbance Permits

#### 7.9.1 Applicability.

No construction, reconstruction, development, redevelopment, grading, excavation, or other activity shall occur without first securing a permit from the Community

Development Department if such activity causes a land disturbance of 10,000 square feet or more of land.

### 7.9.2 Exemptions.

Reserved.

### 7.9.3 Required Plans.

The applicant shall submit construction plans and supporting calculations. The submittals shall comply with the following requirements

(a) The plans shall meet the requirements of the Shingle Creek and West Mississippi Watershed Management Commission's Rules and Standards, and the Minnesota Pollution Control Agency Construction Permit. Alternative treatment best management practices must be considered where any of the following apply:

(1) Where industrial facilities are not authorized to infiltrate industrial stormwater under a National Pollutant Discharge Elimination System/State Disposal System Permit;

(2) When receiving runoff from fueling and vehicle maintenance areas, unless the infiltration practices is designed to allow for spill control;

(b) The infiltration practice shall be 10 feet away from all buildings, or;

(c) The infiltration practice shall not be used within fifty (50) feet of a City or private well, unless specifically allowed by an approved wellhead protection plan.

(d) The plan shall provide 2-foot contour lines with spot elevations of proposed grades in relation to existing grades on the subject property and adjacent land. The location and type of erosion control devices shall be clearly labeled.

(e) The plan shall address the management of post development runoff and means of assuring the long-term maintenance and operation of best management practices and storm water management structures, devices and methods.

### 7.9.4 Conditions and Restrictions.

(a) The City Engineer may require such additions or modifications to the plan and may impose such conditions and restrictions on the permit as the City Engineer deems necessary to provide water quality protection. Such conditions may include, but are not limited to: limiting the size, kind or character of the proposed development; requiring the

construction of structures, drainage facilities, storage basins and other facilities; requiring the replacement of vegetation; establishing required monitoring procedures; requiring that the work be staged over time; requiring the execution and filing of such declarations or agreements as the City Engineer deems necessary to assure the continuing monitoring and maintenance of all facilities and systems; and requiring a performance bond, or other acceptable security, to assure that all facilities and systems are constructed as required.

(b) The Building Official may require such additions or modifications to the plan and may impose such conditions and restrictions on the permit as deemed necessary to comply with the Americans with Disabilities Act provisions and to ensure continuous connections with existing public sidewalk and trail infrastructure.

(c) Every effort shall be made during the permit application process to determine the full extent of erosion control required. However, the City Engineer may require additional controls to correct specific site related problems as inspections are performed during construction.

(d) All erosion control noted on the approved plan shall be installed prior to the initiation of any site grading or construction.

(e) All activities requiring a permit under this section shall conform to all requirements of federal, state and local laws, rules and regulations.

(f) The City Engineer shall inspect and enforce all control measures and shall receive and consider reports of non-compliance or other information on construction issues related to water quality submitted by members of the public. Non-compliance with the requirements of this section, the approved plan, any conditions or restrictions imposed by the City Engineer, or any orders issued by the City Engineer is a violation of this Section. Violation of this Section is a misdemeanor and constitutes grounds for the City to issue an order to halt all construction or pursue any other legal or equitable remedy to enforce the requirement of this Section.

### 7.9.5 Maintenance of Private Stormwater Management Facilities.

(a) No private Stormwater Management Facilities may be approved unless a maintenance plan is provided and is consistent with City Code, and the Shingle Creek and West Mississippi Watershed Management Commissions' Rules and Standards. All such facilities shall be inspected annually, with reports submitted to the City, and maintained in proper

condition consistent with the performance standards for which they were originally designed.

(b) Owners of private Stormwater Management Facilities shall enter into an agreement with the City setting out how the owners shall provide for the long-term operations and maintenance of the facilities

### 7.9.6 Easements.

The applicant shall establish, in a form acceptable to the City, temporary and perpetual easements for ponding, flowage, and drainage purposes over hydrologic features such as water bodies and stormwater basins. The easements shall include the right of reasonable access for inspection, monitoring, maintenance, and enforcement purposes.

### 7.9.7 Enforcement Action to Ensure Compliance.

(a) Orders. The City may issue an order to modify the approved plan and stipulate a time frame for compliance. The applicant must comply with said order.

(b) Permit Suspension. The City shall suspend the permit and issue a stop work order if the City determines the applicant supplied incorrect information, or the applicant is in violation of any provision of the approved plans, the permit, or this Section. The City shall reinstate a suspended permit upon the applicant's correction of the cause of the suspension.

(c) Construction Stop Work Order. The City Building Official may issue a stop work order for a related building permit if requested by the City.

(d) Permit Revocation. If the applicant fails or refuses to cease work as required, the City shall revoke the permit and the applicant shall be subject to enforcement, penalties, and loss of its financial security. The City shall not reinstate a revoked permit, but an owner may apply for a new permit.

(e) Remedial Corrective Action. The City or a private contractor under contract with the City may conduct remedial or corrective action on the project site or adjacent sites affected by project failure or to implement actions specified in an order to modify plans. The City may charge applicant for all costs associated with correcting failures or remediating damage from the failures according to the order including but not limited to, materials, equipment, staff time and attorney's fees. If payment is not made within thirty (30) days, payment will be made

from the applicant's financial security or, in the case where no permit was issued, payment will be assessed against the property.

(f) Action Against Financial Security. In any of the following circumstances, the City shall use funds from the financial security to finance remedial work undertaken later by the City or a private contractor under contract to the City, and to reimburse the City for all direct costs including, but not limited to, staff time and attorney's fees:

(1) The applicant ceases land-disturbing activities or filling activities prior to completion of the Stormwater Management Plan;

(2) The applicant fails to conform to the Stormwater Management Plan as approved or as modified under the City Code, and has the Permit revoked under this City Code;

(3) The techniques utilized under the Stormwater Management Plan fail within one (1) year of installation, or before final stabilization is implemented for the site or portions of the site, whichever is later; or

(4) The City determines that action by the City is necessary to prevent excessive erosion from occurring on the Site.

(g) Cumulative Enforcement. The procedures for enforcement of a permit, as set forth in this Section, are cumulative and not exclusive.

#### 7.9.8 Financial Security.

The City shall collect a surety for erosion and sediment control before any building permit is issued. The surety is returned to the person who posted the security when the permanent erosion and sediment control has been established and has been approved by the City. The surety will be used to either remedy erosion or sediment control violations or to complete the establishment of permanent erosion and sediment control, as necessary.

## 7.10 Variances

#### 7.10.1 Applicability.

A variance is a modification or variation of the provisions of this UDO as applied to a specific piece of property. Pursuant to the procedures provided in Minnesota Statutes, section 462.357, use variances are prohibited.

#### 7.10.2 Procedure.

(a) Application submittal. The applicant shall submit an application, in accordance with Section 7.4 of this UDO, to the Zoning Administrator.

(b) Review by the Zoning Administrator and City Staff. The Zoning Administrator may consult with other City staff on the application. The Zoning Administrator shall provide the applicant with comments and changes that are required to be in compliance with the provisions of this UDO. The applicant shall be required to submit revised plans and documents incorporating the required changes prior to the Board of Adjustments and Appeals meeting.

(c) Notice and public hearing. After determining that an application contains all the necessary and required information, the Zoning Administrator shall place the application on the Board of Adjustments and Appeals agenda, schedule a public hearing on the proposed request, and notify the public pursuant to Section 7.5 of this UDO.

(d) Preparation of staff report. The Zoning Administrator or City staff shall prepare a staff report providing an analysis of the proposal and a recommendation. The report shall consider comments from other City staff in formulating the recommendation. The written report shall be forwarded to the Board of Adjustments and Appeals for its consideration.

(e) Recommendation by Board of Adjustments and Appeals. The Board of Adjustments and Appeals shall hear and make a recommendation on the application. If the Board of Adjustments and Appeals so desires, it may continue the public hearing and/or table the item to allow for further review, so long as such action is in accordance with Minnesota Statutes, section 15.99. The Board of Adjustments and Appeals shall consider the applicable decision criteria of this UDO and shall recommend approval, recommend approval with conditions, or recommend denial of an application, citing the specific reasons therefor.

(f) Action by the City Council. The City Council shall consider and make the final decision on the application, acting to approve the request, approve with conditions, or deny the request, citing the specific reasons therefor. The City Council shall adopt findings and shall act upon the application in accordance with Minnesota Statutes, section 15.99.

(g) The applicant or their agent shall appear at each meeting of the Board of Adjustments and Appeals and the City Council during which the application is considered. Furthermore, each applicant shall provide the Board of Adjustments and Appeals or the City Council the maps,

drawings, plans, records, or other information requested for the purpose of assisting the recommendation or determination of the application.

(h) The City Council may conduct a public hearing and take final action on an application without a recommendation from the Board of Adjustments and Appeals if the Board of Adjustments and Appeals does not conduct a public hearing or forward a recommendation on an application to the City Council with sufficient time to allow the City Council to consider and act on the application within the applicable statutory timeline.

(i) The City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the application.

(j) Appeals. The decision of the City Council is appealable to the district court within 30 days after the date of the decision.

### 7.10.3 Variance Criteria.

(a) Pursuant to Minnesota Statutes, section 462.357, subdivision 6, the City Council may only grant approval of variances where practical difficulties exist as to strict compliance with this UDO and each of the following criteria are satisfied:

(1) The variance is in harmony with the general purposes and intent of this UDO;

(2) The variance is consistent with the Comprehensive Plan;

(3) The property owner proposes to use the property in a reasonable manner not permitted by this UDO;

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

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

(b) Economic considerations alone do not constitute practical difficulties. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.

(c) Variances shall be granted for earth shelter construction as defined in Minnesota Statutes, section 216C.06, subdivision 14, when in harmony with this UDO.

#### 7.10.4 Standards for Variances in the Floodplain (FP), Shoreland (SL) and Mississippi River Critical Corridor Area (CA).

(a) Specific standards for variances in the Floodplain (FP) overlay district are found in Section 3.1.1(j)(3).

(b) Specific standards for variances in the Shoreland (SL) overlay district are found in Section 3.1.2(c)(5).

(c) Specific standards for variances in the Mississippi River Critical Corridor Area (CA) are found in Section 3.1.3(c)(3).

7.10.5 Conditions. The City Council may impose reasonable conditions on the approval of variances to ensure compliance and to protect adjacent properties. All such conditions shall be directly related to and bear a rough proportionality to the impact created by the variance.

7.10.5 Limitation on Variances. No application for a variance shall be accepted, and no variance shall be granted by the City, for floor elevations lower than the Flood Protection Elevation or levels of flood protection required in the Floodplain District.

7.10.6 Denial. Variances may be denied by resolution of the City Council. A resolution of denial shall constitute a finding by the City Council that the conditions required for approval do not exist.

## 7.11 Appeals

#### 7.11.1 Applicability.

The Board of Adjustments and Appeals shall hear and recommend and the City Council shall make a final determination in the following appeal matters:

(a) Appeals from the denial of a building permit for structures within the limits of a mapped street pursuant to Minnesota Statutes, section 462.359.

(b) Appeals from an order, requirement, or determination made by an administrative officer in the enforcement of this UDO, where it is alleged that some error in interpretation exists as provided for in Minnesota Statutes, section 462.357.

**7.11.2** Procedure**.**

(a) Application. A written appeal stating the position of the appellant, the specific decision being appealed, the applicable City Code provisions, and the requested relief and a fee in an amount as set forth by City Council resolution shall be filed with the Zoning Administrator within fourteen (14) days of the order, requirement, or determination.

(b) Notice and public hearing. After determining that an appeal application contains all the necessary and required information, the Zoning Administrator shall place the application on the Board of Adjustments and Appeals agenda, schedule a public hearing on the proposed request, and notify the public pursuant to Section 7.5 of this UDO.

(c) Recommendation by Board of Adjustments and Appeals. The Board of Adjustments and Appeals shall hear and make a recommendation on the appeal application. If the Board of Adjustments and Appeals so desires, it may continue the public hearing and/or table the item to allow for further review, so long as such action is in accordance with Minnesota Statutes, section 15.99.

(d) Action by the City Council. The City Council shall consider and make the final decision on the appeal application, acting to reverse or affirm, wholly or partly, or modify the order or decision being appealed, and issue such orders, requirements, decisions, permits, or determinations, or provide such other relief as it deems appropriate. The City Council shall adopt findings and shall act upon the application in accordance with Minnesota Statutes, section 15.99.

(e) The applicant or their agent shall appear at each meeting of the Board of Adjustments and Appeals and City Council during which the appeal application is considered. Furthermore, each applicant shall provide the Board of Adjustments and Appeals or the City Council the

additional information requested for the purpose of assisting the recommendation or determination of the appeal application.

(f) The City Council may conduct a public hearing and take final action on an appeal application without a recommendation from the Board of Adjustments and Appeals if the Board of Adjustments and Appeals does not conduct a public hearing or forward a recommendation on an application to the City Council with sufficient time to allow the City Council to consider and act on the application within the applicable statutory timeline.

(g) The City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken. A copy of this notice shall be kept on file as a part of the permanent record of the appeal application.

(h) Appeals. The decision of the City Council is appealable to the district court within 30 days after the date of the decision.

#### 7.11.3 Appeal Criteria.

An order, requirement, decision, or determination shall not be reversed or modified unless there is competent material, and substantial evidence in the record that the order, requirement, decision, or determination fails to comply with either the procedural or substantive requirements of this UDO, state law, or federal law.

## 7.12 Comprehensive Plan Amendments.

#### 7.12.1 Applicability.

An amendment of the Comprehensive Plan or the Comprehensive Plan Land Use Map may be initiated by the City Council, the Planning Commission or a City property owner. This subsection outlines the procedures for consideration of those amendments.

#### 7.12.2 Procedure.

(a) Initiation. Proceedings for amending the Comprehensive Plan shall be initiated by at least one (1) of the following three (3) methods:

(1) By application an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.

(2) By recommendation of the Planning Commission.

(3) By action of the City Council.

(b) Applications by an Owner or Owners of Property. For applications by an owner or owners of property, the following additional procedures apply:

(1) An application for a Comprehensive Plan amendment shall be initiated by the owner of the property or their authorized agent. The applicant shall submit an application, in accordance with Section 7.4 of this UDO, to the Zoning Administrator.

(2) Review by the Zoning Administrator and City Staff. The Zoning Administrator may consult with other City staff on the application. The Zoning Administrator shall provide the applicant with comments and changes that are required to be in compliance with the provisions of this UDO. The applicant shall be required to submit revised documents incorporating the required changes prior to the Planning Commission meeting.

(c) Notice and public hearing. After determining that an application contains all the necessary and required information, or upon the initiation of a Comprehensive Plan amendment by the Planning Commission or City Council, the Zoning Administrator shall place the proposed amendment on the Planning Commission agenda, schedule a public hearing on the proposed request, and notify the public pursuant to Section 7.5 of this UDO.

(d) Preparation of staff report. The Zoning Administrator or City staff shall prepare a staff report providing an analysis of the proposal and a recommendation. The report shall consider comments from other City staff in formulating the recommendation. The written report shall be forwarded to the Planning Commission for its consideration.

(e) Recommendation by Planning Commission. The Planning Commission shall hear and make a recommendation on the proposed amendment. If the Planning Commission so desires, it may continue the public hearing and/or table the item to allow for further review, so long as such action is in accordance with Minnesota Statutes, section 15.99. The Planning Commission shall consider the applicable decision criteria of this UDO and shall issue a recommendation to the City Council, citing the specific reasons therefor.

(f) Action by the City Council. The City Council shall consider and make the final decision on the proposed amendment, acting to approve or deny the proposed amendment, citing the specific reasons therefor. A proposed Comprehensive Plan amendment may not be acted upon by

the City Council until it has received the recommendation of the Planning Commission, or until 60 days have elapsed from the date an amendment proposed by the City Council has been submitted to the Planning Commission for its recommendation.

(g) For amendments proposed by a property owner or property owners, the applicant or their agent shall appear at each meeting of the Planning Commission and City Council during which the application is considered. Furthermore, each applicant shall provide the Planning Commission or the City Council the additional information requested for the purpose of assisting the recommendation or determination of the application. The City Council shall adopt findings and shall act upon the application in accordance with Minnesota Statutes, section 15.99.

(i) For amendments proposed by a property owner or property owners the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken.

#### 7.12.3 Comprehensive Plan Amendment Criteria.

The Planning Commission and City Council shall review the necessary submittal requirements, facts, and circumstances of the proposed amendment and make a recommendation and decision on the amendment based on, but not limited to, consideration of the following criteria:

(a) Whether the proposed amendment corrects an error or meets the challenge of some changing condition, trend, or fact since the adoption of the Comprehensive Plan;

(b) Whether the proposed amendment is consistent with the policy foundation of the Comprehensive Plan; and

(c) Whether the proposed amendment will be compatible with the adjacent land uses of the property in question.

#### 7.12.4 Adoption by the City Council.

(a) Except for amendments to permit affordable housing development, a resolution to amend or adopt a Comprehensive Plan must be approved by a two-thirds vote of all of the members.

(b) Amendments to permit an affordable housing development are approved by a simple majority of all of the members. For purposes of this subsection, "affordable housing development" means a development in which at least 20 percent of the residential units are restricted to occupancy for at least ten years by residents whose

household income at the time of initial occupancy does not exceed 60 percent of area median income, adjusted for household size, as determined by the United States Department of Housing and Urban Development, and with respect to rental units, the rents for affordable units do not exceed 30 percent of 60 percent of area median income, adjusted for household size, as determined annually by the United States Department of Housing and Urban Development.

## 7.13 Rezoning or Text Amendment.

### 7.13.1 Applicability.

An amendment of this UDO or the official Zoning Map may be initiated by the City Council, the Planning Commission or a City property owner. This subsection outlines the procedures for consideration of those amendments.

### 7.13.2 Policy.

It is the policy of the City that:

(a) Zoning classifications must be consistent with the Comprehensive Plan; and

(b) Rezoning proposals shall not constitute "spot zoning", defined as a zoning decision which discriminates in favor of a particular landowner, and does not relate to the Comprehensive Plan or to accepted planning principles.

### 7.13.3 Procedure.

(a) Initiation. Proceedings for amending this UDO or the official Zoning Map shall be initiated by at least one (1) of the following three (3) methods:

(1) By application an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed.

(2) By recommendation of the Planning Commission.

(3) By action of the City Council.

(b) Applications by an Owner or Owners of Property. For applications by an owner or owners of property, the following additional procedures apply:

(1) An application for an amendment of this UDO or the official Zoning Map shall be initiated by the owner of the property or their authorized agent. The applicant shall submit an

application, in accordance with Section 7.4 of this UDO, to the Zoning Administrator.

(2) In addition to the requirements of Section 7.4 of this UDO, the application must, at a minimum, contain all of the following information:

(A) If the application involves a request to change district boundaries affecting an area of five acres or less, the name and mailing address of all property owners of record, according to the county auditor's property tax records, within one-half mile of the property to which the application relates;

(B) The name of the applicant and of all owners of the property to which the application relates; and

(C) A description of the specific provisions of this UDO, or the proposed change in zoning, and proposed change.

(3) Review by the Zoning Administrator and City Staff. The Zoning Administrator may consult with other City staff on the application. The Zoning Administrator shall provide the applicant with comments and changes that are required to be in compliance with the provisions of this UDO. The applicant shall be required to submit revised documents incorporating the required changes prior to the Planning Commission meeting.

(c) City Initiated Amendments. An amendment proposed by the Planning Commission shall be forwarded in writing to the City Council for review. If the City Council authorizes the Planning Commission to proceed with the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with this Section. If the City Council initiated the amendment, the Planning Commission shall hold a hearing on the proposed amendment in accordance with this Section.

(d) Notice and public hearing. After determining that an application contains all the necessary and required information, or upon the initiation of an amendment by the Planning Commission or City Council, the Zoning Administrator shall place the proposed amendment on the Planning Commission agenda, schedule a public hearing on the proposed request, and notify the public pursuant to Section 7.5 of this UDO.

(e) Preparation of staff report. The Zoning Administrator or City staff shall prepare a staff report providing an analysis of the proposal and a recommendation. The report shall consider comments from other City staff in formulating the recommendation. The written report shall be forwarded to the Planning Commission for its consideration.

(f) Recommendation by Planning Commission. The Planning Commission shall hear and make a recommendation on the proposed amendment. If the Planning Commission so desires, it may continue the public hearing and/or table the item to allow for further review, so long as such action is in accordance with Minnesota Statutes, section 15.99. The Planning Commission shall consider the applicable decision criteria of this UDO and shall issue a recommendation to the City Council, citing the specific reasons therefor.

(g) The City Council may conduct a public hearing and take final action on a proposed amendment without a recommendation from the Planning Commission if the Planning Commission does not conduct a public hearing or forward a recommendation on the proposed amendment to the City Council. A proposed amendment may not be acted upon by the City Council until it has received a recommendation from the Planning Commission, or until 60 days have elapsed from the date an amendment proposed by anyone other than the Planning Commission has been submitted to the Planning Commission for its recommendation.

(h) Action by the City Council. The City Council shall consider and make the final decision on the proposed amendment, acting to approve or deny the proposed amendment, citing the specific reasons therefor.

(i) For amendments proposed by a property owner or property owners, the applicant or their agent shall appear at each meeting of the Planning Commission and City Council during which the application is considered. Furthermore, each applicant shall provide the Planning Commission or the City Council the additional information requested for the purpose of assisting the recommendation or determination of the application. The City Council shall adopt findings and shall act upon the application in accordance with Minnesota Statutes, section 15.99.

(j) For amendments proposed by a property owner or property owners the City Clerk, following the City Council's action upon the application, shall give the applicant a written notice of the action taken.

### 7.13.4 Amendment Criteria.

The Planning Commission and City Council shall review the necessary submittal requirements, facts, and circumstances of the proposed amendment and make a recommendation and decision on the amendment based on, but not limited to, consideration of the following criteria and policies:

(a) Whether there is a clear and public need or benefit;

(b) Whether the proposed amendment is consistent with and compatible with surrounding land use classifications;

(c) Whether all permitted uses in the proposed zoning district can be contemplated for development of the subject property;

(d) Whether there have been substantial physical or zoning classification changes in the area since the subject property was zoned;

(e) Whether there is an evident, broad public purpose in the case of City-initiated rezoning proposals;

(f) Whether the subject property will bear fully the UDO development restrictions for the proposed zoning districts;

(g) Whether the subject property is generally unsuited for uses permitted in the present zoning district, with respect to size, configuration, topography or location;

(h) Whether the rezoning will result in the expansion of a zoning district, warranted by:

(1) Comprehensive Planning;

(2) The lack of developable land in the proposed zoning district; or

(3) The best interests of the community;

(i) Whether the proposal demonstrates merit beyond the interests of an owner or owners of an individual parcel.

(j) The specific policies and recommendations of the Comprehensive Plan and other City plans;

(k) The purpose and intent of this UDO, or in the case of a map amendment, whether it meets the purpose and intent of the individual district; and

(l) If applicable, the adequacy of a buffer or transition provided between potentially incompatible districts.

### 7.13.5 Adoption by the City Council.

(a) A majority vote of all members of the Council shall be required to adopt any amendments to this Unified Development Ordinance.

(b) The adoption or amendment of any part of the Unified Development Ordinance that changes all or part of the existing classification of a Zoning District from residential to either commercial or industrial requires a two-thirds majority vote of all of the members of the City Council.

(c) The City Council may alter the amendment proposed, but if the alteration results in a modification of the official Zoning Map filed at the time of the first publication of notice of the hearing, it shall not be made until ten (10) days after notice has been given by mail to the owner of the property to be zoned that an amendment is being considered and may be adopted which is different from that shown on the original Zoning Map filed in support of the requested zoning change.

### 7.13.6 Limit on Similar Applications.

No application of an owner for an amendment to the text of this UDO or the Zoning Map shall be considered by the City within a one-year period following a denial of such request, except that a new application may be allowed if, in the opinion of the Zoning Administrator, there is new evidence or a sufficient change of circumstances to warrant additional consideration of the proposal by the City.

### 7.13.7 Regular Review by Zoning Administrator.

The Zoning Administrator shall review the UDO no more than every three years, beginning with the date of adoption noted in Section 1 of this UDO. The Zoning Administrator should make any recommendations for updates to the Planning Commission, which shall review the recommendations and propose amendments at its discretion.

### 7.13.8 Review of Rezoning.

Where property within the City has been rezoned for a less restrictive land use upon application of the owner or their agent pursuant to the provisions of this Unified Development Ordinance, and where no structural work thereon has commenced within two (2) years of the date of the rezoning action by the City Council, the Planning Commission may review the zoning classification of the property in the light of the Comprehensive Plan and make appropriate recommendations to the City Council which may include the recommendation

that the subject property be rezoned to permit a more restrictive use in conformance with the provisions of the Comprehensive Plan.

# Section 8: Subdivisions and Planned Unit Developments

## 8.1 Subdivision of Land Procedure

### 8.1.1 Purpose.

This subsection is established to provide for administrative approval of subdivisions or consolidations that meet specified criteria and for the waiver of standard platting requirements specified elsewhere in this Section. The minor subdivision process is intended largely to facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of a lot line by relocation of a common boundary.

(a) **Criteria for approval.**

A minor subdivision or consolidation must comply with the following:

(1) A property line adjustment that does not increase or decrease the number of parcels.

(2) Lot splits resulting in no more than three (3) parcels.

(3) The land involved has been previously platted or subdivided by Registered Land Survey and is on file and of record in the Hennepin County Recorder or Registrar of Titles.

(4) The lot or lots have frontage on an existing improved street, if required, and access to City services.

(5) The application will not cause the parcel or any structure on the parcel to be in violation of this Section, the Unified Development Ordinance, or the building code, unless prior or concurrent approval of a variance is granted.

(6) The property has not been subject to a minor subdivision in the last five (5) years.

(7) Subdivisions not meeting the criteria for a minor subdivision, or where the proposed minor subdivision involves unusual elements or policy decisions that the Zoning Administrator determines require detailed review, shall be subject to the platting requirements and procedures in this Section.

### 8.1.2 Application

(a) **Applications for a minor subdivision or consolidation shall be made to the Community Development Department on forms provided by the City and shall include evidence of ownership interest. The application must be accompanied by the fee specified in the adopted fee schedule.**

(b) **Applications must include one (1) electronic copy of a certified survey drawn to an engineer's scale with the new lots and new legal descriptions including:**

(1) Existing and proposed property lines.

(2) Dimensions of the existing and proposed parcels.

(3) The area of the existing and proposed parcels.

(4) All existing structures, including dimensions to existing and proposed property lines.

(5) All visible encroachments.

(6) All easements of record.

(7) Distance between any existing driveways and existing and proposed property lines.

(8) Trees that will be lost due to any proposed construction.

### 8.1.3 Review

The Zoning Administrator will review the application to determine compliance with this Section. The Zoning Administrator will approve or deny the application and will notify the subdivider of the decision in writing. If the application is denied, the Zoning Administrator will state the reasons for the denial. Any person aggrieved by the decision of the Zoning Administrator may appeal to the Board of Adjustments and Appeals in the manner described in Section 7.11.

### 8.1.4 Filing

The subdivider must file a final minor subdivision or consolidation with the Office of the Hennepin County Recorder or Registrar of Titles. Evidence of proper filing must be submitted to the Zoning Administrator prior to issuance of any building permits. If a minor subdivision or consolidation is not recorded within one (1) year after the date of written approval, the Zoning Administrator may, upon ten (10) days' written notice to the subdivider, revoke the approval in writing.

### 8.1.5 Combination of Land Parcels

(a) **Multiple parcels of land which are contiguous and adjacent, and which are proposed to serve a single development use and which are under common ownership shall be combined into a single parcel through platting or registered land survey.**

(b) **Every parcel proposed for some use permitted by the terms of this Unified Development Ordinance shall abut a public right-of-way, provided that where unusual circumstances prevail, the City Council may waive this requirement in favor of a reasonable alternative.**

### 8.1.6 Preliminary Plat

(a) **Procedure**

(1) Before dividing any tract of land into two or more lots or parcels, an owner or subdivider shall file the following with the City Clerk:

(A) **Four copies of the preliminary plat.**

(B) **A cash fee in an amount set forth by City Council resolution. This fee will be used for the expenses of the City in connection with approval or disapproval of said preliminary plat.**

(2) The City Clerk shall then:

(A) **Set a public hearing on the preliminary plat, such hearing to be held by the Planning Commission within 30 days. Notice of said hearing shall be published in the official City newspaper at least ten (10) days prior to the hearing.**

(B) **Refer two copies of the preliminary plat to the Planning Commission for its examination and report and one copy to the City Engineer for their examination and report. Copies of the report of the City Engineer shall be given to the Planning Commission within 15 days.**

(3) The Planning Commission shall have the preliminary plat on its agenda at its next regular meeting following referral from the City Clerk. This meeting is required and may also serve as the public hearing.

(4) The Planning Commission shall make its report to the City Council on or before the second regular meeting of the Planning Commission following referral by the City Clerk. If the report of the Planning Commission has not been received in time to meet this requirement, the City Council may act on the preliminary plat without such a report.

(5) The City Council shall approve or deny the preliminary plat in whole or in part, within one hundred twenty (120) days of receipt of the preliminary plat, unless an extension of the review period has been agreed to in writing by the applicant or required by Minnesota Statutes or other administrative procedures. If the governing body fails to act within the review period, the application shall be deemed to be preliminarily approved. Such approval shall not constitute final acceptance of the subdivision.

(6) If the preliminary plat is not approved by the City Council, the reasons for such action shall be recorded in the proceedings of the City Council and transmitted to the applicant. If the preliminary plat is approved, such approval shall not constitute final acceptance of the subdivision.

(b) **Necessary Data for Preliminary Plat**

(1) The preliminary plat shall be clearly and legibly drawn. The size of the map shall not be less than 12 inches by 18 inches. All subdivision maps should, if possible, be drawn at a scale of one inch equals 100 feet.

(2) The preliminary plat shall contain the following information:

(A) **Identification And Description**

i. **Proposed name of subdivision, which name shall not duplicate or be alike in pronunciation of the name of any plat theretofore recorded in theCounty.**

ii. **Location by section, township, range or by other legal description.**

iii. **Names and addresses of the owner, subdivider, surveyor and designer of the plan.**

iv. **Graphic scale.**

v. **North-Point.**

vi. **Date of preparation.**

(B) **Existing Conditions**

i. **Boundary line of proposed subdivision, clearly indicated.**

ii. **Existing zoning classification.**

iii. **Total approximate acreage.**

iv. **Location, widths and names of all existing or previously platted streets or other public ways, showing type, width and condition of improvements, if any railroad and utility right of way, parks and other public open spaces, permanent buildings and structures, easements, and section and corporate lines within the tract and to a distance of 150 feet beyond the tract.**

v. **Location and size of existing sewers, water mains, culverts or other underground facilities within the tract and to a distance of 100 feet beyond the tract. Such data as grades, invert elevations, and locations of catch basins, manholes, and hydrants shall also be shown.**

a. The City Engineer may waive the need to provide grades and invert elevations of existing underground facilities.

vi. **Boundary lines of adjoining unsubdivided or subdivided land, within 100 feet, identifying by name and ownership.**

vii. **Topographic data, including contours at vertical intervals of not more than two feet, except that contour lines shall be no more than 100 feet apart. Water courses, marches, wooded areas, rock outcrops, power transmission poles and lines, and other significant features shall also be shown. Elevation datum shall be given in reference to U.S. Geodetic Survey, 5th General Adjustment. Topographic data shall be shown for tract and adjacent areas within 300 feet of the tract.**

(C) **Subdivision Design Features**

i. **Layout of proposed streets, showing right of way widths and names of streets. The name of any street heretofore used in the City or its environs shall not be used, unless the proposed street is an extension of an already named street, in which event the name shall be used.**

ii. **Location and widths of proposed alleys, pedestrian ways and utility easements.**

iii. **Typical cross-sections of proposed improvements upon streets and alleys, together with an indication of the proposed storm water runoff.**

a. The City Engineer may waive the need to provide typical cross sections of proposed improvements.

iv. **Approximate center line gradients of proposed streets and alleys, if any.**

v. **Location, size and approximate gradient of proposed sewer lines and water mains.**

a. It is not essential this information be submitted until requested by the City Engineer.

vi. **Layout, number and typical dimensions of lots.**

vii. **Minimum front and side-street building setback lines, indicating dimensions.**

a. It is not essential that building setback lines be shown except on curved streets or where obviously extraordinary conditions prevail.

viii. **Areas, other than streets, alleys, pedestrian ways and utility easements, intended to be dedicated or reserved for public use, including the size of such area or areas in acres.**

(D) **Other Information**

i. Statement of the proposed use of lots (type of residence, business or industry) so as to reveal the effect of the development on traffic, fire hazards or congestion of population.

ii. Proposed protective covenants.

iii. Source of water supply.

iv. Provisions for sewage disposal, drainage and flood control.

v. If any zoning changes are contemplated, the proposed zoning plan for the areas including dimensions.

vi. It is not essential that source of water supply, provisions for sewage disposal, nor contemplated zoning changes be indicated unless so requested by the city engineer.

vii. If, in the opinion of the City Engineer, further information is required, such information shall be furnished before the date of the public hearing.

(E) Qualifications Governing Approval of Preliminary Plat

i. The City Council may require such changes or revisions as it deems necessary for the health, safety, general welfare and convenience of the City.

ii. The approval of a preliminary plat by the City Council is tentative, only involving merely the general acceptability of the layout as submitted.

iii. Subsequent approval will be required of the engineering proposals pertaining to water supply, storm drainage, sewerage and sewage disposal, gas and electric service, grading, gradients and roadway widths and the surfacing of streets by the City Engineer and other public officials having jurisdiction, prior to the approval of the final plat by the City.

iv. No plat will be approved for a subdivision which covers an area subject to periodic flooding or which contains extremely poor drainage facilities and which would make adequate drainage of the streets and lots impossible, unless the subdivider agrees to make improvements which will, in the opinion of the City Engineer, make the area completely safe for occupancy, and provide adequate street and lot drainage.

### 8.1.7 Final Plat

(a) **Procedure**

(1) The owner or subdivider shall file with the City Clerk six copies of the final plat and a permit fee in an amount set forth by City Council resolution not later than six months after the date of approval of the preliminary plat; otherwise, the preliminary plat and final plat will be considered void unless an extension is requested in writing by the subdivider and for good cause granted by the City Council. The owner or subdivider shall also submit at this time an up-to-date certified abstract of title or registered property report and such other evidence as the City Attorney may require showing title or control in the applicant. Prior to release by the City

of a final, approved plat, the owner shall reimburse the City the full amount of legal fees incurred by the City in obtaining a review or opinion of title.

(2) The final plat will have incorporated all changes or modifications required by the City Council; otherwise it shall conform to the preliminary plat. It may constitute only that portion of the approval preliminary plat which the subdivider proposes to record and develop at the time, provided that such portion conforms with all the requirements of this Unified Development Ordinance.

(3) The City Clerk shall refer one copy of the final plat to the Planning Commission, one copy to the City Engineer, and a copy each to the telephone, power and gas companies. The abstract of title or registered property report shall be referred to the City Attorney for their examination and report. The City Attorney's report and City Engineer's report shall be given to the City Council within 15 days. The Planning Commission may at its discretion submit a report to the City Council.

(4) The City Council shall take action on the final plat within sixty (60) days after receipt of the complete application. If the plat is not approved, the reasons for such action shall be recorded in the official proceedings and transmitted to the subdivider. If the City Council fails to act within sixty (60) days, and if the subdivider has complied with all conditions and requirements of applicable regulations and all conditions and requirements upon which preliminary plat approval was expressly conditioned, the application shall be deemed finally approved.

(5) If the final plat is approved by the City Council, the subdivider shall record it with the Hennepin County Recorder or Registrar of Titles within 1 year after the date of approval; otherwise, the approval of the final plat shall be considered void.

(6) The subdivider shall, immediately upon recording, furnish the City Clerk with a print of the final plat showing evidence of the recording.

(b) **Necessary Data for Final Plat**

(1) **General.**

The final plat shall be prepared by a registered surveyor. All information except topographic data and zoning classification required on the preliminary plat, shall be accurately shown. The size of the map shall be 20 inches by 30 inches. Subdivisions should, if possible, be drawn at a scale of one inch equals 100 feet.

(2) **Additional Delineation.**

(A) **Data required under regulations of county surveyor**

Accurate angular and lineal dimensions for all lines, angles, and curvatures used to describe boundaries, streets, alleys, easements, areas to be reserved for public use, and other important features. Dimensions of lot lines shall be shown in feet and hundredths, and the exact area in square feet of each lot shall be shown within each lot on the plat on at least one copy of the final plat.

(B) When lots are located on a curve or when side lot lines are at angles other than 90 degrees, the width of the building setback line shall be shown. This information is not required if the information is available on the preliminary plat.

(C) An identification system for all lots and blocks.

(D) True angles and distances to the nearest established street lines or official monuments (not less than three) which shall be accurately described in the plat.

(E) Municipal, township, county or section lines accurately tied to the lines of the subdivision by distances and angles.

(F) Complete curve data, including radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs.

(G) Accurate location of all monuments.

(H) Accurate outlines and legal description of any areas to be dedicated or reserved for public use, or for the exclusive use of property owners within the subdivision with the purpose indicated therein.

(I) Certification by a registered land surveyor to the effect that the plat represents a survey made by him and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct.

(J) Notarized certification by owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets and other public areas.

(K) Certification showing that all taxes currently due on the property to be subdivided have been paid in full.

Approved by the City Council of the City of Brooklyn Center, Minnesota, this_____day of_____, 20____

Signed_____
Mayor

Attest:_____
City Clerk

(L) Form for approval of the council as follows:

(M) Form for approval by County authorities as required.

### 8.1.8 Combined Preliminary and Final Plat Approval

(a) **In some instances, due to the simplicity of the proposed subdivision, the City may agree to combine the preliminary and final plat process. The process may be combined only when a proposed subdivision meets all of the following requirements:**

(1) The resulting subdivision contains no more than 5 lots.

(2) The proposed subdivision is located in an area where streets and utilities are in place and capable of serving the subdivision.

(3) The proposed subdivision does not require the dedication or construction of future streets and will not interfere with the development of adjacent properties.

(4) The resulting lots shall conform with all provisions of this Unified Development Ordinance unless a variance has been granted.

(b) **Procedure**

(1) An application for a combined preliminary and final plat, signed by the subdivider and the property owner, shall be submitted to the City Clerk. This application shall be accompanied by the following:

(A) **Three (3) full-scale copies, and one (1) digital copy of the preliminary plat.**

(B) **All of the information required in Section 5.5 (b) and 5.6.1.**

(C) **The required filing fee(s) as established by resolution of the City Council.**

(2) The City Clerk shall then:

(A) **Set a public hearing for the combined preliminary and final plat, such hearing to be held by the Planning Commission within 30 days. Notice of said hearing shall be published in the official City newspaper at least ten (10) days prior to the hearing.**

(B) **Refer two copies of the combined preliminary and final plat to the Planning Commission for its examination and report and one copy to the City Engineer for their examination and report. Copies of the report of the City Engineer shall be given to the Planning Commission within 15 days.**

(3) The Planning Commission shall have the combined preliminary and final plat on its agenda at its next regular meeting following referral from the City Clerk. This meeting may also serve as the public hearing.

(4) The Planning Commission shall make its report to the City Council on or before the second regular meeting of the Planning Commission following referral by the City Clerk.

(5) The City Council shall act on the combined preliminary and final plat within 60 days of the date on which it was filed with the City Clerk. If the report of the

Planning Commission has not been received in time to meet this requirement, the City Council may act on the combined preliminary and final plat without such a report.

(6) If the combined preliminary and final plat is not approved by the City Council, the reasons for such action shall be recorded in the proceedings of the City Council and transmitted to the applicant.

(7) If the final plat is approved by the City Council, the subdivider shall record it with the Hennepin County Recorder or Registrar of Titles within 1 year after the date of approval; otherwise, the approval of the combined preliminary and final plat shall be considered void.

(8) The subdivider shall, immediately upon recording, furnish the City Clerk with a print of the final plat showing evidence of the recording.

### 8.1.9 Exceptions

(a) **The provisions of Section 5.4 do not apply if the land described is:**

(1) A single parcel of commercial or industrial land of not less than five acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into two or more lots or parcels, any one of which is less than five acres in area or 300 feet in width, or

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

(3) Other exceptions as outlined in Minnesota State Statute 462.358, Subsection 4b.

## 8.2 Subdivision Design Standards

### 8.2.1 Purpose And Interpretation.

Each new subdivision becomes a permanent unit in the basic physical structure of the future community, a unit to which the future community will of necessity be forced to adhere. Piecemeal planning of such subdivisions, without correlation to the City's plan, will bring a disastrous disconnected patchwork of plats and poor circulation of traffic. In order that new subdivisions will contribute toward an attractive, orderly, stable and wholesome community environment, adequate municipal services, and safe streets, all subdivisions hereafter platted within the incorporated limits of the City of Brooklyn Center shall in all respects fully comply with the regulations hereinafter set forth in this Unified Development Ordinance. In their interpretation and application the provisions of this Unified Development Ordinance shall be the minimum requirements adopted for the protection of the public health, safety and general welfare.

### 8.2.2 Scope

Except in the case of a resubdivision, this Unified Development Ordinance shall not apply to any lot or lots forming a part of subdivision plats recorded in the Office of the Hennepin County Recorder or Registrar of Titles prior to the effective date of this Unified Development Ordinance, nor is it intended by this Unified Development Ordinance to repeal, abrogate, annul or in any way impair or interfere with existing provisions of other laws or Unified Development Ordinances except those specifically repealed by, or in conflict with, this Unified Development Ordinance, or with private restrictions placed upon property by deed, covenant or other private agreement, or with restrictive covenants running with the land to which the City is a party.

### 8.2.3 Minimum Subdivision Design Standards

(a) **Conformance with Comprehensive Plan**

The proposed subdivision shall conform to the Comprehensive Plan.

(b) **Public Street Plan.**

(1) The arrangements, character, extent, width, grade and location of all streets shall conform to the Comprehensive Plan and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to runoff of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

(2) The arrangement of streets in new subdivisions shall make provisions for the appropriate continuation of the existing streets in adjoining areas.

(3) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the proper projection of streets.

(4) When a new subdivision adjoins unsubdivided land susceptible of being subdivided, then the new streets shall be carried to the boundaries of the tract proposed to be subdivided.

(c) **Public Streets**

(1) **Right-Of-Way Widths**

All right of way widths shall conform to the following minimum dimensions:

| Classification | Minimum Width |
|---|---|
| Minor Arterial | 100 feet or as shown on the Comprehensive Plan |
| Major Collector | 80 feet |
| Minor Collector | 60 feet |
| Local Street | 60 feet |

(2) **Street Deflections.**

When connecting street lines of the same street deflect from each other at any one point by more than ten degrees, they shall be connected by a curve with a radius adequate to ensure a sight distance of not less than 200 feet for local

streets, and of such greater distance as necessary to meet the Minnesota Department of Transportation Road Design Manual, latest revision, for minor arterial and collector streets. The City Council may require greater or lesser sight distances at the recommendation of the City Engineer.

(3) **Reverse Curves.**

A tangent of at least 50 feet shall be provided between reverse curves on local streets, and of at least 100 feet on minor arterial and collector streets.

(4) **Street Grades.**

The minimum grade for all streets shall be 0.4 percent. Grades within 30 feet of intersections with arterial and collector streets and grades for the turnaround portion of a cul-de-sac street shall not exceed three percent. Otherwise, the maximum grades shall be as follows

| Classification | Percentage |
|---|---|
| Minor Arterial | 5% |
| Collector | 5% |
| Local Street | 6% |

(5) **Vertical Curves.**

Differing connecting street gradients for minor arterial and collector streets shall be connected with vertical parabolic curves. The minimum length of such curves shall be in accordance with the Minnesota Department of Transportation Road Design Manual, latest revision.

(6) **Local Streets.**

Local streets shall be so aligned that their use by through traffic will be discouraged.

(7) **Street Jogs.**

Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs shall have a centerline offset of at least 125 feet for local streets and 150 feet for minor arterial and major and minor collector streets.

(8) **Safe Intersections.**

Streets shall be laid out to intersect at right (90 degree) angles with a 50 foot minimum tangent from the radius return. The angle of an intersection may be varied in cases where topography or other factors justify a variation, but in no case shall a street intersect with another street at angle of less than 75 degrees. Intersections having more than four corners shall be prohibited.

Minimum curb radius at the intersection of two local streets shall be at least 15 feet; and minimum curb radius at an intersection involving a collector street shall be at least 20 feet.

(9) **Alleys.**

Alleys are not permitted in residential areas.

(10) **Cul-de-sac**

Maximum length cul-de-sac streets shall be 500 feet measured along the center line from the intersection of origin to end of right of way, unless there are 18 or less lots abutting the cul-de-sac. Each cul-de-sac shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet, and a street property line diameter at least 120 feet.

(11) **Marginal Access Streets.**

Where a subdivision abuts or contains an existing or planned Minor Arterial, the council may require marginal access streets or other such treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

(12) **Half Streets.**

Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and where the council finds it will be practicable to require the dedication of the other half when the adjoining property is subdivided.

(13) **Reserve Strips**

Reserve strips controlling access to streets shall be prohibited except under conditions approved by the council.

(14) **Railroad or Limited Access Highways Abutting Subdivision.**

Where a subdivision borders on or contains a railroad right of way or limited access highway right of way, the council may require a street approximately parallel to and on each side of such right of way at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

(15) **Private Streets.**

With the exception of condominium single family attached dwelling unit subdivisions, private streets shall not be approved nor shall public improvements be approved for any private street.

(16) **Hardship to Owners of Adjoining Property Avoided.**

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

(17) **Street Interval.**

In general, provisions shall be made at intervals not exceeding one- half mile for through streets (streets running through the subdivision in a fairly direct manner.)

(d) **Public Alleys and Pedestrian Ways.**

Alleys shall be at least 24 feet wide in commercial and industrial areas. The council may require alleys in nonresidential areas where adequate off-street loading space is not available. Pedestrian ways shall be at least 10 feet wide.

(e) **Easements.**

(1) **Provided for Utilities.**

With the exception of condominium single family attached dwelling unit subdivisions, easements at least 10 feet wide, centered on rear and other lot lines shall be provided for utilities, where necessary. They shall have continuity of alignment from block to block and at defection points. Easements for pole-line anchors shall be provided where necessary.

(2) **Provided for Drainage.**

Where a subdivision is traversed by a water course, drainage way, channel or stream, there shall be provided a storm water easement or drainage right of way conforming substantially with the lines of such water course, together with such further width or construction or both, as will be adequate for storm water runoff.

(f) **Blocks.**

(1) **Factors Governing Dimensions.**

Block length and width or acreage within bounding roads shall be such as to accommodate the size of residential lots required in the area by the zoning Unified Development Ordinance and to provide for convenient access, circulation control and safety of street traffic.

(2) **Nonresidential Blocks.**

Blocks intended for commercial, institutional and industrial use must be designated as such.

(3) **Lengths.**

Block lengths shall not exceed 1,800 feet

(4) **Arrangements.**

With the exception of condominium single family attached dwelling unit subdivisions, a block shall be so designed as to provide two tiers of lots, unless it adjoins a railroad or limited access highway where it may have but a single tier of lots.

(5) **Pedestrian Ways.**

In blocks over 900 feet long, pedestrian crosswalks may be required by the council in locations deemed necessary to public health, convenience and necessity.

(g) **Lots.**

(1) **Location.**

With the exception of lots in a condominium single-family attached dwelling unit subdivision, all lots shall abut by their full frontage on a publicly dedicated street or a street that has received the legal status as such.

(2) **Size.**

(A) **The interior lot dimensions in subdivisions designed for single family detached dwelling developments in the R1 and R2 Districts shall be consistent with dimensions as established by the UDO in Section 5.1.**

(B) **The minimum corner lot dimensions for single family detached dwelling developments in the R1 and R2 Districts shall be consistent with dimensions as established by the UDO in Section 5.1**

(C) **Where sanitary sewer facilities are not provided, the minimum size of lots shall be 13,500 square feet.**

(3) **Butt Lots.**

Butt lots shall be platted at least five feet wider than the average width of interior lots in the block.

(4) **Side Lot Lines.**

Side lines of lots shall be substantially at right angles or radial to the street line.

(5) **Water Courses.**

Lots abutting upon a water course, drainage way, channel or stream shall have an additional depth or width as required, to assure house sites that are not subject to flooding.

(6) **Features.**

In the subdividing of any land, due regard shall be shown for all natural features, such as tree growth, water courses, historic spots or similar conditions, which if preserved will add attractiveness and stability to the proposed development.

(7) **Lot Remnants.**

All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than allowed to remain as unusable parcels.

(8) **Political Boundaries**

No lot shall extend over a political boundary or school district line.

### 8.2.4 Required Improvements.

No final plat shall be approved by the City Council without first receiving a report signed by the City Engineer and the City Attorney certifying that the improvements described therein together with the agreements and documents required under Section 8 of this Unified Development Ordinance meet the minimum requirements of the City Code. The following improvements shall be required of all new subdivisions unless a variance is granted in accordance to Section 7.10:

(a) **Monuments**

Monuments shall be placed at all block corners, angle points, points of curves in streets and at intermediate points as shown on the final plat, location and size as determined by the city engineer. There shall be at least three concrete monuments installed per block. If the block is longer than 800 feet, there shall be four monuments. They shall be installed on the west and south sides of the street at the exterior corners and the remaining monuments equally dividing the distance between. Other monuments shall be steel or cast iron, as approved by the Hennepin County Surveyor and shall be set at each corner or angle on the outside boundary of all lots. Pipes or steel rods shall be placed at the corners of each lot and at each intersection of street centerlines. All U.S., state, county, or other official benchmarks, monuments, or triangulation stations in or adjacent to the property shall be preserved in precise position.

(b) **Water and Sewer Facilities.**

Sanitary sewers, storm sewers, and water distribution facilities shall be installed if connection to the City's sewer or water system is available. The City Council may elect to install these facilities, assessing their cost against the subdivision. If provided by the subdivider, the improvements shall conform to specifications of the City Engineer.

(c) **Public Street Grading.**

The full width of the right of way shall be graded, including the subgrade of the areas to be paved, in accordance with the standard plans prepared by the City Engineer.

(d) **Public Street Improvements.**

(1) **Pavement Widths**

(A) **Minimum pavement width for minor arterial and collector streets, as measured from face of curb to face of curb, shall be in accordance with the Comprehensive Plan. When not shown in the Comprehensive Plan, the minimum pavement width for minor arterial and collector streets shall be determined by the City Engineer based on anticipated traffic volume.**

(B) **Minimum pavement width for local streets, as measured from face of curb to face of curb, shall be as follows:**

| Classification | Minimum Width |
|---|---|
| Local Streets, Non-Residential | 36 feet |
| Local Streets, Residential | 30 feet |
| Marginal Access | 26 feet |

(2) **Cul-de-sacs**

All cul-de-sacs shall have turn-arounds, the pavement of which shall have a minimum diameter of 100 feet.

(3) **Curbs and gutters.**

(A) **All street improvements shall be constructed in accordance with applicable standards specifications established by the City Engineer.**

(B) **Storm water inlets and necessary culverts and dry wells shall be provided within the roadway improvements at points specified by the City Engineer.**

(C) **All curb corners shall have a radii of not less than 15 feet except at collector and marginal access streets where they shall be not less than 25 feet.**

(4) **Street Trees**

(A) **Street trees having a trunk diameter (measure 12 inches above the ground) of not less than one and three-fourths inches shall be planted along all streets where trees do not exist, and not more than 75 feet and not less than 40 feet apart. This requirement will be satisfied, and it is preferable if an equivalent number of trees of the same size exist or are planted in a naturalistic way in the front yards of the adjoining lots.**

(B) **Only ash, American elm and long-lived hardwood shade trees shall be planted. These shall be planted in at least one cubic yard of growing soil.**

(5) **Name Signs.**

Street name signs shall be placed at all street intersections within or abutting the subdivision. Such signs shall be of a type approved by the City and shall be in accordance with standards of the City.

(6) **Boulevard Sod.**

Boulevard sod shall be installed from the street gutter line to the property line adjacent to all streets. This shall include any side yard boulevards.

(e) **Pedestrian Ways.**

Where pedestrian ways are installed, Portland cement concrete walks shall be constructed to a minimum width of five feet.

(f) **Public Utilities.**

(1) All the utility lines for telephone and electric service shall be placed in rear line easements when carried on overhead poles.

(2) Where telephone, electric and gas service lines are placed underground entirely throughout subdivided area, conduits or cables shall be placed within easement or dedicated public ways, in a manner which will not conflict with other underground service. Further transformer boxes shall be located so as not to be

hazardous to the public. All drainage and underground utility installations which traverse privately owned property shall be protected by easements.

(3) When a drainage easement is provided and where proper drainage requires that such easement be brought to grade, such easement shall be graded in accordance with plans approved by the City Engineer.

(4) **Election by City to Install Improvements.**

The City may, in its discretion, elect to install all or any part of the improvements required under the provisions of this Unified Development Ordinance in lieu of requiring the subdivider to install such improvements.

**8.2.5 Required Agreements And Bonds.**

**8.2.6** Before a final plat is approved by the City Council, the owner and subdivider of the land covered by said plat shall execute and submit to the council an agreement to make and install within two years all improvements required to be installed under the provisions of this Unified Development Ordinance, in accordance with the plans and specifications therefor to be prepared by the City Engineer. **Inspection At Subdivider's Expense.**

All required land improvements to be installed under the provisions of this Unified Development Ordinance shall be inspected at the subdivider's expense during the course of construction. Such inspection shall be by the City Engineer or an inspector appointed by the City Council.

**8.2.7 Building Permit.**

With the exception of condominium single family attached dwelling unit subdivisions, no building permits shall be issued by any governing official for the construction of any building, structure or improvement on any land required to be subdivided by this Unified Development Ordinance until all requirements of this Unified Development Ordinance have been fully complied with.

## 8.3 Planned Unit Developments

**8.3.1 Purpose.**

The purpose of a Planned Unit Development (PUD) is to provide comprehensive procedures and standards intended to allow more creativity and flexibility in site plan design than would be possible under conventional zoning standards. Although planned unit developments may appear to deviate in certain aspects from a literal interpretation of the zoning and subdivision ordinance, the PUD is intended to allow flexibility in design in order to promote developments which will be an asset to the City by equaling or surpassing the quality of developments resulting from the application of more conventional zoning regulations. It is intended that PUDs address several of the following:

(a) **Provide for the establishment of a PUD in appropriate settings and situations to create or maintain a development pattern that is consistent with the City's Comprehensive Plan;**

(b) **Promote a more creative and efficient approach to land use within the City, while at the same time protecting and promoting the health, safety, comfort, aesthetics, economic viability and general welfare of the City;**

(c) **Provide for variations to the strict application of the land use regulations in order to improve site design and operation, while at the same time incorporate design elements that exceed the City's standards to offset the effect of any variations. Desired design elements may include: pedestrian-oriented design, landscaping, sustainable design, greater utilization of new technologies in building design, special construction materials, stormwater management, or open space preservation;**

(d) **Ensure high quality of design and design compatible with surrounding land uses, including both existing and planned;**

(e) **Maintain or improve the efficiency of public streets and utilities;**

(f) **Preserve and enhance site characteristics, including natural features, wetland protection, trees, open space, scenic views and screening;**

(g) **Allow for mixing of land uses within a development;**

(h) **Encourage a variety of housing types, including affordable housing; and**

(i) **Ensure the establishment of appropriate transitions between differing land uses.**

### 8.3.2 Relationship to Major Subdivision Platting.

The City considers PUD's through the conditional use permit process; however, the special characteristics of a PUD often result in the subdivision of land, requiring a concurrent Major Subdivision process. If a property is to be subdivided, the conditional use permit for a PUD shall be considered concurrently with the preliminary plat application, and both resolutions for approval shall require the approval of the other. As with any other subdivision, the applicant is encouraged to submit a sketch plan prior to applying for a simultaneous PUD and Major Subdivision-preliminary plat.

### 8.3.3 Procedure.

(a) **Preapplication Conference**

Prior to filing an application for a PUD, the applicant must arrange for and attend a conference with City staff. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of the proposal for the area for which it is proposed and its conformity to the provisions of this UDO before incurring substantial expense in the preparation of plans, surveys and other data. the applicant will work with City staff to determine a package of amenities commensurate with the scope of the proposed project. The approach should address one or more of the following topics:

(1) Innovative environmental design.

(2) Affordable housing.

(3) Providing affordable commercial space.

(4) Local business use.

(b) **Preapplication sketch plan review.**

(1) Prior to filing a PUD application, the applicant may submit a sketch plan of the project to the City. The submittal should include a statement providing justification for the PUD, including, but not limited to, the intended utilization of the items listed in the purpose, intent and criteria in this Section.

(c) **Planning commission and City Council review of sketch plan.**

(1) The Planning and Zoning Division shall refer the sketch plan to the Planning Commission and City Council for discussion, review and informal comment. Any opinions or comments provided to the applicant by the City Planner, Planning Commission and City Council shall be considered advisory only and shall not constitute a binding decision on the request. There shall be no official application made for a sketch plan. It is an informal review and comment by Planning Commission and City Council.

(d) **Application. In addition to the requirements of Section 7.4 of this UDO, a complete application shall include the following:**

(1) A PUD Development Plan including the following:

(A) **Depiction and outline the proposed implementation of the sketch plan for the PUD;**

(B) **Street and utility locations and sizes;**

(C) **A drainage plan, including location and size of pipes and water storage areas;**

(D) **A grading plan, including temporary and permanent erosion control provisions;**

(E) **A landscape plan;**

(F) **A lighting plan;**

(G) **A plan for timing and phasing of the development;**

(H) **Covenants or other restrictions proposed for the regulation of the development;**

(I) **A site plan showing the location of all structures and parking areas;**

(J) **Building renderings or elevation drawings of all sides of all buildings to be constructed in at least the first phase of development; and**

(K) **Any additional information and documentation the City may deem necessary and relevant.**

(2) Written description of requested flexibility from zoning standards within the PUD.

(e) **Application distributed. When the Zoning Administrator determines the application to be complete, the Zoning Administrator shall distribute the application and exhibits to any applicable City Staff, officials, and other government agencies for review and comment.**

(f) **Hearing on application, review and decision. The review of the application shall follow the procedures for conditional use permits, as set forth in Section 7.7 of this UDO.**

**8.3.4 PUD Criteria.**

In addition to the criteria set forth in Section 7.7.3 of this UDO for conditional use permits, the City Council shall base its decision upon the following additional criteria:

(a) **Compatibility of the development plan with the standards, purposes and intent of this Section;**

(b) **Consistency of the development plan with the goals and policies of the Comprehensive Plan;**

(c) **The impact of the development plan on the neighborhood in which it is to be located; and**

(d) **The adequacy of internal site organization, uses, densities, circulation, parking facilities, public facilities, recreational areas, open spaces, and buffering and landscaping.**

**8.3.5 PUD approval.**

(a) **All conditional use permits for PUD's shall be issued pursuant to Minnesota Statutes, section 462.3595 as may be amended from time to time and a certified copy of any conditional use permit for a PUD shall be recorded with the Hennepin County Recorder or Registrar of Titles along with a legal description of the property subject to the conditional use permit.**

(b) **No conveyance of property within the PUD shall take place until the property is platted in conformance with the City subdivision regulations and Minnesota Statutes, section 462.358. All bylaws, homeowners' association articles of incorporation, and protective covenants must be approved by the City Attorney and filed with the record plat.**

(c) **Prior to construction on any PUD site, the developer shall execute a development agreement in a form satisfactory to the City.**

(d) **After approval, nothing shall be constructed on the site and no building permits shall be issued except in conformity with the approved plans.**

(e) **If no building permits have been obtained within 12 months following approval by the City Council, or if no construction has commenced on the area approved for the PUD within 12 months after the issuance of building permits, the City Council may initiate revocation of the conditional use permit.**

**8.3.6 PUD amendments.**

Amendments to an approved PUD shall be administered as follows:

(a) **Minor amendment. An application to amend a conditional use permit for the following shall be considered a minor amendment:**

(1) Landscape changes;

(2) Parking lot configuration changes (not change in number of spaces);

(3) Less than a ten (10) percent change in floor area in any one (1) structure;

(4) Less than a ten (10) percent change in the approved separation of buildings;

(5) Less than five (5) percent change in the ground area covered by the project;

(6) Less than a five (5) percent change in the number of residential units; or

(7) Less than a five (5) percent change in the number of parking spaces.

(b) Major amendment. An application to amend a conditional use permit for the following shall be considered a major amendment:

(1) Any decrease in the amount of approved open space;

(2) Ten (10) percent or greater change in floor area in any one (1) structure;

(3) Ten (10) percent or greater change in the approved separation of buildings;

(4) Any change in the original approved setbacks from property lines;

(5) Five (5) percent or greater change in the ground area covered by the project;

(6) Five (5) percent or greater change in the number of parking spaces; or

(7) The introduction of new uses not included in the PUD approval.

(c) **Review of minor amendments. Minor amendments to a PUD shall be reviewed for compliance and approval by the Zoning Administrator. Decisions of the Zoning Administrator may be appealed to the City Council. The Zoning Administrator may determine that a proposed "minor amendment" is in fact a "major amendment" and may refer such proposed amendments to the Planning Commission and City Council according to the procedure established in subsection (d) below.**

(d) **Review of major amendments. Any major amendment to a PUD requires the applicant to go through the same process established in Section 8.3.3. above for a new PUD, including consideration by the Planning Commission and City Council.**

# Section 9: Definitions and Rules of Construction

## 9.1 Rules of Construction

**Construction generally. All words and phrases used in this UDO are used in their plain and ordinary sense unless otherwise clearly indicated, and it is the intent of the City Council that in interpreting and construing the various provisions of this UDO, an attempt be made to fairly construe those provisions so as to achieve the beneficial ends for which the provisions and the UDO itself were adopted. In so doing, the following rules of construction are established.**

**General rule. Words and phrases shall be construed so far as possible in their plain, ordinary and usual sense except that technical words and phrases having a peculiar and recognized meaning in law shall be understood according to their technical import.**

**Masculine, feminine or neutral. Unless clearly against the sense of the context, the use of masculine, feminine or neutral gender shall include all the other genders.**

**Singular or plural. Unless clearly against the sense of the context, the use of either singular or plural number shall include the other number.**

**Past, present or future. Unless clearly against the sense of the context, the use of either past, present or future tense shall include the other tenses.**

**Joint authority. Words or phrases importing joint authority or joint action to three (3) or more persons shall be construed as authority or action to or by a majority of such persons.**

**Computation of time. The time within which an act shall be done shall be computed by excluding the first and including the last day; provided only, that if the last day is a Sunday or legal holiday, the following day not a Sunday or legal holiday shall be taken as the last day.**

**Conjunctions. The words "or" and "and" may be read interchangeably in such places as demanded by the context.**

**Other definitions. Certain sections of this UDO contain definitions of words used in said chapters having particular applicability to such chapters. In case of any conflict between the definitions contained in this Section and such other definitions as may be found from time to time in this UDO, the other definitions shall prevail in the sections where such definitions are made applicable.**

## 9.2 Definitions and Terms of Measurement

**Abutting lots or parcels**
Any lots or parcels which have a common boundary line.

**Access Path**
An area designated to provide ingress and egress to public waters.

### Accessory Building
A building which is used in relation to an accessory use.

### Accessory Dwelling Unit (ADU)
A smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home. ADUs can be converted portions of existing homes (i.e., internal ADUs), additions to new or existing homes (i.e., attached ADUs), or new stand-along accessory structures or converted portions of existing stand-alone accessory structures (i.e., detached ADUs).

### Accessory Eating Establishment
An establishment within a multistory office building or apartment building where food is prepared, sold, and consumed by clients who work or live within the same building or within a complex of which the building is a part. Such establishments do not appeal through signage or other advertising to the general public.

### Accessory Use or Structure
A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

### Accessory Use or Structure (Floodplain Overlay District)
A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure, but cannot be used for human habitation.

### Adjacent
Having a boundary that physically touches or adjoins.

### Adult establishment
Any business that devotes 25 percent or more of its inventory, stock in trade, or publicly displayed merchandise, or devotes 25 percent or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives 25 percent or more of its gross revenues from, items, merchandise, devices or other materials distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas; or Any business that engages in any adult use as defined in this Section.

### Adult use
Any of the following activities and businesses:

A. Adult body painting studio means an establishment or business that provides the service of applying paint, ink, or other substance, whether transparent or nontransparent, to the body of a patron when the person is Nude.

A. Adult bookstore means an establishment or business used for the barter, rental, or sale of items consisting of printed matter, pictures, slides, records, audio tapes, videotapes, movies, DVDs or motion picture films if 25 percent or more of its inventory, stock in trade, or publicly displayed merchandise consists of, or if 25 percent or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) is devoted to, or 25 percent or more of its gross revenues is derived from items, merchandise, devices or materials that are distinguished or characterized by an emphasis on material depicting, exposing, simulating, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

B. Adult cabaret means a business or establishment that provides dancing or other live entertainment distinguished or characterized by an emphasis on:

(1) The depiction of nudity, Specified Sexual Activities or Specified Anatomical Areas; or

(1) The presentation, display, or depiction of matter that seeks to evoke, arouse, or excite sexual or erotic feelings or desire.

C. Adult companionship establishment means a business or establishment that provides the service of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

D. Adult conversation/rap parlor means a business or establishment that provides the services of engaging in or listening to conversation, talk, or discussion distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

E. Adult health/sport club means a health/sport club that is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

F. Adult hotel or motel means a hotel or motel that presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to Specified Sexual Activities or Specified Anatomical Areas.

G. Adult massage parlor/health club means a massage parlor or health club that provides massage services distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

H. Adult minimotion picture theater means a business or establishment with a capacity of less than 50 persons that as a prevailing practice presents on-premises viewing of movies, motion pictures, or other material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

I. Adult modeling studio means a business or establishment that provides live models who, with the intent of providing sexual stimulation or sexual gratification, engage in Specified Sexual Activities or display Specified Anatomical Areas while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted.

J. Adult motion picture arcade means any place to which the public is permitted or invited where coin- or slug-operated or electronically, electrically, or mechanically controlled or operated still or motion picture machines, projectors, or other image-producing devices are used to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing Specified Sexual Activities or Specified Anatomical Areas.

K. Adult motion picture theater means a motion picture theater with a capacity of 50 or more persons that as a prevailing practice presents material distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas for observation by patrons.

L. Adult novelty business means an establishment or business that devotes 25 percent or more of its inventory, stock in trade, or publicly displayed merchandise or devotes 25 percent or more of its floor area (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to, or derives 25 percent or more portion of its gross revenues from items, merchandise, or devices that are distinguished or characterized by an emphasis on material depicting or describing Specified

Sexual Activities or Specified Anatomical Areas, or items, merchandise or devices that simulate Specified Sexual Activities or Specified Anatomical Areas, or are designed for sexual stimulation.

M. Adult sauna means a sauna that excludes minors by reason of age, and that provides a steam bath or heat bathing room used for the purpose of bathing, relaxation, or reducing, if the service provided by the sauna is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

N. Adult steam room/bathhouse facility means a building or portion of a building used for providing a steam bath or heat bathing room used for the purpose of pleasure, bathing, relaxation, or reducing, if the building or portion of a building restricts minors by reason of age and if the service provided by the steam room/bathhouse facility is distinguished or characterized by an emphasis on Specified Sexual Activities or Specified Anatomical Areas.

### Agricultural Use

A use having the meaning given under Minnesota Statutes, section 40A.02.

"[The use of land for] the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. "Agricultural use" also includes wetlands, pasture, forest land, wildlife land, and other uses that depend on the inherent productivity of the land."

### Alley

A minor way which is used primarily for vehicular service access to the back or the side of properties abutting on a street.

### Alternative Design

Subdivision design methods such as conservation design, transfer of development density, or similar zoning and site design techniques that protect open space and natural areas.

### Amusement Center (indoor)

The provision of indoor entertainment or games to the general public, for a fee, including but not limited to movie theaters, bowling alleys, skating rinks, pool halls, arcades, and related uses.

### Amusement Center (outdoor)

The provision of entertainment or games to the general public, for a fee, that is at least partially outdoors. Such uses include but are not limited to miniature golf courses, merry-go-rounds, care race tracks, carnival games, and related uses.

### Animal Feedlot

A facility as defined by Minnesota Rules, part 7020.0300.

"A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of these parts, open lots used for the feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these parts."

### Antenna Support Structure

Any building or other structure 75 ft. in height or taller other than a telecommunications tower which can be used for location of telecommunications facilities.

### Apartment Building
A building with three or more dwelling units attached both horizontally and/or vertically.

### Apartment Building, High Rise
A multiple family dwelling six or more stories in height, whose upper floors are accessible by elevators.

### Apartment, Walk-up
A multiple family dwelling whose upper floors are accessible only stairs.

### Area Learning Center (ALC)
Anon-traditional State approved alternative learning facility for students between the ages of 15 and 21 years that meet the criteria established in Minnesota Statutes, section 124D.68.

### Artisan Production and Sales
Application, teaching, making, or fabrication of crafts or products by an artist, artisan, or craftsperson either by hand or with minimal automation and may include direct sales to consumers. This definition includes uses such as small-scale fabrication, manufacturing, and other industrial uses and processes typically not permitted in non-industrial zoning districts such as welding and sculpting.

### Assisted Living Facility
A combination of housing and supportive services including personalized assistance and health care, operated by a legal licensed entity, and designed to respond to the individual needs of those living within the facility, including special support services such as meal preparation, housekeeping, limited medical care, and transportation. The emphasis of an assisted living home remains residential even with these support services.

### Automobile & truck repair and service station
A facility for the general repair, rebuilding, or reconditioning of automobiles, noncommercial trucks, and motorcycles, including the sale, installation, and servicing of related equipment and parts. Such facilities my also include as an accessory use the sale of gasoline.

### Barge Fleeting
Temporarily parking and securing barges on the river, on or off channel, while tows are assembled or broken up.

### Base Flood Elevation
The elevation of the "regional flood." The term "base flood elevation" is used in the flood insurance survey.

### Basement
Any area of a structure, including crawl spaces, having its floor or base subgrade (below ground level) on all four sides, regardless of the depth of excavation below ground level.

### Bicycle Sharing
Service in which bicycles are made available for shared use to individuals on a very short term basis.

### Biological and Ecological Functions
The functions of native flora and fauna in stabilizing soils and slopes, retaining and filtering runoff, ensuring pollination, providing species-diverse habitat, and recharging groundwater.

## Block Face

That portion of a block adjacent and parallel to the abutting public street and normally extending from one intersecting street to another. A corner lot shall be part of the blockface parallel to the lot's front lot line.

## Bluff (MRCCA)

**Bluff.** A natural topographic feature having:

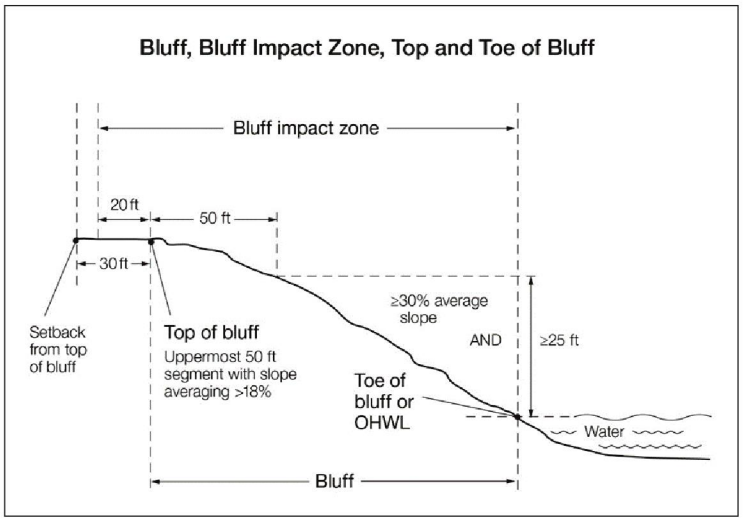
A. A slope that rises at least 25 feet and the grade of the slope averages 18 percent or greater, measured over a horizontal distance of 25 feet, as follows:

(2) Where the slope begins above the ordinary high water level, from the toe of the slope to the top of the slope; or

(3) Where the slope begins below the ordinary high water level, from the ordinary high water level to the top of the slope. or

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

Illustration of Bluff (Shoreland), Bluff Impact Zone, Top and Toe of Bluff




## Bluff (Shoreland)

2.513 **Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics:

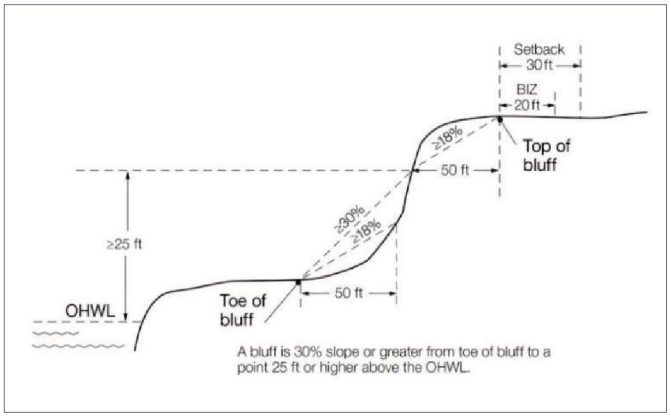
A. Part or all of the feature is located in a shoreland area;

B. The slope must drain toward the waterbody.

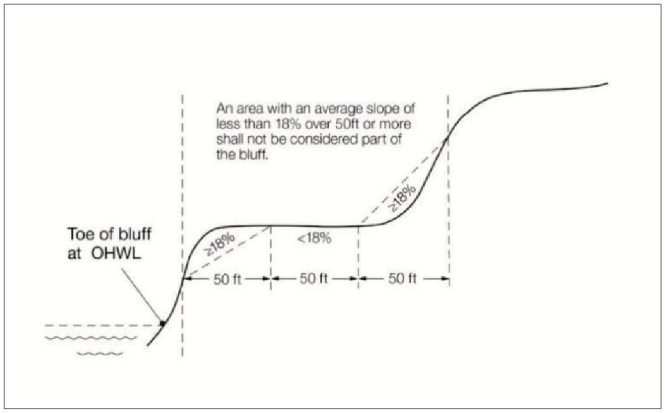
C. The slope rises at least 25 feet above the ordinary high water level;

D. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater (see Figure 1), except that an area with an average slope of less than 18 percent over a distance of at least 50 feet shall not be considered part of the bluff (see Figure 2).

Illustration of Bluff (Shoreland)




Exception to Bluff (Shoreland)




**Bluff Impact Zone**
A bluff and land located within 20 feet of the top of a bluff.

**Bluff, Toe of.**
The lower point of a 50-foot segment with an average slope exceeding 18 percent or the ordinary high water level, whichever is higher, and which is measured over a horizontal distance of 25 feet.

**Bluff, Top of.**
For the purposes of measuring setbacks, the higher point of a 50-foot segment with an average slope exceeding 18 percent measured over a horizontal distance of 25 feet.

**Bluffline**
A line delineating the top of a bluff. More than one bluffline may be encountered proceeding landwards from the river.

**Boarding House**
A building within which rooms are rented and meals are provided to two or more persons not members of the owner's or lessee's family.

**Boulevard**
The portion of the street right of way between the curb line and the property line.

**Brewpub, Micro-winery, and Micro-distillery**
A brewpub that manufactures less than 3,500 barrels of malt liquor each calendar year; or a micro-winery that is operated by the owner of a Minnesota farm and produces table, sparkling, or fortified wines from grapes, grape juice, other fruit bases, or honey with a majority of the ingredients grown or produced in Minnesota; or a micro-distillery that manufactures less than 40,000 proof gallons in a calendar year. Off-site sales are allowed as an accessory use.

**Buffer**
A vegetative feature as defined by Minnesota Statutes, section 103F.48.

"An area consisting of perennial vegetation, excluding invasive plants and noxious weeds, adjacent to all bodies of water within the state and that protects the water resources of the state from runoff pollution; stabilizes soils, shores, and banks; and protects or provides riparian corridors."

**Buildable Area**
The area upon which structures may be placed on a lot or parcel of land and excludes areas needed to meet requirements for setback, rights-of-way, bluff impact zones, historic properties, wetlands, designated floodways, land below the ordinary high water level of public waters, and other unbuildable areas.

**Building**
Any structure with two or more rigid walls and a fully secured roof and affixed to a permanent site erected for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind.

**Building Height**
The vertical distance measured from the highest adjoining ground level or 10 feet above the lowest adjoining ground level, whichever is lower, to the highest point of the roof surface of flat roofs, the deck line of mansard roofs, the uppermost point on a round or arched roof; or the average height between the eaves and the highest ridge of gable, hip, or gambrel roofs. The height of a stepped or terraced building shall be the height of the tallest segment of the building.

**Building Line**
A line parallel to a lot line or ordinary high water level at the required setback, beyond which a structure may not extent

**Business:**
Any establishment, occupation, employment, or enterprise where merchandise is manufactured, exhibited or sold, or where services are offered for compensation.

**Business Service**
Retail or service establishments whose customers are primarily other businesses, including but not limited to duplicating services, electronic data processing, and employment service; mailing, addressing, stenographic services; and specialty business service such as travel bureau, news service, exporter, importer, interpreter, appraiser, film library.

**Butt Lot**
A lot at the end of a block and located between two corner lots.

### Canopy
An accessory roof-like structure, either attached to or detached from a permitted building, open on all sides, other than where attached; which is located over and designed to provide temporary cover for entrances, exits, walkways, and approved off-street vehicle service areas (such as gasoline stations, drive-in establishments, and loading berths).

### Car Wash
A facility for the washing and cleaning of automobiles and noncommercial trucks through the use of primarily mechanical, automated equipment.

### Care Center and Convalescent Home
Housing for dependent persons including personal nursing care, meal preparation in a common dining hall, hygiene services, laundry, etc.

### Carport
An accessory roof-like structure, either attached to or detached from a permitted building, enclosed on not more than two sides, which is designed to provide cover for approved off-street vehicle parking or vehicle storage space.

### Certificate of Compliance
A document written after a compliance inspection, certifying that the development is in compliance with applicable requirements at the time of the inspection.

### City
The City of Brooklyn  Center, Minnesota.

### Clear View Triangle:
On any property which is located at a street intersection, the Clear View Triangle is defined as that triangular area formed by connecting the following three points: the point of intersection of the adjacent curb lines extended, and a point on each adjacent curb line 55 feet from such point of intersection. If there are no curbs, the edge of the traveled portion of the street or road shall be used instead of the curb line. On any property which is located at an intersection of an alley with a street, the triangular area is formed by connecting points 20 feet from Nothing may be allowed within the Clear View Triangle to materially impede vision between a height of two and one-half feet and 10 feet above the centerline grades of the intersecting streets. However, certain objects may remain in the Clear View Triangle if, based on engineering judgment and discretion, there are other circumstances that limit or minimize risk at the intersection.

### Cold Frames
A device constructed partly or entirely of glass, or other transparent or translucent material, which is used to shield plants from cold weather, including ice, snow, and/or cold winds.

### Co-Location
The location of wireless telecommunications equipment from more than one provider on one common tower, building or structure.

### Comprehensive Plan
The comprehensive plan adopted by the city council indicating the general locations recommended for the various functional classes of public works, places and structures, and for the general physical development of the City of Brooklyn Center, and includes any unit or part of such plan separately adopted and any amendments to such plan or parts thereof.

### Clubrooms and Lodges
A nonprofit membership organization that holds regular meetings, whose members pay annual dues, that is organized for a common interest, usually cultural, civic, religious, or social, and that has formal written membership requirements. A "club or lodge" may, subject to other regulations controlling such uses, maintain dining facilities, serve alcohol, or engage in professional entertainment for the enjoyment of members and their guests. There are no sleeping facilities.

### Co-Location
The location of wireless telecommunications equipment from more than one provider on one common tower, building or structure.

### Commercial Use (Shoreland)
The principal use of land or buildings for the sale, lease, rental, or trade of products, goods, and services.

### Commercial Animal Establishment (formerly kennels)
Any business that raises, breeds, sells, boards, distributes, or exhibits animals for either entertainment or education purposes, including but not limited to: kennels, aquariums, pet shops, petting zoos, riding schools or stables, zoological parks, or performing animal exhibition.

### Commercial Planned Unit Development (Shoreland)
Developments that provide transient, short-term lodging spaces, rooms, or parcels and their operations are essentially service-oriented. For example, hotel/motel accommodations, resorts, recreational vehicle and camping parks, and other primarily service-oriented activities are commercial planned unit developments.

### Commissioner (Floodplain, MRCCA, and Shoreland)
The commissioner of the Department of Natural Resources.

### Community Center
A facility used for recreational, social, educational, and cultural activities including private nonprofit recreational and social facilities, recreational buildings and facilities

### Conditional Use
A use having meaning under Minnesota Statutes, section 394.22 and section 463.3595.

"A specific type of structure or land use listed in the official control that may be allowed, subject to the procedures and standards contained in Section 7.7 of this Unified Development Ordinance, but only after an in depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: (a) Certain conditions as detailed in the Unified Development Ordinance exist; and (b) The structure and/or land use conform to the comprehensive land use plan if one exists and are compatible with the existing neighborhood."

### Condominium Single Family Attached Dwelling Units
Two or more dwelling units horizontally attached in a linear or cluster arrangement, with the individual dwelling units separated from each other by a wall or walls extending from foundation to roof, and with each dwelling unit located upon a separate platted lot. Characteristic features of such a development include individual ownership of dwelling units, and common (nonpublic) ownership of open areas, site amenities, and recreation facilities. A condominium single family attached dwelling unit development includes at least one large common area of open space for aesthetic or recreational purposes.

### Conservation Design
A pattern of subdivision that is characterized by grouping lots within a portion of a parcel, where the remaining portion of the parcel is permanently protected as open space.

### Controlled Access Lot
A lot used to access public waters or as a recreation area for owners of nonriparian lots within the same subdivision containing the controlled access lot.

### Convenience Food Restaurant
An establishment with over 40 dining seats or in a separate building, whose principal business is the sale of foods, frozen desserts, or beverages to the customer in a ready-to-eat state for consumption either within the premises or for carry-out with consumption either on or off the premises, and whose design or principal method of operation includes both of the following characteristics:

1) Foods, frozen desserts, or beverages are usually served in edible containers or in paper, plastic, or other disposable containers.
2) The customer is not served food at his/her table by an employee but receives it at a counter, window, or similar facility for carrying to another location on or off the premises for consumption.
3) Corner Lot
4) A lot situated at the intersection of two or more streets, which has a boundary line bordering on two of the streets and having an interior angle of less than 135 degrees.

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

### Cul-de-sac
A minor street with only one outlet.

### Deck
A horizontal, unenclosed, above-ground, level platform without a roof, which may be attached or unattached to a principal dwelling, including any attached railings, seats, trellises, or other features not more than 36 inches above the platform, and which platform is functionally related to a principal use. An unattached deck is considered an accessory structure in any yard, wetland, floodplain, or river corridor critical area.

**Development**
Any manmade change to improved or unimproved real estate, including buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**Development Complex**
A multiple building development, such as a shopping center, a planned industrial park or office development that is controlled by a single owner or landlord.

**Dock**
Having the meaning given under Minnesota Rules, part 6115.0170

"A narrow platform or structure extending waterward from the shoreline intended for ingress and egress for moored watercraft or seaplanes or to provide access to deeper water for swimming, fishing, or other water-oriented recreational activities."

**Drive-in Establishment**
A commercial enterprise that customarily offers goods, services or entertainment to clientele within automobiles (example: automobile service stations, drive-in restaurants, outdoor theaters, and car washes, but not "drive-in" cleaners where the customer must leave his automobile to pick up or deliver goods).

**Dumpster, hard-sided**
A container that has a hooking mechanism that permits it to be raised and dumped into a sanitation truck, or otherwise hauled away from a site. Hard-sided dumpsters are those constructed of some rigid, unyielding material, such as steel or aluminum.

**Dumpster, soft-sided**
A container that has a hooking mechanism that permits it to be raised and dumped into a sanitation truck, or otherwise hauled away from a site. Also known as a dumpster bag, soft-sided dumpsters are those constructed of some flexible, tarp-like material which may be preferable for use in instances where hard-sided dumpsters may not be readily dispatched due to elevation, soil instability, or another site condition.

**Dwelling**
A building, or portion thereof, designed or used predominantly for residential occupancy of a continued nature, including one-family dwellings, two-family dwellings, and multiple family dwellings, including earth-sheltered homes and manufactured homes; but not including hotels, motels, commercial boarding or rooming houses, tourist homes, and recreational vehicles, such as travel trailers, camping trailers, pick-up campers, motor coaches, motor homes, and buses.

**Dwelling, Attached (apartment, condominium, cooperative, townhouse, or duplex)**
A dwelling joined to one or more other dwellings by party wall or walls.

**Dwelling, Detached**
A dwelling entirely surrounded by open space.

**Dwelling, Live/Work**
An integrated housing unit and working space, occupied and used by a single household in either a single-family attached dwelling or multiple family dwelling, that has been designed or structurally modified to accommodate joint residential occupancy and work activity, and includes:

1) Complete kitchen space and sanitary facilities; and
2) Working space reserved for and regularly used by one or more occupant of the unit.

**Dwelling, Multiple Family (Apartment or Flat)**
A residential building or portion thereof containing three or more dwelling units.

**Dwelling, One-Family**
A residential building containing one dwelling unit.

**Dwelling, Townhouse or Garden Apartment**
Three or more dwelling units horizontally attached in a linear or cluster arrangements, with the separate dwelling units within the building separated from each other by a wall or walls extending from foundation to roof. Characteristic features of townhouses or garden apartments are their private entrances and small private yards for outdoor living. A townhouse or garden apartment development includes at least one large common area of open space for aesthetic or recreational purposes.

**Dwelling, Two-Family (duplex)**
A residential building containing two dwelling units.

**Dwelling Unit**
A single residential accommodation which is arranged, designed, used, or intended for use exclusively as living quarters for a family; must include complete permanently installed kitchen facilities. Where a private garage is structurally attached, it shall be considered as part of the building in which the dwelling unit is located.

**Dwelling Unit (Shoreland)**
Any structure or portion of a structure, or other shelter designed as short- or long-term living quarters for one or more persons, including rental or timeshare accommodations such as motel, hotel, and resort rooms and cabins.

**Easement**
A grant by an owner of land for the specific use of said land by the public generally, or to a person or persons.

**Efficiency Units**
A dwelling unit with one primary room which doubles as a living room (in its ordinary sense) and a bedroom and may, in addition, serve for other residential uses.

**Electric Power Facilities**
Equipment and associated facilities for generating electric power or devices for converting wind energy to electrical energy as identified and defined under Minnesota Statutes, Chapter 216E.

**Enforcement**
The (*insert name of local government or designated official*) is responsible for the administration and enforcement of this *(section, chapter or article)*. Any violation of its provisions or failure to comply with any of its requirements including violations of conditions and safeguards established in connection with grants of variances or conditional uses constitutes a misdemeanor and is punishable as defined by law. Violations of this *(section, chapter or article)* can occur regardless of whether or not a permit is required for a regulated activity listed in Section 4.2.

### Equal Degree of Encroachment
A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows

### Essential Services
Underground or overhead gas, electrical, communications, steam, or water distribution, collection, supply, or disposal systems, including storm water. Essential services include poles, wires, mains, drains, pipes, conduits, cables, fire alarm boxes, traffic signals, hydrants, navigational structures, aviation safety facilities or other similar equipment and accessories in conjunction with the systems. Essential services does not include buildings, treatment works as defined in Minnesota Statutes, Section 115.01, electric power facilities or transmission services.

### Establishment
Any of the following definitions shall apply:

1) A distinct business entity situated in a single building.
2) A distinct business entity located in a structure attached to other similar structures by common walls and ceilings or floors, or attached by means of an enclosed arcade.
3) A distinct business entity contained within a single structure and not separated by walls or other physical barriers, but made distinct due to its existence as a single lease space and operation by separate entrepreneurs, or by its singularity of purpose (such as clothing sales, furniture sales, and so on) carried on by a single or separate proprietors.

### Family
Any of the following definitions shall apply:

1) A person or persons related by blood, marriage or adoption, together with his or their domestic servants or gratuitous guests, maintaining a common household in a dwelling unit.
2) Group or foster care of not more than six wards or clients by an authorized person or persons, related by blood, marriage, or adoption, together with his or their domestic servants or gratuitous guests, all maintaining a common household in a dwelling unit approved and certified by the appropriate public agency.
3) A group of persons not related by blood, marriage, or adoption maintaining a common household in a dwelling unit.

### Farm Fence
Any of the legal and sufficient fences defined by Minnesota Statutes, section 344.02, Subd. 1 (a)–(d) with all requisite measures and components prescribed, therein.

An open type fence of posts and wire is not considered to be a structure under this Unified Development Ordinance. Fences that have the potential to obstruct flood flows, such as chain link fences and rigid walls, are regulated as structures under this Unified Development Ordinance.

### Final Plat
The final map, drawing or chart on which the subdivider's plan of subdivision is presented to the city council for approval and which, if approved, will be submitted to the County Register of Deeds or Registrar of Titles.

### Fitness Centers (Large & small)
A building, or portion of a building, designed and equipped for the purpose of exercise, physical fitness, or related activities, and open to either members, or the public for a fee. May also include a place that offers licensed massage, facial, or body treatments provided as an accessory use that directly relates to an on-site primary use. Fitness Centers are not permissive of uses such as gun ranges or the firing of projectiles.

### Flood
A temporary increase in the flow or stage of a stream or in the stage of a wetland or lake that results in the inundation of normally dry areas.

### Flood Frequency
The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

### Flood Fringe
The portion of the Special Flood Hazard Area (one percent annual chance flood) located outside of the floodway. This district also includes any additional area encompassed by the horizontal extension of the RFPE. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for Hennepin County, Minnesota.

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

### Flood Prone Area
Any land susceptible to being inundated by water from any source (see "Flood").

### Floodplain
The beds proper and the areas adjoining a wetland, lake or watercourse which have been or hereafter may be covered by the regional flood.

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

### Floodway
The best of a wetland or lake and the channel of a watercourse and those portions of the adjoining floodplain which are reasonably required to carry or store the regional flood discharge.

### Floor Area, Gross
The sum of the horizontal areas of the several floors of a building or buildings, measured from the exterior faces of the exterior walls or from the center line of party walls separating two buildings. In particular, "gross floor areas" shall include:

1) Basement space, if at least fifty percent of its story height is above the average level of the finished grade.
2) Elevator shafts and stairwells at each floor.

3) Floor space used for mechanical equipment where the structural headroom exceeds 7-1/2 feet, except equipment, open or enclosed, located on the roof, i.e., bulk needs, water tanks, and cooling towers
4) Attic floor space where the structural headroom exceeds 7-1/2 feet.
5) Interior balconies and mezzanines, where the structural headroom exceeds 7-1/2 feet.
6) Enclosed porches, but not terraces and breezeways.
7) Accessory uses other than floor space devoted exclusively to accessory off-street parking or loading, but shall not include garages, open porches, and open patios.

### Floor/Area Ratio
The numerical value obtained through dividing the gross floor area of a building or buildings by the total area of the lot or parcel of land on which such building is located.

### Forest Land Conversion
The clear cutting of forested lands to prepare for a new land use other than reestablishment of a subsequent forest stand.

### Fully Reconstructs (MRCCA)
The reconstruction of an existing impervious surface that involves site grading and subsurface excavation so that soil is exposed. Mill and overlay and other resurfacing activities are not considered fully reconstructed.

### Garage, Private
An accessory building or an accessory portion of the dwelling building intended for or used to store private passenger vehicles of the families resident upon the premises and in which no business, service or industry connected directly or indirectly with automotive vehicles may be carried on.

### Garage – School Bus
A building, or portion of a building, used for the storage of school buses (defined in M.S.A. section 169.01, Subd. 6), or where any such vehicles are kept for remuneration or hire, excluding major repair of such vehicles.

### Gas Station
The portion of a property used for the retail sale of automobile fuels, oils, and accessories. Such an establishment may offer the retail sale of other convenience items, automobile car wash, or auto repair and services as a secondary use.

### General Indoor Retail Sales, Large
An establishment selling general retail goods that has a gross floor area greater than 10,000 sq. ft. for all uses. This use does not include the sales of light or heavy motor vehicles or any other goods listed as a separate use in the Allowed Use Table.

### General Indoor Retail Sales, Small
An establishment selling general retail goods that has a gross floor area of 10,000 sq. ft. or less for all uses. This use does not include the sales of light or heavy motor vehicles or any other goods listed as a separate use in the Allowed Use Table.

### Green Strip
An area containing only vegetation such as grass, trees, flowers, hedges, and other related landscaping materials, and maintained expressly for such purpose.

### Guest cottage (Shoreland)
An accessory structure used as a dwelling unit that may contain sleeping spaces and kitchen and bathroom facilities in addition to those provided in the primary dwelling unit on a lot.

### Hard Surface
Ground covered with brick, concrete, asphalt, iron ore, cobble-stones, blacktop, or other asphaltic or rubber mixture which creates a firm, smooth, and level surface.

### Hard-Surface Trail
A trail surfaced in asphalt, crushed aggregate, or other hard surface, for multi-purpose use, as determined by local, regional, or state agency plans.

### Height of Structure
The vertical distance between the highest adjoining ground level at the building or ten feet above the lowest adjoining ground level, whichever is lower, and the highest point of a flat roof or average height of the highest gable of a pitched or hipped roof.

### Historic Property
An archaeological site, standing structure, site, district, or other property that is:

1) Listed in the National Register of Historic Places or the State Register of Historic Places or locally designated as a historic site under Minnesota Statutes, Chapter 471;
2) Determined to meet the criteria for eligibility to the National Register of Historic Places or the State Register of Historic Places as determined by the Director of the Minnesota Historical Society; or
3) An unplatted cemetery that falls under the provisions of Minnesota Statutes, Chapter 307, in consultation with the Office of the State Archaeologist.

### Home Occupation, Allowable
Subject to the further limitations of Section 4.4.2 (d) of the UDO, a home occupation is any gainful occupation or profession, carried on within a dwelling unit, by a family member residing within a dwelling unit, which is clearly incidental and secondary to the residential use of the dwelling unit and the lot upon which it is constructed, including, dressmaking, secretarial services, professional services, answering services, individual music or art instruction, individual hobby crafts, and day care and similar activities.

### Home Occupation, Conditional
Subject to the further limitations of Section 4.4.2 (d) hereof, and subject to approval by the City Council, a special home occupation is any gainful occupation or profession carried on within a dwelling unit or any permitted accessory buildings or installations on a lot, by a family member residing within the dwelling unit, which is clearly incidental and secondary to the residential use of the dwelling unit, the accessory structures, and the lot upon which it is constructed, including, without limitation, barber and beauty services, shoe repair, photography studios, group lessons, saw sharpening, motor driven appliances and small engine repair, and similar activities.

### Hospital
An institution licensed by the state Department of Health primarily engaged in providing, by or under the supervision of physicians, to inpatients (A) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled or sick persons, or B) rehabilitation services for the rehabilitation of injured, disabled, or sick persons.

### Hotel
A building which provides a common entrance, lobby, and stairways, and in which lodging is commonly offered with or without meals for periods of less than a month.

### Hotel, Extended Stay
A building which provides a common entrance, lobby, and stairways, and in which lodging is commonly offered with or without meals. Guests stay at an extended stay hotel for periods of more than a month. The hotel rooms offer amenities such as self-serve laundry and in-suite kitchens consistent with long term accommodations.

### Hot tub
A hydromassage pool, or tub for recreational or therapeutic use, not located in health care facilities, designed for immersion of users, and usually having a filter, heater, and motor-driven blower.

### Impervious Surface
A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, decks, sidewalks, patios, parking lots, storage areas, and driveways, including those with concrete, asphalt, or gravel surfaces.

### Indoor Recreation
A facility for indoor participation or observation of sports, games, fitness, arts, or culture activities that do not meet the definition for another use in this Unified Development Ordinance. This use includes but is not limited to health clubs, bowling, skating, swimming, tennis, teen clubs, health and fitness centers, gyms, escape rooms, haunted houses, stadiums, and similar indoor activities. Accessory uses include the sales of food, beverages, and items related to or required for participation in the recreational activity.

### Individual Establishment
A distinct business entity situated in a single building.

### Industry
An enterprise that involves the production, assembly, processing, warehousing, or transfer of materials, goods or products.

### Intensive Vegetation Clearing
The removal of all or a majority of the trees or shrubs in a contiguous patch, strip, row, or block.

### Interim Use
A temporary use of property until a specified date, until the occurrence of a specified event, or until zoning regulations no longer permit it.

### Land Alteration
An activity that exposes the soil or changes the topography, drainage, or cross section of the land, excluding gardening or similar minor soil disturbances.

### Landscape Planting Area
Any lot area not devoted to the buildings, driveways, sidewalks, off-street loading or parking facilities, or similar elements, and whose cumulative square footage is used to determine required landscaping plan requirements as outlined in Section 5.6.1.

### Laundry and Dry Cleaning Drop-Off and Pick-Up
An establishment where laundry or dry cleaning is dropped off by customers or picked up by customers but not including any on-site cleaning or dry-cleaning activities.

### Licensed Day Care Facility
A facility required to be licensed by the state, county or City that provides one or more persons with care, training, supervision, habilitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than 24 hours per day, in a place other than the person's own dwelling unit. Licensed day care facilities include but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, developmental achievement centers, day treatment programs, adult day care centers, and day services as defined by Minnesota State statutes. Residential day care facilities whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes related to sex offenses may not be considered a licensed residential day care facility.

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

### Loading Space
A space accessible from a street, alley, or way in a building or a lot for the use of motor vehicles while loading or unloading merchandise or materials.

### Local Government
Counties, cities, and townships.

### Local Park Agencies
The Minneapolis Park and Recreation Board and the Three Rivers Park District.

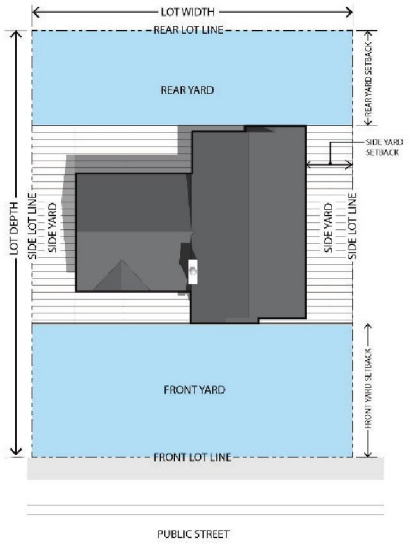
### Lot
A lot is a parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description, as on a subdivision or record of survey map, or by metes and bounds, for the purpose of sale or lease or separate use thereof.

### Lot Area
The area of a horizontal plane bounded by the front, side and rear lot lines.

### Lot, Corner
A lot at the junction of and abutting on two or more intersecting streets.

### Lot, Depth
The mean horizontal distance between the front lot line and the 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 a single or separate ownership.

### Lot Line, Front
That boundary of a lot which is along an existing or dedicated street. In the case of corner lots, the zoning administrator shall determine, but only for the purpose of this Unified Development Ordinance, which lot line or lines shall be considered front lot lines; such determination shall not be construed as stating in which direction buildings shall face. In general, the narrower of the lines abutting streets shall be the front line for the above stated purpose.

### Lot Line, Rear
The boundary of a lot line which is most distant from and is approximately parallel to the front lot line.

### Lot Line, Side
Any boundary of a lot which is not a front or rear lot line.

### Lot Width
The horizontal distance between the side lot lines of a lot measured at the front yard setback line. Within the MRCCA overlay, lot width is considered to be the shortest distance between lot lines measured at both the ordinary high-water level and at the required structure setback from the ordinary high water level.

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

### Manufactured Home
A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term manufactured home" does not include the term "recreational vehicle."

### Manufacturing assembly and processing of products
Any manufacturing or industrial production that forms, shapes, combines, or alters materials. This process of this production cannot produce objectionable noise, fumes, vibration, waste, or radiation.

### Marina
Having the meaning given under Minnesota Rules, part 6115.0170.

Either an inland or offshore commercial mooring facility for the concentrated mooring of seven or more watercraft or seaplanes wherein commercial ancillary services common to marinas are provided.

**Massage**
Rubbing, stroking, kneading, tapping or rolling of the body of another with the hands for the exclusive purpose of physical fitness, relaxation, beautification and for no other purpose.

**Marginal Access Street**
A minor street which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.

**Medical and health uses**
Uses concerned with the diagnosis, treatment, and care of humans. Such uses include hospitals, dental services, medical clinics, aesthetician services, nursing, medical tattooing, laser treatments, and similarly oriented uses.

**Meeting, Banquet, Event, or Conference Facility**
A facility available on a rental basis to the general public, with or without food preparation equipment, used for meetings, conferences, receptions, fellowship, catered meals, and other social functions.

**Minimum Subdivision Design Standards**
The guides, principles and specifications for the preparation of subdivision plans indicating among other things the minimum and maximum dimensions of the various elements set forth in the preliminary plan.

**Mississippi River Corridor Critical Area (MRCCA)**
The area within the River Corridor Boundary (See Section 3.2.3).

**Mississippi River Corridor Critical Area (MRCCA) Plan**
A chapter or other element in the Brooklyn Center Comprehensive Plan.

**Mobile Food Unit**
A temporary food service establishment that is a vehicle-mounted food service establishment designed to be readily movable.

**Modular Housing Structure**

A structure not built on-site, but which is manufactured or constructed to be used as a place for human habitation and is placed on a permanent foundation and meets the state building code standards.

**Mooring Facility**
Having the meaning given under Minnesota Rules, part 6115.0170.

"A concentrated area intended solely for the mooring or containment of seven or more watercraft or seaplanes by docks, mooring buoys, or other means."

**Motel**
A hotel in which rooms are directly accessible to an outdoor automobile parking area.

### Multi-Establishment
A distinct business entity located in a structure attached to other similar structures by common walls and ceilings or floors, or attached by means of an enclosed arcade; or a distinct business entity contained within a single structure and not separated by walls or other physical barriers, but made distinct due to its existence as a single lease space and operation by separate entrepreneurs or by its singularity of purpose (such as clothing sales, furniture sales and so on) carried on by a single or separate proprietors.

### Native Plant Community
A plant community that has been identified as part of the Minnesota Biological Survey or biological survey issued or adopted by a local, state, or federal agency.

### Natural-Surface Trail
A trail composed of native soil and rock or compacted granular stone, primarily intended for hiking, equestrian, or mountain bike use, as determined by local, regional, or state agency plans.

### Natural Vegetation
Any combination of ground cover, understory, and tree canopy that, while it may have been altered by human activity, continues to stabilize soils, retain and filter runoff, provide habitat, and recharge groundwater.

### New Construction
Structures, including additions and improvements, and placement of manufactured homes, for which the start of construction commenced on or after the effective date of this Unified Development Ordinance.

### Nonconformity
Having the meaning given under Minnesota Statutes, Section 394.22.

"Any legal use, structure or parcel of land already in existence, recorded, or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written, if the official controls had been in effect prior to the date it was established, recorded or authorized."

### Nursing Home

A state licensed facility used to provide care for aged or infirm persons who require nursing and personal care and related services in accordance with state regulations. A nursing home may be a residential healthcare facility, an intermediate care facility, or a long-term care facility.**Nude or Specified Anatomical Areas**
Less than completely and opaquely covered human genitals, pubic regions, buttocks, anuses, or female breasts below a point immediately above the top of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

### Obstruction
Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.

### Office
An enclosed building in which executive, management, administrative, government, or professional services are provided. This use includes but is not limited to corporate offices, government offices, law offices, banks, architectural firms, medical offices, insurance companies, other executive, management or administrative offices for businesses and corporations, and the administration of local, state, or federal government services or functions.

### One Hundred Year Floodplain
Lands inundated by the "Regional Flood" see definition below.

### Ordinary High Water Level (OHWL)
The boundary of public waters and wetlands, and shall be an 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. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel. For reservoirs and flowages, the ordinary high water level is the operating elevation of the normal summer pool.

### Outlot
A parcel of land included in a plat which is smaller than the minimum size permitted and which is thereby declared unbuildable until combined with additional land; or a parcel of land which is included in a plat and which is more than double the minimum size and which is thereby subject to future subdivision; or a parcel of land designated as a private roadway in a townhouse development plat.

### Overlay District
A zoning district that is applied over one or more previously established zoning districts, establishing additional or stricter standards and criteria for covered properties in addition to those of the underlying zoning district. Overlay districts are often used to protect historic features and natural resources such as shoreland or floodplain.

### Owner
Any individual, firm, association, syndicate, co-partnership, corporation, trust or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this Unified Development Ordinance.

### Parcel
Having the meaning given under Minnesota Statutes, Section 116G.03.

"Any quantity of land capable of being described with such definiteness that its location and boundaries may be established, which is designated by its owner or developer as land to be used or developed as a unit, or which has been used or developed as a unit."

### Parking, Accessory Off-Site
A legal arrangement in which parking spaces, located on property other than that of the principal use, are encumbered solely for use by the off-site principal use. Such spaces may be credited to the Unified Development Ordinance parking requirements of the principal use by a conditional use permit if the requirements of Section 5.5.6 are met.

### Parking, Joint
An easement agreement over certain property which gives a use located on a nearby or adjacent property the right to make use of parking stalls within the easement area. Such agreements are for the convenience of the respective uses which share the same parking stalls at different times and cannot be used to meet the Unified Development Ordinance parking requirements for the off-site use.

### Patio
A constructed hard surface located at ground level not having any roof, railings, or walls.

### Pedestrian Way
The right of way across or within a block, for use by pedestrian traffic whether designated as a pedestrian way, crosswalk or however otherwise designated.

### Person
An individual, firm partnership, association, corporation or joint venture or organization of any kind.

### Personal Service
Establishments providing individual-oriented, nonmedical related services, such as dry cleaning, laundering and dyeing, beauty and barber shops, shoe repair, and related uses. These uses may also include accessory retail sales of products related to the services provided.

### Picnic Shelter
A roofed structure open on all sides, accessory to a recreational use.

### Planned Unit Development
A method of land development that merges zoning and subdivision controls, allowing developers to plan and develop a large area as a single entity, characterized by a unified site design, a mix of structure types and land uses, and phasing of development over a number of years. Planned unit development includes any conversion of existing structures and land uses that utilize this method of development. These developments may be organized and operated as condominiums, time-share condominiums, cooperatives, full fee ownership, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, dwelling grounds, recreational vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

### Plat
Having the meaning given under Minnesota Statutes, Chapter 505.

A delineation of one or more existing parcels of land drawn to scale showing all data as required by this chapter, depicting the location and boundaries of lots, blocks, outlots, parks, and public ways."

### Plat, Common Interest Community (CIC)
Having the meaning given under Minnesota Statues, section 515B.2.

A plat required for condominiums and planned communities, and cooperatives in which the unit owner's interests are characterized as real estate.

**Porch, Enclosed**
A horizontal roofed platform attached to an entrance of a dwelling, with an integrated wall system consisting of roof support members such as pillars, posts or columns, and which is fully enclosed by walls, screens, windows, or removable storm-windows that cannot be accessed from the outside except through a door that is capable of being locked.

**Porch, Unenclosed**
A horizontal roofed platform attached to an entrance of a dwelling, with a roof support system consisting of pillars, posts or columns, which may or may not have railings or knee-wall railings no higher than 36-inches from the platform level, and which does not include walls, screens, windows, or doors.

**Port**
A water transportation complex established and operated under the jurisdiction of a port authority according to Minnesota Statutes, section 458.

**Preliminary Plan**
The preliminary map, drawing, or chart indicating the proposed layout of the subdivision to be submitted to the planning commission and city council for their consideration.

**Primary Conservation Areas**
Key resources and features, including shore impact zones, bluff impact zones, floodplains, wetlands, gorges, areas of confluence with tributaries, natural drainage routes, unstable soils and bedrock, native plant communities, cultural and historic properties, and significant existing vegetative stands, tree canopies, and other resources identified in local government plans.

**Principal Use or Structure**
All uses or structures that are not accessory uses or structures.

**Private Facilities**
Private roads, driveways, and parking areas, private water access and viewing facilities, decks and patios in setback areas, and private signs.

**Professional Engineer**
An engineer licensed to practice in Minnesota.

**Program, Nonresidential**
Having the meaning given it in Minnesota Statues 245A.02, Subd. 10.

**Program, Residential**
Having the meaning given it in Minnesota Statutes 245A.02, Subd. 14.

**Proof Gallon**
One liquid gallon of distilled spirits that is 50 percent alcohol at 60 degrees Fahrenheit.

**Protective Covenants**
Contracts entered into between private parties and constitute a restriction on the use of all private property within a subdivision for the benefit of the property owners and for providing mutual protection against undesirable aspects of development which would tend to impair stability of values.

### Public Building
Any building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal, without reference to the ownership of the building or of the realty upon which it is situated.

### Public Facilities
Public utilities, public transportation facilities, and public recreational facilities.

### Public Recreation Facilities
Recreational facilities provided by the state or a local government and dedicated to public use, including parks, scenic overlooks, observation platforms, trails, docks, fishing piers, picnic shelters, water access ramps, and other similar water-oriented public facilities used for recreation.

### Public River Corridor Views
Views toward the river from public parkland, historic properties, and public overlooks, as well as views toward bluffs from the ordinary high water level of the opposite shore, as seen during the summer months and documented in the MRCCA plan/chapter of the comprehensive plan.

### Public Transportation Facilities
All transportation facilities provided by federal, state, or local government and dedicated to public use, such as roadways, transit facilities, railroads, and bikeways.

### Public Transportation Terminal
A point of assembly or disassembly of people arriving or departing by means of public transportation.

### Public Uses
Uses, facilities and properties owned or operated by a school district, a municipality, county, state, or other governmental units, and any religious institutions such as churches, chapels, temples, synagogues and mosques.

### Public Utilities
Electric power facilities, essential services, and transmission services.

### Public Waters
Having the meaning given under Minnesota Statutes, section 103G.005.

1) water basins assigned a shoreland management classification by the commissioner under sections 103F.201 to 103F.221;
2) waters of the state that have been finally determined to be public waters or navigable waters by a court of competent jurisdiction;
3) meandered lakes, excluding lakes that have been legally drained;
4) water basins previously designated by the commissioner for management for a specific purpose such as trout lakes and game lakes pursuant to applicable laws;
5) water basins designated as scientific and natural areas under section 84.033;
6) water basins located within and totally surrounded by publicly owned lands;
7) water basins where the state of Minnesota or the federal government holds title to any of the beds or shores, unless the owner declares that the water is not necessary for the purposes of the public ownership;

8) water basins where there is a publicly owned and controlled access that is intended to provide for public access to the water basin;
9) natural and altered watercourses with a total drainage area greater than two square miles;
10) natural and altered watercourses designated by the commissioner as trout streams; and
11) public waters wetlands, unless the statute expressly states otherwise.

Public waters are not determined exclusively by the proprietorship of the underlying, overlying, or surrounding land or by whether it is a body or stream of water that was navigable in fact or susceptible of being used as a highway for commerce at the time this state was admitted to the union.

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

### Readily Visible
Land and development that are easily seen from the ordinary high water level of the opposite shore during summer months.

### Recreational Vehicle
A vehicle that is built on a single chassis, is 400 square feet or less when measured at the largest horizontal projection, is designed to be self-propelled or permanently towable by a light duty truck, and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. For the purposes of this Unified Development Ordinance, the term recreational vehicle is synonymous with the term “travel trailer/travel vehicle.”

### Regional Flood
A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the1% chance or 100-year recurrence interval. Regional flood is synonymous with the term "base flood" used in a flood insurance study.

### Regulatory Flood Protection Elevation (RFPE)
An elevation not less than one foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

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

### Residential Planned Unit Development (Shoreland)
A use where the nature of residency is nontransient and the major or primary focus of the development is not service-oriented. For example, residential apartments, manufactured home parks, time-share condominiums, townhouses, cooperatives, and full fee ownership residences would be considered as residential planned unit developments. To qualify as a residential planned unit development, a development must contain at least five dwelling units or sites.

### Resource Agency
A federal, state, regional, or local agency that engages in environmental, natural, or cultural resource protection or restoration activities, including planning, implementation, and monitoring.

### Retail Sale
A transfer of title or possession of personal property to a purchaser for a price.

### Retaining Wall
A vertical or nearly vertical structures constructed of mortar and rubble masonry, rock, or stone regardless of size, vertical timber pilings, horizontal timber planks with piling supports, sheet pilings, poured concrete, concrete blocks, or other durable materials.

### Right-of-way
That property within the boundary of a street or highway easement, or that property owned by a governmental body for roadway purposes; generally the right-of-way extends beyond the actual surfaced portion of the roadway. The street right-of-way line is coincident with the property line of the abutting property, and is the line generally used in calculating setbacks.

### River Corridor Boundary
The boundary approved and adopted by the Metropolitan Council under Minnesota Statutes, section 116G.06, as approved and adopted by the legislature in Minnesota Statutes, section 116G.15, and as legally described in the State Register, volume 43, pages 508 to 518.

### River-Dependent Use
The use of land for commercial, industrial, or utility purposes, where access to and use of a public water feature is an integral part of the normal conduct of business and where the use is dependent on shoreline facilities.

### Rock Riprap
Natural coarse rock placed or constructed to armor shorelines, streambeds, bridge abutments, pilings and other shoreline structures against scour, or water or ice erosion.

### Roof Line
That line at which an exterior wall surface of a building structure departs from a vertical plane.

### Rummage Sale
The infrequent temporary display and sale, by an occupant on his or her premises, of personal property, including general household rummage, used clothing and appliances, provided: the exchange or sale of merchandise is conducted within the residence or accessory structure; the number of sales does not exceed four per year; the duration of the sale does not exceed three consecutive days; any related signage shall conform with the sign Unified Development Ordinance provisions; and the conduct of the sale does not encroach upon the peace, health, safety, or welfare of the citizens of Brooklyn Center.

### Satellite Receive-Only Antenna (SROA)
A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn, or cornucopia. Such device shall be used to receive radio or electromagnetic waves. This definition is meant to include but not be limited to what are commonly

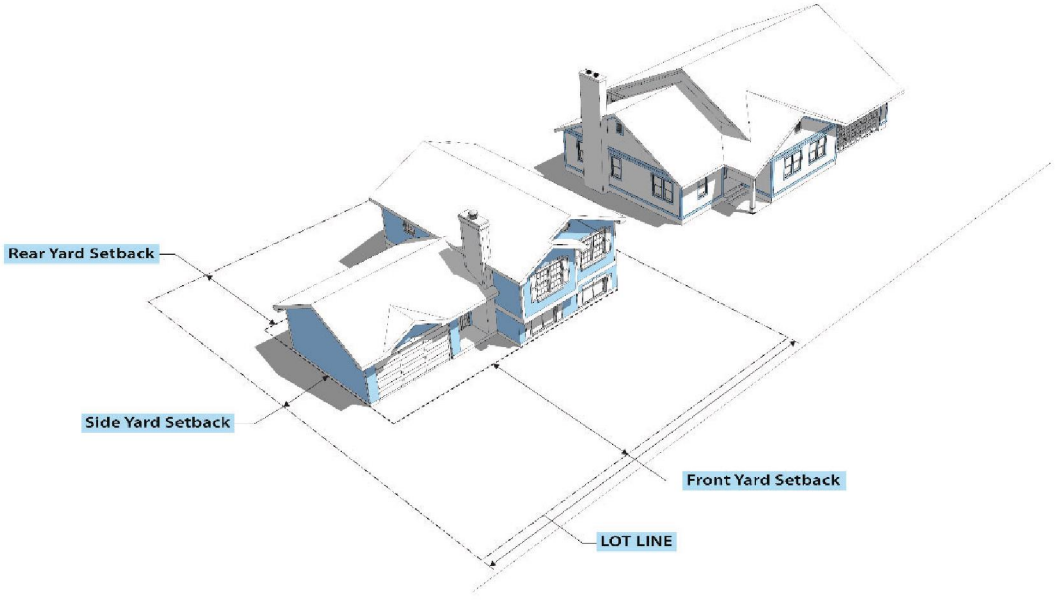
referred to as satellite earth-based or terrestrial stations, television reception only (TVRO) satellite dish antennas, and satellite microwave antennas.

### Sauna
Steam bath, hot water bath, or heat bathing by use of heat lamps, and any such room or facility specially constructed therefor, used for the purposes of bathing, relaxing or reducing utilizing steam, hot air, hot water, or heat lamps as a cleaning, relaxing, or reducing agent.

### Selective Vegetation Removal
The removal of isolated individual trees or shrubs that are not in a contiguous patch, strip, row, or block and that does not substantially reduce the tree canopy or understory cover.

### Service Station (Gas of Filling Station)
Any building or premises used for dispensing, sale or offering for sale at retail any automotive fuels or oils, and where battery, tire, and other similar services may be rendered. When such dispensing, sale or offering for sale of any fuels or oils is incidental to the conduct of a public repair garage, the premises shall be classified as a public repair garage.

### Setback
The minimum horizontal distance from a building, hedge, fence, wall or structure to the street or lot line. The setback distance shall be measured from the exterior wall of the building, and no part of any roof cornice or any appendage to the structure shall project to a point more than one-third the distance of the minimum side yard setback.



### Semipublic Use (Shoreland)
The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization

### Sewer System (Shoreland)
Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal.

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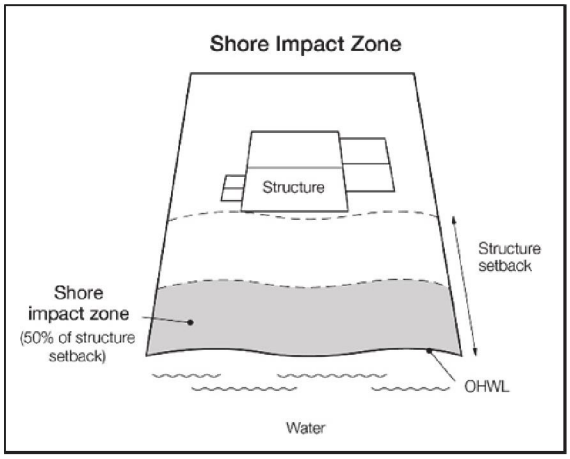
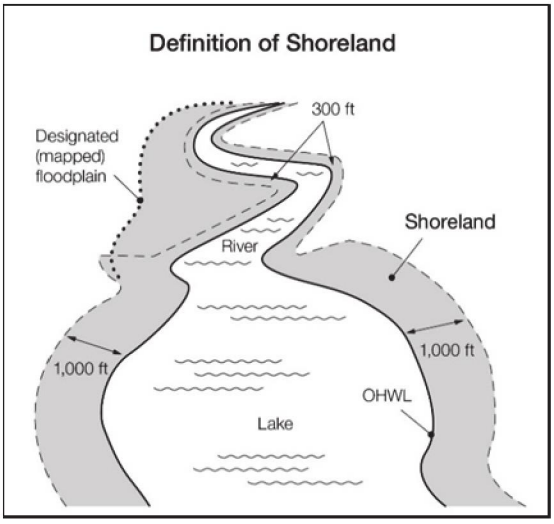
### Shore Impact Zone
Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback or, for agricultural use, 50 feet landward of the ordinary high water level.




### Shoreland
Land located within the following distances from public waters:

1) 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and

2) 300 feet from a river or stream, or the landward extent of a floodplain designated by ordinance on a river or stream, whichever is greater.




### Shore Recreation Facilities
Swimming areas, docks, watercraft mooring areas and launching ramps and other water recreation facilities.

### Shoreline Facilities
Facilities that require a location adjoining public waters for ingress and egress, loading and unloading, and public water intake and outflow, such as barge facilities, port facilities, commodity loading and unloading equipment, watercraft lifts, marinas, short-term watercraft mooring facilities for patrons, and water access ramps. Structures that would be enhanced by a shoreline location, but do not require a location adjoining public waters as part of their function, are not shoreline facilities, such as restaurants, bait shops, and boat dealerships.

### Sign
Any publicly displayed message-bearing device for visual communication or any attention attracting device, including any illumination device, that is used for the purpose of bringing the subject thereof to the attention of the public including, but not limited to, any mural, writing, pictorial presentation, number, illustration, illumination, placard, logo, trademark, emblem, decoration, flag, banner, pennant, symbol, valance or similar display.

### Sign, Campaign
A temporary sign promoting the candidacy of a person running for a governmental office or promoting a position on an issue to be voted on at a governmental election.

### Sign, Canopy
A roof-like cover that either projects from a building over a door, entrance or window, or a freestanding or projecting roof-like cover above an outdoor service area, such as at a gasoline service station.

**Sign, Dynamic Message (DMS)**
A dynamic messages sign also known as a changeable messages sign, variable messages sign or other similar name, is an electrical or electromechanical sign on which a message may be placed that can be changed remotely or on site through hard wire or wireless communications.

**Sign, Flashing**
Any illuminated sign on which the artificial light or color is not maintained at a constant intensity or color when such sign is in use including signs incorporating zooming, twinkling, sparkling, fading or chasing actions. A Dynamic Message Sign or that portion of a sign providing public service information such as time, weather, date, temperature or similar information shall not be considered to be a flashing sign.

**Sign, Freestanding**
A sign that is not affixed to any part of any building and instead is supported by upright braces or posts placed in the ground.

**Sign, Illuminated**
Any sign upon which artificial light is directed or which has an interior light source.

**Sign, Mural**
A design or representation painted on the exterior surface of a structure that does not advertise a business, product, service or activity and may exceed the size or coverage limits applicable to that site.

**Sign, Off-Premise Advertising**
A sign that directs attention to a business, commodity, service or entertainment not exclusively related to the premises on which the sign is located or to which it is affixed

**Sign, Portable**
A sign so designed as to be movable from one location to another and not permanently attached to the ground or to any immobile structure. A portable sign may consist of a mobile structure such as a semi-truck trailer or other device whose primary function during a specific time period is to serve as a sign.

**Sign, Projecting**
A sign that is affixed to the wall of a building and extends outward from the building wall.

**Sign, Roof**
A sign erected or attached in whole or in part upon the roof of a building or a non-freestanding sign that projects above the roof line of a respective building.

**Sign, Rotating**
A sign or portion of a sign that turns on an axis.

**Sign, Structure**
The supports, uprights, bracing and framework for a sign including the sign surface itself. In the case of a wall sign, the sign surface constitutes the sign structure. In the case of a sign structure consisting of two or more sides, where the interior angle formed between any of the sides exceeds 15 degrees each side shall be considered a separate sign structure.

### Sign, Temporary
Any sign or other advertising device or display constructed of fabric, canvas, cardboard, wall board, plywood, or other light temporary material, with or without structural frame, intended for a temporary display for a limited period of time. Examples of temporary signs include real estate "for sale," "for rent", and "open house" signs, garage sale signs, signs identifying the architect, engineer or contractor for work currently under construction, signs advertising a temporary event or commercial opportunity and signs that express noncommercial messages.

### Sign, Wall
A sign that is affixed upon and parallel to the wall of a building.

### Significant Historic Site
Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, Section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the Director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites.

### Solar Collector, Building-Mounted
A system of panels, wiring, and related equipment used to transform direct solar energy into thermal, chemical, or electrical energy that is mounted to a building.

### Solar Collector, Ground-Mounted
A system of panels, wiring, and related equipment used to transform direct solar energy into thermal, chemical, or electrical energy that is mounted to the ground.

### Special Flood Hazard Area
A term used for flood insurance purposes synonymous with "One Hundred Year Floodplain."

### Special Purpose Units of Government
The University of Minnesota, the St. Paul Port Authority, watershed management organizations established under Minnesota Statutes, chapter 103B, watershed districts established under Minnesota Statutes, chapter 103D, and any other unit of government other than local government or a state or regional agency.

### Specified Sexual Activities
The following whether actual or simulated:

E. Sexual intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality, direct physical stimulation of unclothed genitals, flagellation or torture in the context of a sexual relationship, the use of excretory functions in the context of a sexual relationship, anilingus, coprophagy, coprophilia, cunnilingus, fellatio, necrophilia, pedophilia, piquerism, or zooerastia;

F. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence;

G. Use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation;

H. Fondling or touching of Nude human genitals, pubic regions, buttocks, or female breasts;

I. Situations involving persons, any of whom are Nude, who are clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person;

J. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being; or

K. Human excretion, urination, menstruation, or vaginal or anal irrigation.

### Start of Construction

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

### State or Regional Agency

The Metropolitan Airports Commission, Minnesota Historical Society, University of Minnesota, Department of Natural Resources, Department of Transportation, Metropolitan Council and other state agencies.

### Stealth

Any telecommunications tower or telecommunications facility which is designed to blend into the surrounding environment.

### Steep Slope

A natural topographic feature with an average slope of 12 to 18 percent, measured over a horizontal distance equal to or greater than 50 feet, and any slopes greater than 18 percent that are not bluffs.

### Storm Water Management Facilities

Facilities for the collection, conveyance, treatment, or disposal of storm water.

### Story

Each of the stages, separated by floors, one above another, of which a building consists

### Street

A public right-of-way for roadway purposes. Streets may be classified as one of the following:

1) Collector Street - A street which carries traffic from minor streets to thoroughfares. It includes the principal entrance streets of a residential development and streets for circulation within such development.
2) Local Street - A street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood.

3) Marginal Access Street - A local street which is parallel and adjacent to a thoroughfare and which provides access to abutting properties and protection from through traffic.
4) Minor Arterial - a fast or heavy traffic street of considerable continuity and used primarily as a traffic artery for intercommunication among large areas.

**Street Line**
The common boundary of the street right-of-way and abutting property.

**Street Width**
The shortest distance between the lines delineating the right of way of a street.

**String Lighting**
Strings of lights suspended between poles by cables or similar devices generally consisting of a number of bare, incandescent bulbs, but also including those with separate shields suspended from the individual light fixtures.

**Structure**
Anything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, signs, or appurtenance thereto, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption criteria specified in Section 5.2.4 of this Unified Development Ordinance and other similar items.

**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.

**Subdivider**
Any person commencing proceedings under this Unified Development Ordinance to effect a subdivision of land hereunder for himself or for another.

**Subdivision**
Having the meaning given under Minnesota Statutes, Section 462.352.

"The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof, except those separations:

1) where all the resulting parcels, tracts, lots, or interests will be 20 acres or larger in size and 500 feet in width for residential uses and five acres or larger in size for commercial and industrial uses;
2) creating cemetery lots;
3) resulting from court orders, or the adjustment of a lot line by the relocation of a common boundary."

**Substantial Damage**
Means damage of any origin sustained by a structure where the cost of restoring the structure to it's before damaged condition would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

### Substantial Improvement

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

1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions.
2) Any alteration of a "historic structure," provided that the alteration will not preclude the structure' s continued designation as a "historic structure." For the purpose of this Unified Development Ordinance, "historic structure" is as defined in 44 Code of Federal Regulations, Part 59.1.

### Subsurface Sewage Treatment System

Having the meaning given under Minnesota Rules, part 7080.1100.

Either an individual sewage treatment system that employs sewage tanks or other treatment devices with final discharge into the soil below the natural soil elevation or elevated final grade that are designed to receive a sewage design flow of 5,000 gallons per day; or a midsized subsurface sewage treatment system of a similar configuration but is designed to receive sewage design flow of greater than 5,000 gallons per day to 10,000 gallons per day.

### Suitability Analysis

An evaluation of land to determine if it is appropriate for the proposed use. The analysis considers factors relevant to the proposed use and may include the following features: susceptibility to flooding; existence of wetlands; soils, erosion potential; slope steepness; water supply, sewage treatment capabilities; water depth, depth to groundwater and bedrock, vegetation, near-shore aquatic conditions unsuitable for water-based recreation; fish and wildlife habitat; presence of significant historic sites; or any other relevant feature of the natural land.

### Swimming Pool, In-ground

A swimming pool constructed or installed primarily below the grade of the surrounding yard, no part of which (except diving boards, slides, and ladder rails) is more than twelve (12) inches above grade.

### Swimming Pool, Aboveground

A swimming pool constructed or installed primarily above the grade of the surrounding yard, any part of which (except diving boards, slides, and ladder rails) is more than twelve (12) inches above grade.

### Temporary Seasonal Swimming Pool

A swimming pool that is removed and not in use before May 1 and after September 30.

### Telecommunications Facilities

Cables, wires, lines, wave guides, antennae and other equipment or facility associated with the transmission or reception of communications which a person seeks to locate or install upon or near a tower or antenna support structure. The term Telecommunications Facilities shall not include:

1) Any Satellite receive-only antenna (SROA) two meters in diameter or less which is located in an area zoned industrial or commercial;

2) Any Satellite receive-only antenna (SROA) one meter or less in diameter, regardless of zoning category;
3) Amateur radio operators equipment as licensed by the Federal Communications Commission (FCC)

**Telecommunications Tower**
A self-supporting guyed or monopole structure constructed from grade which supports telecommunications facilities. This term shall not include amateur radio operator equipment, as licensed by the FCC or lattice designed towers.

**Temporary Use**
Temporary uses are uses of a temporary or seasonal nature that are accessory or related to the primary use.

**Thoroughfare, Major**
For the purpose of this Unified Development Ordinance, major thoroughfares include all state, county, and federal highways (including interstate freeways), and the following municipal streets:

1) Xerxes Avenue North from T.H. 100 to 59th Avenue North and from F.A.I. 94 to Shingle Creek Parkway.
2) Shingle Creek Parkway from C.T.H. 10 to 69th Avenue North.
3) France Avenue North from T.H. 100 to 50th Avenue North.
4) Humboldt Avenue North from F.A.I. 94 to 70th Avenue North.
5) Freeway Boulevard from Xerxes Avenue North to Humboldt Avenue North.
6) 69th Avenue North from Shingle Creek Parkway to Brooklyn Boulevard.

**Transient Lodging**
A multiple living accommodation such as a hotel or motel in which lodging is commonly offered for periods of less than a week but which may include one dwelling unit for a live-in resident manager.

**Transmission Services**
Electric power lines, cables, pipelines, or conduits that are:

1) used to transport power between two points, as identified and defined under Minnesota Statutes, Section 216E.01, Subd. 4; or

For mains or pipelines for gas, liquids, or solids in suspension, used to transport gas, liquids, or solids in suspension between two points; and

Telecommunication lines, cables, pipelines, or conduits.

**Treeline**
The more or less continuous line formed by the tops of trees in a wooded area when viewed from a particular point. The treeline is determined during all seasons as if under full foliage.

**Twin Cities Metropolitan Area**
The area over which the Metropolitan Council has jurisdiction according to Minnesota Statutes, Section 473.121 Subd. 2.

**Underlying Zoning**
Uses and standards of underlying zoning districts apply except where standards of this overlay district are more restrictive.

### Unlisted Temporary Use
A temporary use not listed as a temporary use in Section 4.2 Allowed Uses Table.

### Urban Agriculture
The use of a parcel of land not exceeding five acres in size for the cultivation of food and/or horticultural crops, composting, aquaponics, aquaculture, and/or hydroponics. This use may include the production or sale of food products from food grown on the premises and accessory keeping of bees subject to City regulations but does not include cultivation of marijuana.

### Use
The purpose or activity for which the land or building is designated, arranged or intended, or for which it is occupied or maintained.

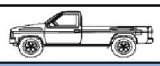
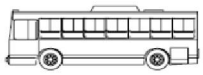
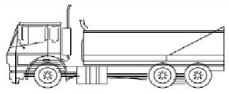
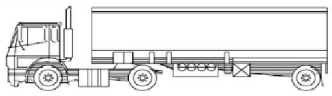
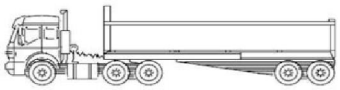
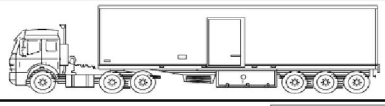
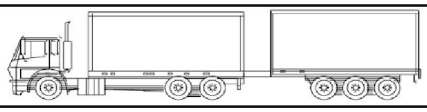
### Used Car Lot
Any land used or occupied for the purpose of buying and selling secondhand passenger cars and/or trucks.

### Variance
Means a modification of a specific permitted development standard required in an official control, including this Unified Development Ordinance, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property for the purpose of alleviating a practical difficulty as defined in Section 7.10 of this UDO..

### Vehicle Class

Means the vehicle class as defined by the Minnesota Department of Transportation's vehicle classification scheme.

**MnDOT VEHICLE CLASSIFICATION SCHEME**

| TYPE | PASSENGER VEHICLES | |
|---|---|---|
| 1 | Motorcycle |  |
| 2 | Car |  |
| 3 | Truck<br>Van |  |
| | **SINGLE UNITS** | |
| 4 | Bus<br>Truck with trailer |  |
| 5 | 2 Axle Single Unit |  |
| 6 | 3 Axle Single Unit |  |
| 7 | 4+ Axle Single Unit |  |
| | **COMBO UNITS** | |
| 8 | 3 & 4 Axle Semi |  |
| 9 | 5 Axle Semi |  |
| 10 | 6+ Axle Semi |  |
| 11, 12, 13 | Twin Trailer Semi |  |

### Vending Machine

Any self-service device which, upon insertion of a coin, coins or tokens, or by other similar means, dispenses unit servings of food or other goods, either in bulk or in packages without the necessity of replenishing the device between each vending operation.

### Wall Supporting the Sign

The aggregate surface area of the wall where the sign is mounted, measured from the ground floor grade to the top floor grade, but not including wall area occupied by windows or doors

### Water Access Ramp

A boat ramp, carry-down site, boarding dock, and approach road, or other access that allows launching and removal of a boat, canoe, or other watercraft with or without a vehicle and trailer.

### Water-Dependent Use
The use of land for commercial, industrial, public or semi-public purposes, where access to and use of a public water is an integral part of the normal conduct of operation. Marinas, resorts, and restaurants with transient docking facilities are examples of commercial uses typically found in shoreland areas.

### Water-Oriented Accessory Structure or Facility
A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to surface water, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include, watercraft and watercraft equipment storage structures, gazebos, screen houses, fish houses, pump houses, saunas, patios, and detached decks. Boathouses and boat storage structures given the meaning under Minnesota Statutes, section 103G.245 are not a water-oriented accessory structures.

### Water Quality Impact Zone
Land within the shore impact zone or within 50 feet of the OHWL of the Mississippi River, whichever is greater, AND land within 50 feet of a public water, wetland, or natural drainage way, whichever is greater.

### Wetlands
Having the meaning given under Minnesota Statutes, section 103G.005.

"Lands transitional between terrestrial and aquatic systems where the water table is usually at or near the surface or the land is covered by shallow water."

### Wharf
Having the meaning given under Minnesota Rules, part 6115.0170.

"A permanent structure constructed into navigable waters as a part of a port facility for berthing or mooring commercial watercraft, or for transferring cargo to and from watercraft in an industrial or commercial enterprise, or for loading or unloading passengers from commercial watercraft, or for the operation or a port facility."

### Wind Energy System, Small Building-Mounted
A small wind energy conversion system mounted to a building that has a rated capacity of 100 KW or less. The small wind system shall be used to support the energy needs of the principal use on the site.

### Wind Energy System, Small Ground-Mounted
A small wind energy conversion system mounted to the ground that has a rated capacity of 100 KW or less. The small wind system shall be used to support the energy needs of the principal use on the site.

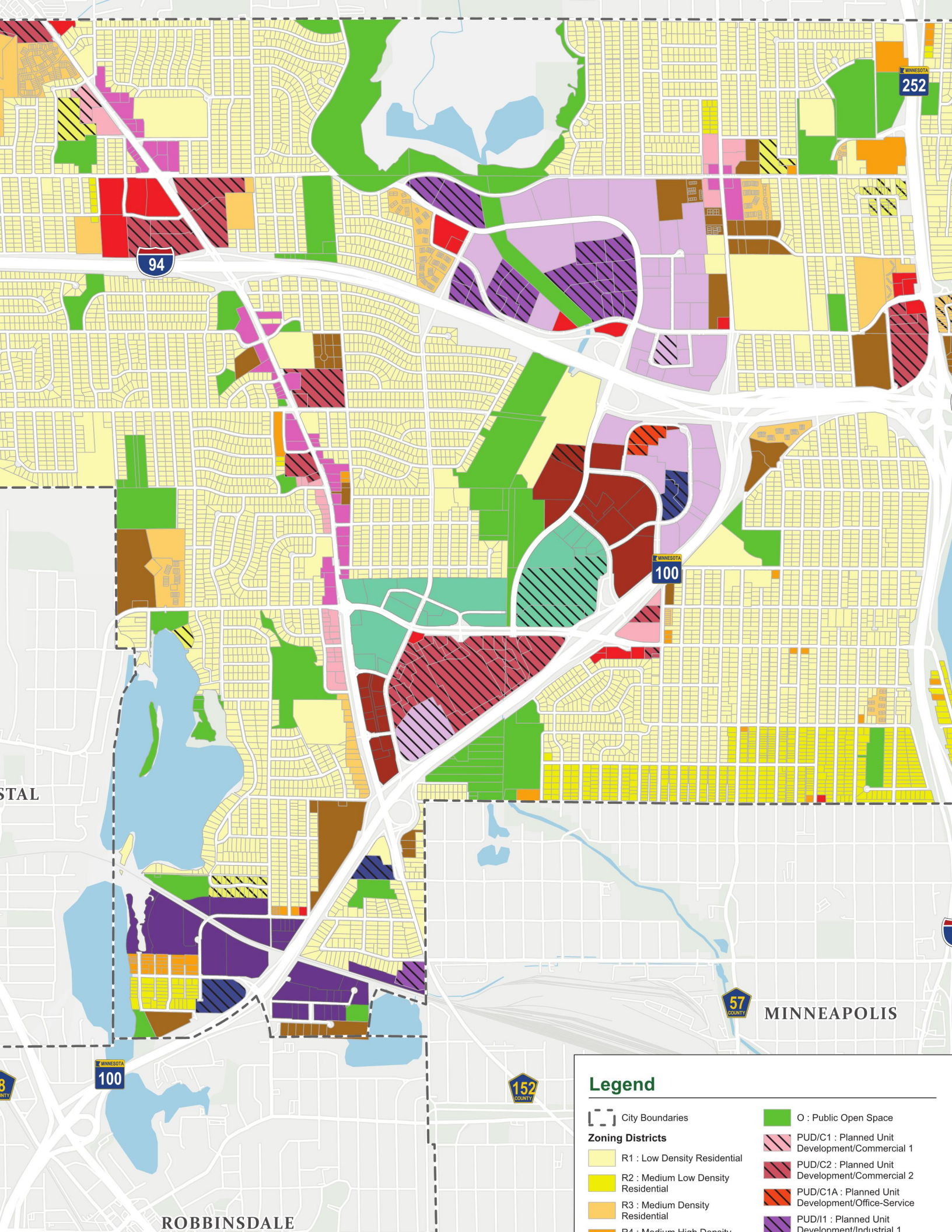
### Yard
An open space which is unoccupied and unobstructed, except as otherwise permitted by this Unified Development Ordinance. A yard extends along a lot line and at right angles to such lot line to a depth or width specified in the yard regulations for the district in which such lot is located.

### Yard, Front
A yard extending along the full width of the front lot line between the side lot lines. Notwithstanding provisions to the contrary, on corner lots, the front yard shall generally be the full width of the yard which the front of the house faces, lying between the side lot line and the opposite lot line abutting a public street.

### Yard, Rear
A yard extending along the full width of the rear lot line between the two side lot lines.

### Yard, Side
A yard extending along the side lot line between the front and rear lot lines.

### Zoning Administrator
The employee or agent appointed by the city manager charged with administering and enforcing this UDO, so authorized to perform the duties described in Section 7.1.


MINNESOTA
252
94
MINNESOTA
100
STAL
57
COUNTY
MINNEAPOLIS
MINNESOTA
100
152
COUNTY
ROBBINSDALE
Legend
City Boundaries
Zoning Districts
R1 : Low Density Residential
R2 : Medium Low Density Residential
R3 : Medium Density Residential
O : Public Open Space
PUD/C1 : Planned Unit Development/Commercial 1
PUD/C2 : Planned Unit Development/Commercial 2
PUD/C1A : Planned Unit Development/Office-Service
PUD/I1 : Planned Unit

CITY OF BROOKLYN CENTER
NOTICE OF PUBLIC HEARING

**TO WHOM IT MAY CONCERN:**

Please take notice that the City Council of the City of Brooklyn Center will hold a public hearing on **Monday, November 14, 2022 at 7:00 p.m.** at Brooklyn Center City Hall, located at 6301 Shingle Creek Parkway, Brooklyn Center, MN 55430 to hear from the public, discuss, and take action on the comprehensive update of the City's zoning code, including the adoption of a Unified Development Ordinance that repeals and replaces Chapters 15 (Platting), 34 (Sign), and 35 (Zoning) of the City Code. Public hearing materials, including a copy of the Unified Development Ordinance and the amended zoning map, can be accessed and will be available in advance of the meeting by visiting the City of Brooklyn Center's website at: https://www.ci.brooklyn-center.mn.us/. Interested persons are welcome to attend the hearing and be heard regarding this matter.

Comments and questions may be forwarded to Olivia Boeschinger, Associate Planner, at obeschinger@ci.brooklyn-center.mn.us or (763) 569-3315 up until 4:30 pm on the day of the meeting.

Auxiliary aids for persons with disabilities are available upon request at least 96 hours in advance. Please contact the City Clerk at (763) 569-3300 to make arrangements.

ORDINANCE NO. _____

AN ORDINANCE ADOPTING THE CITY'S UNIFIED DEVELOPMENT CODE AND AMENDING THE CITY CODE OF ORDINANCES BY REPEALING CHAPTERS 15 AND 34 AND REPEALING AND REPLACING CHAPTER 35

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

**Article I.** Background and Purpose. City staff, the City's Planning Commission and the City Council in consultation with community development and planning professionals undertook an extensive process to review and update the City's zoning code, in addition to City Code provisions regarding platting, subdivisions and signs, and to incorporate those updates into a comprehensive Unified Development Code for the City of Brooklyn Center including an update of the City's official zoning map. The Unified Development Code updates and modernizes many existing zoning, subdivision and signage provisions, amends the official zoning map, and seeks to implement the goals and strategies of the City's 2040 Comprehensive Plan, including specific zoning ordinance updates regarding the creation of new zoning districts, sign standards, conditional use permit processes, variance processes, planned unit development processes and additional shoreland regulations.

**Article II.** Chapters 15 and 34. the Brooklyn Center City Code is hereby amended by repealing and deleting in their entirety Chapters 15 regarding platting And 34 regarding signs

**Article III.** Chapter 35. The Brooklyn Center City Code is hereby amended by repealing and replacing Chapter 35 with the Unified Development Code, attached hereto as Exhibit A, and the zoning map, attached hereto as Exhibit B.

**Article IV.** Table of Contents and Non-Substantive Changes. City staff is authorized and directed to create a table of contents for Chapter 35 as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code and to make any other non-substantive corrections as may be needed as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code, including the renumbering of sections, subsections, subdivisions, and paragraphs as needed.

**Article V.** Severability. Should any section or part of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the ordinance as a whole or any part other than the part declared invalid.

**Article VI.** Effective Date. This ordinance shall become effective after adoption and upon thirty days following its legal publication.

Adopted this day of , 2022.

Mike Elliott, Mayor
ATTEST:
City Clerk

Respectfully,
Olivia Boeschinger
Associate Planner

Published in the
Sun Post
November 3, 2022
1268514

CITY OF BROOKLYN CENTER

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AN ORDINANCE ADOPTING THE CITY'S UNIFIED DEVELOPMENT CODE AND AMENDING THE CITY CODE OF ORDINANCES BY REPEALING CHAPTERS 15 AND 34 AND REPEALING AND REPLACING CHAPTER 35

THE CITY COUNCIL OF THE CITY OF BROOKLYN CENTER DOES ORDAIN AS FOLLOWS:

**Article I**. Background and Purpose. City staff, the City's Planning Commission and the City Council, in consultation with community development and planning professionals, undertook an extensive process to review and update the City's zoning code, in addition to City Code provisions regarding platting, subdivisions and signs, and to incorporate those updates into a comprehensive Unified Development Code for the City of Brooklyn Center, including an update of the City's official zoning map. The Unified Development Code updates and modernizes many existing zoning, subdivision and signage provisions, amends the official zoning map, and seeks to implement the goals and strategies of the City's 2040 Comprehensive Plan, including specific zoning ordinance updates regarding the creation of new zoning districts, sign standards, conditional use permit processes, variance processes, planned unit development processes and additional shoreland regulations.

**Article II**. Chapters 15 and 34. The Brooklyn Center City Code is hereby amended by repealing and deleting in their entirety Chapters 15 regarding platting and 34 regarding signs.

**Article III**. Chapter 35. The Brooklyn Center City Code is hereby amended by repealing and replacing Chapter 35 with the Unified Development Code, attached hereto as Exhibit A, and the zoning map, attached hereto as Exhibit B.

**Article IV**. Table of Contents and Non-Substantive Changes. City staff is authorized and directed to create a table of contents for Chapter 35 as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code and to make any other non-substantive corrections as may be needed as part of incorporating the amendments adopted by this Ordinance into the Brooklyn Center City Code, including the renumbering of sections, subsections, subdivisions, and paragraphs as needed.

**Article V**. Severability. Should any section or part of this ordinance be declared by a court of competent jurisdiction to be invalid, such decision will not affect the validity of the ordinance as a whole or any part other than the part declared invalid.

**Article VI.** Effective Date. This ordinance shall become effective after adoption and upon thirty days following its legal publication.

Adopted this ____ day of _____, 2022.

_____
Mike Elliott, Mayor

ATTEST: _____
City Clerk

Date of Publication _____

Effective Date _____

**EXHIBIT A**
Unified Development Code

(attached hereto)

**EXHIBIT B**
Zoning Map

(attached hereto)



# Brooklyn Center Unified Development Ordinance (UDO)

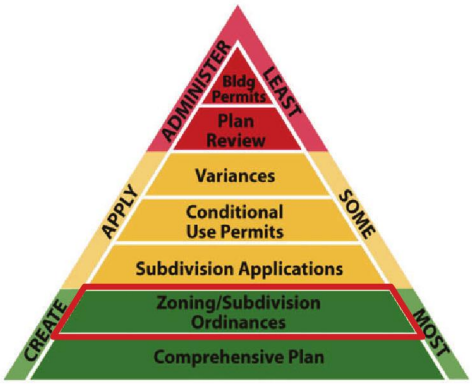
## Public Hearing and First Reading

City Council
November 14, 2022

## OVERVIEW

## UNIFIED DEVELOPMENT ORDINANCE (UDO)

- Combined Zoning Ordinance, Subdivision Ordinance, and Sign Ordinance




Land Use Authority Levels

OVERVIEW

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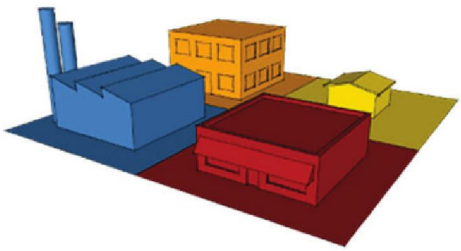

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- Create a robust UDO for city adoption, with the understanding it is to be a living, breathing document that can evolve and be revised over time.

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## EQUITY & ZONING REVIEW

- **Zoning and land use policies have historically contributed to systemic racism, and the legal separation of people and uses.**
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- **The UDO is addressing equity-promotion steps outlined by the 2040 Comprehensive Plan, including:**
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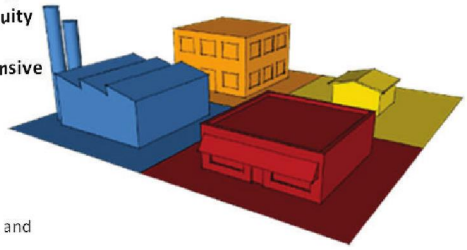

# EQUITY & ZONING

### Infosheets




### Taskforces



### Full Draft Sections

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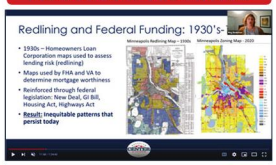


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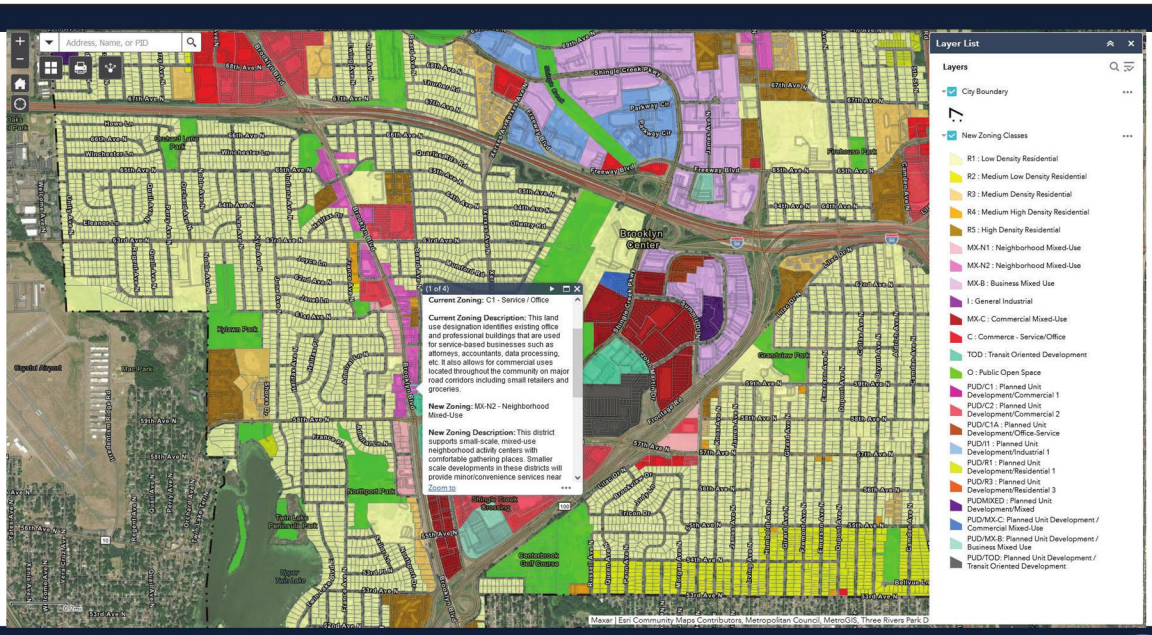


# ENGAGEMENT




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# UDO SECTIONS

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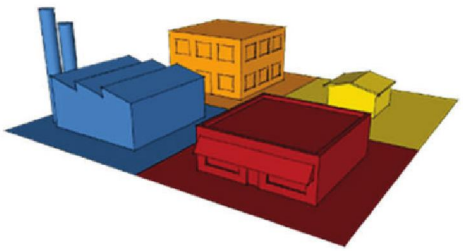

UDO SECTIONS

# KEY UPDATES

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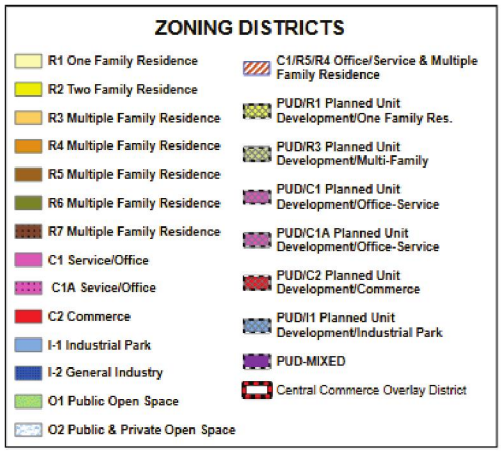


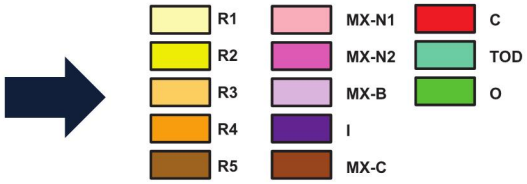


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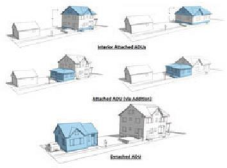
KEY UPDATES



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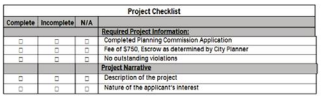

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6301 Shingle Creek Parkway Brooklyn Center, MN 55430-2199 | Phone 763-569-3300
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**Clarified Approval Processes**

MX-N1 – Neighborhood Mixed-Use

(a) Purpose

The purpose of the MX-N1 (Neighborhood Mixed-Use) district is to accommodate low- to-medium-density residential and multi-family residential development, with or without small-scale ground floor non-residential uses. In addition, MX-N1 allows for the reuse of residential structures with frontage on an arterial street for a variety of residential and non-residential uses. It is intended primarily for use along arterial corridors, at or near major intersections, and areas adjacent those zoned MX-N2 or similarly zoned areas. Allowed uses are shown in Section 4.2 Allowed Use Table.

**Land Use Definitions**



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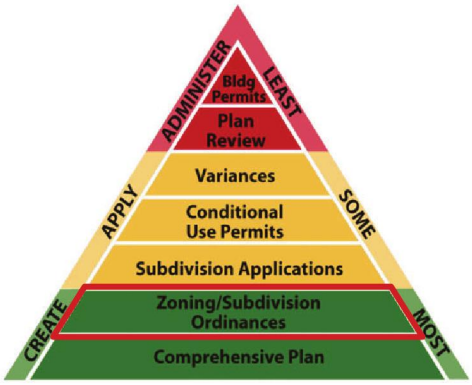


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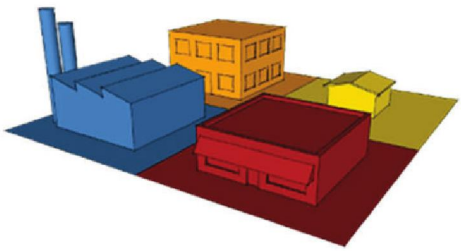

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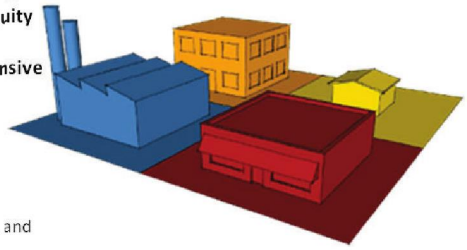

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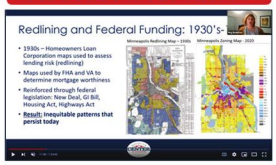


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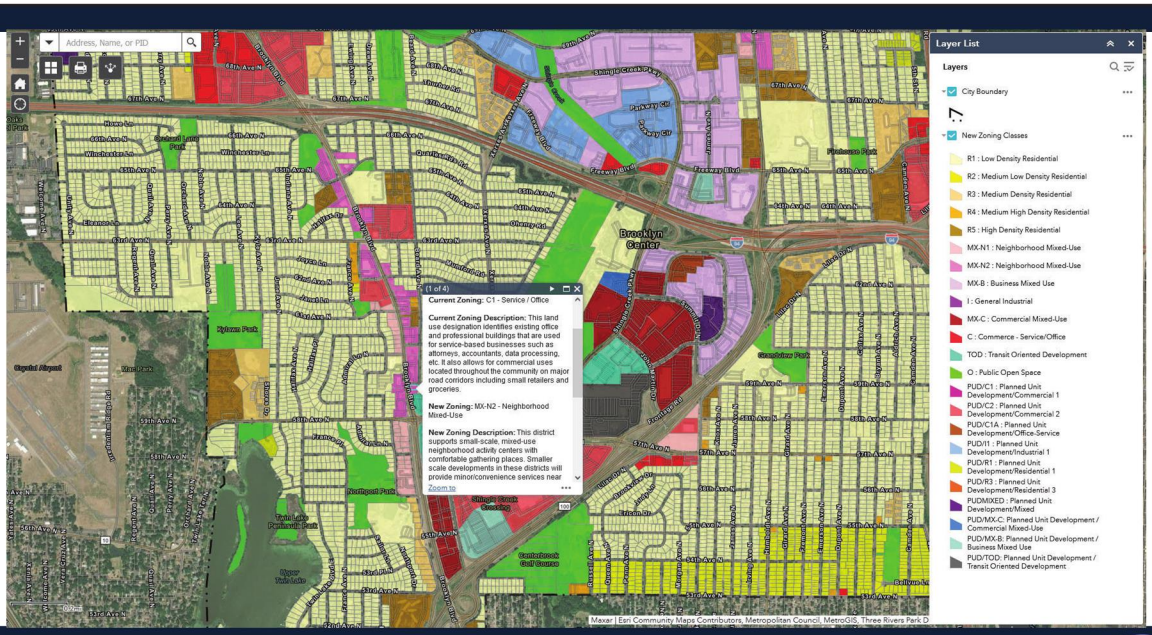


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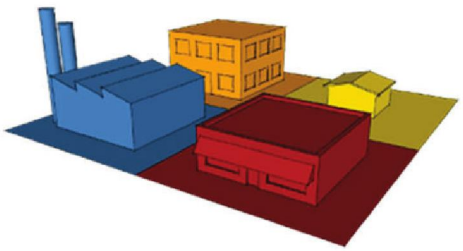

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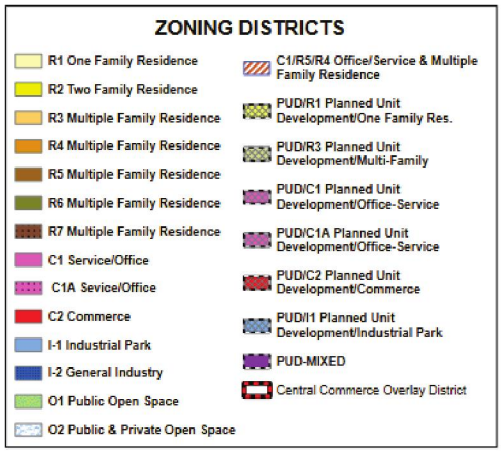


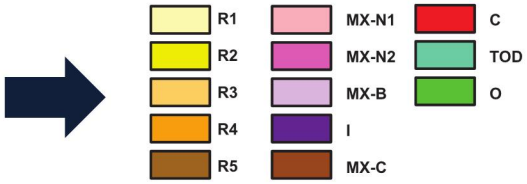


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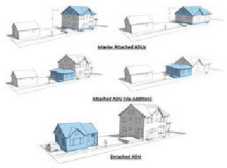

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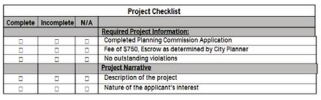

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# QUESTIONS?

# Council Regular Meeting

DATE: 11/14/2022

TO: City Council
FROM: Dr. Reggie Edwards, City Manager
THROUGH: N/A
BY: Angela Holm, Finance Director

SUBJECT: Resolution Awarding the Sale of $4,670,000 General Obligation Improvement and Utility Revenue Bonds, Series 2022A Fixing Their Form and Specifications; Directing Their Execution and Delivery; and Providing for Their Payment

**Requested Council Action:**

*-Motion to approve a resolution awarding the sale of $4,670,000 General Obligation and Utility Revenue Bonds, Series 2022A fixing their form and specifications; directing their execution and deliver; and providing for their payment.*

**Background:**

On October 10, 2022 the City Council adopted a resolution setting the date for the competitive negotiated sale of $4,670,000 General Obligation Improvement and Utility Revenue Bonds. The bond proceeds will be used to finance the construction of Woodbine Area Improvements including street reconstruction and utility infrastructure improvements.

The Woodbine project area extends from Brooklyn Boulevard to France Avenue and from the north City Limits to 71st Avenue. The project area contains a total of 15,525 linear feet of local streets. The neighborhood consists of approximately 254 residential properties.
The following Council actions have been taken in regards to this project:

- July 12, 2021 the Council approved resolutions establishing improvement projects in the Woodbine Area
- October 25, 2021 the Council approved a resolution ordering improvements and authorizing preparation of plans and specifications for the Woodbine Area street, storm drainage, and utility improvements
- January 10, 2022 the Council approved a resolution certifying the special assessments for this project
- March 14, 2022 the Council accepted the bid and awarded the contract of the Woodbine project to the lowest responsible bidder

The estimated total cost of the project is $5,257,383. Of this cost, $4,670,000, or approximately 89%, will be financed through bond proceeds and paid from a combination of future property taxes and utility revenues.

**Budget Issues:**

The proposed 2022A bond issue includes approximately $1.371 million in street reconstruction that will be repaid from an additional debt service property levy and $884,000 that will be repaid with special assessments. The estimated new debt service in 2023 is approximately $176,574.

The utility funds pay for infrastructure replacement costs through utility charges. Issuing debt to provide funding for the infrastructure improvements will all the City to minimize the impact on those charges. The 2022A bond includes $1.535 million in water utility costs, $265,000 in storm water utility costs, and $615,000 in sanitary sewer utility costs that will be funded through water, storm water, and sanitary sewer utility fees.

Standard and Poors has rated these bonds as AA. Previously the rating had a negative outlook, but that has been upgraded to stable based on the most recent bond rating evaluation. A copy of this document is attached.

The City's financial adviser, Baker Tilly, will receive competitive proposals at 10:00 am on November 14, 2022. Staff have been advised that the interest rate will be approximately 3.9%, although that exact amount won't be known until the actual bids are received. Proceeds from the bond will be received on December 15, 2022.

**Inclusive Community Engagement:**

**Antiracist/Equity Policy Effect:**

**Strategic Priorities and Values:**

Safe, Secure, Stable Community

**ATTACHMENTS:**

| Description | Upload Date | Type |
|---|---|---|
| S&P Global Ratings Letter | 11/10/2022 | Exhibit |
| S&P Global Ratings Certificate | 11/10/2022 | Exhibit |
| powerpoint | 1/2/2023 | Presentation |

S&P Global
Ratings

130 East Randolph Street
Suite 2900
Chicago, IL 60601
tel 312-233-7000
reference no.: 1737772

November 9, 2022

City of Brooklyn Center
6301 Shingle Creek Parkway
Brooklyn Center, MN 55430
Attention: Ms. Angela J. Holm, Finance Director

Re: ***US$4,670,000 City of Brooklyn Center, Minnesota, General Obligation Improvement and Utility Revenue Bonds, Series 2022A, dated: Date of Delivery, due: February 01, 2033***

Dear Angela Holm:

Pursuant to your request for an S&P Global Ratings rating on the above-referenced obligations, S&P Global Ratings has assigned a rating of "AA" . S&P Global Ratings views the outlook for this rating as stable. A copy of the rationale supporting the rating is enclosed.

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To maintain the rating, S&P Global Ratings must receive all relevant financial and other information, including notice of material changes to financial and other information provided to us and in relevant documents, as soon as such information is available. Relevant financial and other information includes, but is not limited to, information about direct bank loans and debt and debt-like instruments issued to, or entered into with, financial institutions, insurance companies and/or other entities, whether or not disclosure of such information would be required under S.E.C. Rule 15c2-12. You understand that S&P Global Ratings relies on you and your agents and advisors for the accuracy, timeliness and completeness of the information submitted in connection with the rating and the continued flow of material information as part of the surveillance process. Please send all information via electronic delivery to: pubfin_statelocalgovt@spglobal.com. If SEC rule 17g-5 is applicable, you may post such information on the appropriate website. For any information not available in electronic format or posted on the applicable website,

Please send hard copies to:
S&P Global Ratings
Public Finance Department
55 Water Street
New York, NY 10041-0003

The rating is subject to the Terms and Conditions, if any, attached to the Engagement Letter applicable to the rating. In the absence of such Engagement Letter and Terms and Conditions, the rating is subject to the attached Terms and Conditions. The applicable Terms and Conditions are incorporated herein by reference.

S&P Global Ratings is pleased to have the opportunity to provide its rating opinion. For more information please visit our website at www.standardandpoors.com. If you have any questions, please contact us. Thank you for choosing S&P Global Ratings.

Sincerely yours,

S&P Global Ratings
a division of Standard & Poor's Financial Services LLC

ma

enclosures

cc: _ ***BU PS Bond Services-S***
***Mr. Doug Green***

S&P Global
Ratings

**S&P Global Ratings**
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S&P Global
Ratings

# RatingsDirect®

Summary:

# Brooklyn Center, Minnesota; Appropriations; General Obligation

**Primary Credit Analyst:**
Helen Samuelson, Chicago + 1 (312) 233 7011; helen.samuelson@spglobal.com

**Secondary Contact:**
Emma Drilias, Chicago (1) 312-233-7132; emma.drilias@spglobal.com

## Table Of Contents

Credit Highlights

Outlook

Credit Opinion

Related Research

Summary:

# Brooklyn Center, Minnesota; Appropriations; General Obligation

| Credit Profile | | |
|---|---|---|
| US$4.67 mil GO imp & util rev bnds ser 2022A due 02/01/2033 | | |
| *Long Term Rating* | AA/Stable | New |
| Brooklyn Ctr APPROP | | |
| *Long Term Rating* | AA-/Stable | Outlook Revised |
| Brooklyn Ctr GO | | |
| *Long Term Rating* | AA/Stable | Outlook Revised |

## Credit Highlights

- S&P Global Ratings revised its outlook to stable from negative on Brooklyn Center, Minn.'s outstanding general obligation (GO) debt and lease revenue bonds.
- At the same time, S&P Global Ratings assigned its 'AA' rating to the city's anticipated $4.67 million series 2022A general obligation improvement and utility revenue bonds.
- Finally, S&P Global Rating affirmed its 'AA' rating on the city's outstanding GO bonds and 'AA-' rating on its outstanding lease revenue bonds.
- The outlook revision to stable from negative reflects stability in the city's financial position following the resolution of settlement and litigation issues after the fatal shooting of Daunte Wright, eliminating uncertainty that underscored our previous negative outlook.

### Security

The series 2022A bonds are secured by the city's full faith and credit pledge and ability to levy unlimited ad valorem property taxes. The city is also pledging special assessment revenue and net revenue from its utility systems; however, the rating is based on the unlimited ad valorem tax pledge because the bond provisions supporting the other pledges are insufficient to rate pursuant to our other criteria. Proceeds from the series 2022A bonds will be used to finance street and utility improvements.

The outstanding lease revenue bonds are secured by lease payments made by the city to the economic development authority pursuant to the lease, which is subject to annual appropriation. We rate the lease revenue bonds one notch lower than the city's GO rating to account for annual appropriation risk.

### Credit overview

Brooklyn Center's financial position faces less uncertainty and greater stability following the resolution of settlement and litigation issues stemming from the fatal shooting Daunte Wright and from its implementation of public safety policy reforms. Brooklyn Center is a mature and stable community that benefits from its proximity to Minneapolis-St. Paul. Financial operations are balanced in fiscal 2022 and officials plan to adopt a balanced 2023 budget, maintaining

reserves in keeping with its 52% fund balance policy. Officials have no plans to issue debt in 2023.

The rating reflects our view of the city's:

- Participation in the broad and diverse Minneapolis-St. Paul metropolitan statistical area (MSA), which supports steady new development and growing valuations;
- Strong management, with conservative budgeting and strong financial practices supporting reforms of public safety policies and procedures;
- Positive financial operations and very strong reserves and liquidity; and
- Manageable debt and contingent liability profile based on the city's modest future debt plans and rapid amortization, well-funded pension plan, and manageable OPEB costs.

### Environmental, social, and governance

We believe that the city's resolution of litigation and ongoing public safety reforms in response to the fatal shooting of Daunte Wright help reduce exposure to social risk we previously thought could have a financial impact on the city's credit fundamentals. As a result, we view environmental, social and governance risks as neutral in our credit analysis.

## Outlook

The stable outlook reflects our expectation that Brooklyn Center will maintain very strong budgetary flexibility and liquidity positions, with continued steady tax base growth. We do not anticipate changing the rating within the two-year outlook period, as we anticipate that the city will maintain balanced financial operations as officials adjust the budget to absorb policy reforms amid a rising expenditure climate.

### Downside scenario

We could take negative rating action if the city's budgetary performance were to worsen, leading to significant deterioration in budgetary flexibility and liquidity.

### Upside scenario

We could take positive rating action if Brooklyn Center's wealth and income levels improve, all other credit factors remaining equal.

## Credit Opinion

### Adequate economy that participates in the broad and diverse Twin Cities metro area economy

The city is located roughly nine miles from the downtown Minneapolis/St. Paul metropolitan statistical area (MSA) in Hennepin County and encompasses an area of roughly 8.5 square miles. The city is a mature community that attracts many first-time homebuyers and redevelopment.

Given the stability and growth in the economy as well as the benefit of participating in a broad and diverse area economy, we anticipate the city's economic profile will remain resilient in the face of a recession. For information on S&P Global Economics' latest forecast, see the report "Economic Outlook U.S. Q4 2022: Teeter Totter", published

Sept. 26, 2022 on RatingsDirect.

### Very strong management with strong financial policies and practices under our FMA methodology

When developing its budget, Brooklyn Center prepares a two-year budget with the help of five years of historical information for revenues and expenditures. In addition, city officials provide budget-to-actual results monthly to the council. The city can amend the budget, if necessary. Although the city does not maintain a formal long-term financial plan, it prepares a thorough two-year budget for all departments, revenues, and funds, which is discussed with the council. The city has established a formal, long-term (15-year) capital plan that is updated annually and presented to the council with identified funding sources. Brooklyn Center has its own investment policy and the council is updated monthly on investment holdings and performance. The formal debt management policy limits the issuance of debt to a threshold lower than the statutory maximum and restricts the use of risky debt instruments. The city's official reserve policy is to maintain a general fund unassigned fund balance of 52% of the ensuing year's budgeted general fund expenditures to ensure cash-flow needs are met.

The city has cyber insurance coverage and mitigation plans in place. The institutional framework score for Minnesota cities with populations greater than 2,500 is strong.

### Strong budgetary performance, coupled with very strong budgetary flexibility and liquidity, provide officials with the resources needed to enact reforms

Brooklyn Center's financial performance has been overall positive in recent years, allowing it to transfer funds from the general fund for upcoming capital projects. We believe officials have thus far maintained budget stability due to their conservative budget assumptions and a proactive plan of adjusting expenditures, and we expect it to remain strong in fiscal 2022 and going into fiscal 2023.

The city continues to face the longer-term challenge of incorporating new policies and procedures, but we would expect officials to incorporate those items into subsequent budgets after 2022 in a sustainable manner.

As per its policy when reserves cross the 52% threshold, the 2021 budget included a plan to spend down $400,000 of general fund balance. While some general fund expenses were under budget, public safety expenses were higher than planned due to responding to civil unrest; ultimately the year ended with a $1 million general fund deficit and $13.9 million of available reserves, equal to 58% of expenditures.

Officials expect to report a general fund surplus for fiscal 2022 and to add $1 million to the general fund balance. The city continues to move forward with its public safety and community services reforms under the Daunte Wright and Kobe Dimock-Heisler Community Safety and Violence Prevention Resolution. An implementation committee has begun making policy reform requests to the city council which have limited budgetary implications. Officials overall expect balanced financial operations for the upcoming year, with no planned use of reserves in the 2023 budget.

We believe the budget's reliance on property tax revenue provides a stable and predictable hedge against recessionary pressure in the coming fiscal year. In our view, rising expenses will be management's primary budgetary challenge but we believe they remain manageable.

### Manageable debt burden and future capital needs

Brooklyn Center has $58 million of debt outstanding, and some of its GO debt is offset by net revenues of its enterprise funds. Officials have no plans to issue debt in 2023.

Pension and other postemployment benefit liabilities are not a source of medium-term credit pressure as the various plans are well funded. While its OPEB plan has no assets, we do not expect significant payment volatility and we believe the city has the capacity to absorb higher costs without pressuring operations.

**Brooklyn Center, N.J.: Key Credit Metrics**

| | Most recent | Historical information | | |
|---|---|---|---|---|
| | | 2021 | 2020 | 2019 |
| **Adequate economy** | | | | |
| Projected per capita EBI % of U.S. | 74 | | | |
| Market value per capita ($) | 93,806 | | | |
| Population | | 32,211 | 31,935 | 31,907 |
| County unemployment rate(%) | | 3.4 | | |
| Market value ($000) | 3,021,576 | 2,756,950 | 2,573,198 | 2,499,070 |
| Ten largest taxpayers % of taxable value | 10.0 | | | |
| **Strong budgetary performance** | | | | |
| Operating fund result % of expenditures | | (4.3) | 7.5 | 4.3 |
| Total governmental fund result % of expenditures | | 10.1 | 8.2 | 14.6 |
| **Very strong budgetary flexibility** | | | | |
| Available reserves % of operating expenditures | | 57.9 | 69.4 | 64.1 |
| Total available reserves ($000) | | 13,937 | 15,563 | 14,221 |
| **Very strong liquidity** | | | | |
| Total government cash % of governmental fund expenditures | | 75 | 83 | 84 |
| Total government cash % of governmental fund debt service | | 592 | 599 | 617 |
| **Very strong management** | | | | |
| Financial Management Assessment | Strong | | | |
| **Adequate debt & long-term liabilities** | | | | |
| Debt service % of governmental fund expenditures | | 12.7 | 13.8 | 13.7 |
| Net direct debt % of governmental fund revenue | 91 | | | |
| Overall net debt % of market value | 4.2 | | | |
| Direct debt 10-year amortization (%) | 90 | | | |
| Required pension contribution % of governmental fund expenditures | | 4.0 | | |
| OPEB actual contribution % of governmental fund expenditures | | 0.4 | | |
| **Strong institutional framework** | | | | |

EBI--Effective buying income. OPEB--Other postemployment benefits. Data points and ratios may reflect analytical adjustments.

## Related Research

- Through The ESG Lens 3.0: The Intersection Of ESG Credit Factors And U.S. Public Finance Credit Factors, March 2, 2022
- 2022 Update Of Institutional Framework For U.S. Local Governments

| Ratings Detail (As Of November 9, 2022) | | |
|---|---|---|
| Brooklyn Ctr GO | | |
| *Long Term Rating* | AA/Stable | Outlook Revised |
| Brooklyn Ctr GO | | |
| *Long Term Rating* | AA/Stable | Outlook Revised |
| Brooklyn Ctr GO | | |
| *Long Term Rating* | AA/Stable | Outlook Revised |
| Brooklyn Ctr GO | | |
| *Long Term Rating* | AA/Stable | Outlook Revised |

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# City of Brooklyn Center, Minnesota

## General Obligation Bonds, Series 2022A

November 14, 2022
Doug Green, Baker Tilly

bakertilly
MUNICIPAL ADVISORS



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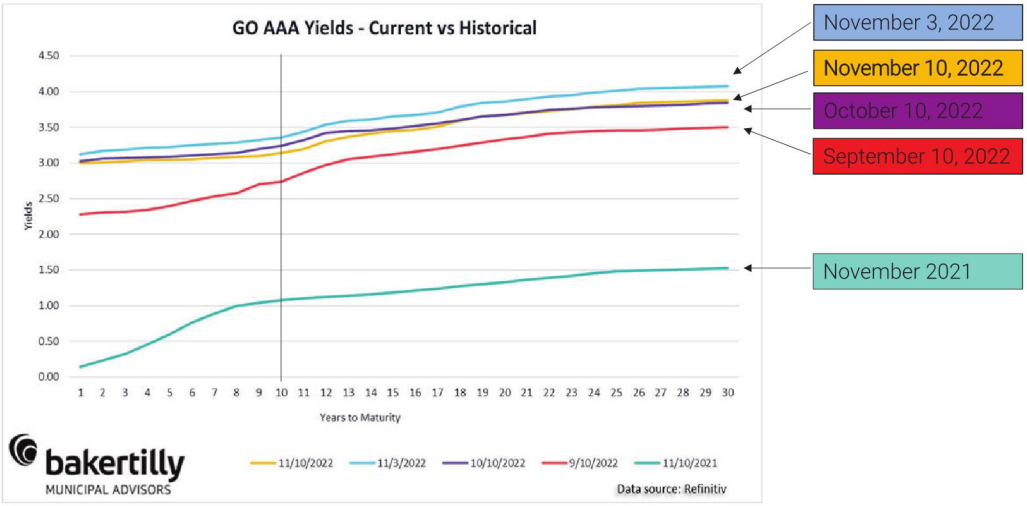
## Interest Rate Environment

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## Bid Results

| Bidder Name | True Interest Cost |
|---|---|
| Robert W. Baird & Co., Inc. | 3.38% |
| Northland Securities, Inc. | 3.47% |
| TD Securities | 3.48% |
| Piper Sandler & Co | 3.50% |
| KeyBanc Capital Markets | 3.56% |
| BOK Financial Securities, Inc. | 3.57% |

- Award bonds based on the lowest True Interest Cost (TIC)
- Winning bid by Robert W. Baird at a TIC of 3.38%
- Likely buyers are Minnesota based separately managed accounts (SMA) and mutual funds.

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## Past Sales

| Sale Date | Series | Par Amount | Purchaser | Number of Bids | True Interest Rate | Average Maturity (Years) |
|---|---|---|---|---|---|---|
| 11/14/2022 | Series 2022A | $ 4,335,000 | Robert W. Baird | 6 | 3.4% | 6.0 |
| 8/23/2021 | Series 2021A | $ 8,010,000 | Piper Sandler & Co. | 4 | 1.1% | 5.9 |
| 10/26/2020 | Series 2020A | $ 4,785,000 | Northland Securities | 5 | 1.0% | 5.8 |
| 8/12/2019 | Series 2019A | $ 8,145,000 | J. P. Morgan | 11 | 1.4% | 6.2 |
| 6/11/2018 | Series 2018A | $ 8,185,000 | Robert W. Baird | 5 | 2.7% | 6.3 |
| 5/8/2017 | Series 2017A | $ 8,360,000 | Stifel | 9 | 2.0% | 6.3 |

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## Bond Sale Pricing

- Offered Par Amount: $4,670,000
- Bidding parameters allow flexibility that meets City and bondholder needs
- Premium pricing reduces par amount in exchange for higher coupons
- New Par Amount: $4,335,000

| Post-Sale Pricing Summary | | | | | |
|---|---|---|---|---|---|
| Maturity Date | Post-Bid Maturity | Price | Dollar Price | Coupon | Yield |
| 02/01/2024 | $ 340,000 | 102.1% | $ 347,283 | 5.00% | 3.05% |
| 02/01/2025 | $ 375,000 | 104.0% | $ 389,861 | 5.00% | 3.06% |
| 02/01/2026 | $ 385,000 | 105.6% | $ 406,749 | 5.00% | 3.09% |
| 02/01/2027 | $ 410,000 | 107.3% | $ 439,787 | 5.00% | 3.11% |
| 02/01/2028 | $ 425,000 | 108.8% | $ 462,366 | 5.00% | 3.13% |
| 02/01/2029 | $ 445,000 | 110.2% | $ 490,532 | 5.00% | 3.15% |
| 02/01/2030 | $ 460,000 | 111.6% | $ 513,309 | 5.00% | 3.17% |
| 02/01/2031 | $ 480,000 | 112.9% | $ 541,752 | 5.00% | 3.19% |
| 02/01/2032 | $ 500,000 | 105.0% | $ 524,755 | 4.00% | 3.30% |
| 02/01/2033 | $ 515,000 | 104.2% | $ 536,764 | 4.00% | 3.40% |
| Total | $ 4,335,000 | | $ 4,653,158 | | |

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## Repayment by Source of Revenue

| Repayment Source | Par Amount | Average Annual Debt Service | Percentage of Debt Service |
|---|---|---|---|
| Property Tax Levy | $1,157,000 | $159,000 | 28% |
| Assessments | $938,000 | $113,000 | 20% |
| Water Fund | $1,425,000 | $182,000 | 33% |
| Sanitary Sewer Fund | $570,000 | $73,000 | 13% |
| Stormwater Fund | $245,000 | $31,000 | 6% |
| **Total** | **$4,335,000** | **$558,000** | **100%** |

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# Standard & Poor's Credit Rating – Retained AA with a Stable Outlook

I. Management
- Very strong management including established policies, capital plans and budget performance

II. Economy
- Growing tax base and diverse economy

III. Budget Performance
- Excellent budget performance in the general fund and across total governmental funds

IV. Budget Flexibility and Liquidity
- Very strong fund balances in the general fund and excellent liquidity across all funds

V. Debt and Contingent Liabilities
- Manageable debt levels – Debt service as a percent of Governmental Fund expenditures is 13%.

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