City of Falcon Heights
Planning Commission

City Hall
2077 Larpenteur Avenue West

WORKSHOP AGENDA

Tuesday, October 22, 2024
7:00 p.m.

A. CALL TO ORDER: 7:00 p.m.

B. ROLL CALL:

Scott Wilson ____
Jacob Brooks ____
Jim Mogen ____
Jake Anderson ____

Laura Paynter ____
Mike Tracy ____
Rick Seifert ____

Staff Liaison – Hannah Lynch ____
Council Liaison – Eric Meyer ____

C. NEW BUSINESS
   1. Adult-Use Cannabis Discussion

D. INFORMATION AND ANNOUNCEMENTS
   1. Staff Liaison Report
   2. Council Liaison Report

E. ADJOURN

Next regular meeting date: November 26, 2024

ITEM FOR DISCUSSION

Meeting Date	October 22, 2024
Agenda Item	C-1
Attachment	See below.
Submitted By	Hannah Lynch, Community Development Coordinator

Item	Adult-Use Cannabis Discussion
Description	The Minnesota Office of Cannabis Management has issued a Guide for Local Governments on Adult-Use Cannabis and a model ordinance for zoning changes and registration with the new law around Minnesota's new adult-use cannabis law. The City of Falcon Heights currently has a moratorium on permitting cannabis businesses until January 2025. How are local governments involved? • Local governments serve as a near-final approval check on cannabis businesses nearing the awarding of a state license for operations. Once an applicant has been vetted by OCM and is selected for proceeding in the verification process, they are then required to receive the local government's certification of zoning compliance and, if applicable, retail registration before operations may commence. • Local governments may issue a retail registration after verifying the business has a valid license or license preapproval issued by OCM and has paid a registration fee or renewal fee to the local government. • Local governments may not issue outright bans on cannabis businesses or limit operations in a manner beyond what is provided by state law. What can local government do? • Limit the number of retailers and microbusiness/mezzobusinesses with retail endorsements within the City, as long as there is at least one retail location per 12,500 residents. (Can issue more permits than this, however) • Local governments may adopt an ordinance limiting hours of operation between 10 a.m. and 9 p.m. seven days a week, and that State statute prohibits the sale of cannabis between 2 a.m. and 8 a.m. Monday through Saturday, and between 2 a.m. and 10 a.m. on Sundays. • Local governments may prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a daycare, residential

	treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field. • Local governments may zone businesses under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business (see pg. 13-14 of attached guide). The local government can determine if the use requires a Conditional Use Permit. • Local governments **must** conduct compliance checks for cannabis and hemp businesses holding retail registration at least once per calendar year. These checks must verify compliance with age verification procedures and compliance with any applicable local ordinances.
Budget Impact	None.
Attachment(s)	• A Guide for Local Governments on Adult-Use Cannabis • Map with Buffers • Public Health Law Center – A Model Ordinance for Minnesota City Retailers • Drafted Zoning Chapter of City Code with Updates
Action(s) Requested	Staff requests the Planning Commission discuss adult-use cannabis business types in regard to zoning districts, potential buffers from schools, and number of businesses permitted.

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT

A Guide for Local Governments on Adult-Use Cannabis

Version 1.2
June 25, 2024

Table of Contents

Introduction

This guide serves as a general overview of **Minnesota's new adult-use cannabis law**, and how **local governments** can expect to be involved. The guide also provides important information about Minnesota's new Office of Cannabis Management (OCM), and the office's structure, roles, and responsibilities. While medical cannabis continues to play an important role in the state's cannabis environment, this guide is primarily focused on the adult-use cannabis law and marketplace.

The following pages outline the variety of cannabis business licenses that will be issued, provide a broad summary of important aspects of the adult-use cannabis law, and cover a wide range of expectations and authorities that relate to local governments. This guide also provides best practices and important requirements for developing a local cannabis ordinance.

Chapter 342 of Minnesota law was established by the State Legislature in 2023 and was updated in 2024. Mentions of "adult-use cannabis law" or "the law" throughout this guide refer to Chapter 342 and the changes made to it.

As of this guide's date of publication, state regulations governing the adult-use cannabis market have not yet been published—**this document will be updated** when such regulations become effective.

This guide is not a substitute for legal advice, nor does it seek to provide legal advice. Local governments and municipal officials seeking legal advice should consult an attorney.

About OCM

Minnesota's **Office of Cannabis Management** is the state regulatory office created to oversee the implementation and regulation of the adult-use cannabis market, the medical cannabis market, and the consumer hemp industry. Housed within OCM are the **Division of Medical Cannabis** (effective July 1, 2024), which operates the medical cannabis program, and the **Division of Social Equity**, which promotes development, stability, and safety in communities that have experienced a disproportionate, negative impact from cannabis prohibition and usage.

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT

OCM, through Chapter 342, is tasked with establishing rules and policy and exercising its regulatory authority over the Minnesota cannabis industry. In its duties, OCM is mandated to:

- Promote public health and welfare.
- Protect public safety.
- Eliminate the illicit market for cannabis flower and cannabis products.
- Meet the market demand for cannabis flower and cannabis products.
- Promote a craft industry for cannabis flower and cannabis products.
- Prioritize growth and recovery in communities that have experienced a disproportionate, negative impact from cannabis prohibition.

OCM governs the application and licensing process for cannabis and hemp businesses, specific requirements for each type of license and their respective business activities, and conducts enforcement and inspection activities across the Minnesota cannabis and hemp industries.

License Types

Minnesota law allows for **13** different types of business licenses, each fulfilling a unique role in the cannabis and hemp supply chain. In addition to license types below, OCM will also issue endorsements to license holders to engage in specific activities, including producing, manufacturing, and sale of medical cannabis for patients.

Microbusiness

Microbusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Microbusiness may also operate a single retail location.

Mezzobusiness

Mezzobusinesses may cultivate cannabis and manufacture cannabis products and hemp products, and package such products for sale to customers or another licensed cannabis business. Mezzobusiness may also operate up to three retail locations.

Cultivator

Cultivators may cultivate cannabis and package such cannabis for sale to another licensed cannabis business.

Manufacturer

Manufacturers may manufacture cannabis products and hemp products, and package such products for sale to a licensed cannabis retailer.

Retailer

Retailers may sell immature cannabis plants and seedlings, cannabis, cannabis products, hemp products, and other products authorized by law to customers and patients.

Wholesaler

Wholesalers may purchase and/or sell immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from another licensed cannabis business. Wholesalers may also import hemp-derived consumer products and lower-potency hemp edibles.

License Types (continued)

Transporter

Transporters may transport immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products to licensed cannabis businesses.

Testing Facility

Testing facilities may obtain and test immature cannabis plants and seedlings, cannabis, cannabis products, and hemp products from licensed cannabis businesses.

Event Organizer

Event organizers may organize a temporary cannabis event lasting no more than four days.

Delivery Service

Delivery services may purchase cannabis, cannabis products, and hemp products from retailers or cannabis business with retail endorsements for transport and delivery to customers.

Medical Cannabis Combination Business

Medical cannabis combination businesses may cultivate cannabis and manufacture cannabis and hemp products, and package such products for sale to customers, patients, or another licensed cannabis business. Medical cannabis combination businesses may operate up to one retail location in each congressional district.

Lower-Potency Hemp Edible Manufacturer

Lower-potency hemp edible manufacturers may manufacture and package lower-potency hemp edibles for consumer sale, and sell hemp concentrate and lower-potency hemp edibles to other cannabis and hemp businesses.

Lower-Potency Hemp Edible Retailer

Lower-potency hemp edible retailers may sell lower-potency hemp edibles to customers.

Each license is subject to further restrictions on allowable activities. Maximum cultivation area and manufacturing allowances vary by license type. Allowable product purchase, transfer, and sale between licensees are subject to restrictions in the law.

The Adult-Use Cannabis Law

Minnesota's new adult-use cannabis law permits the personal use, possession, and transportation of cannabis by those 21 years of age and older, and allows licensed businesses to conduct cultivation, manufacturing, transport, delivery, and sale of cannabis and cannabis products.

For Individuals

- **Possession limits**:
  - Flower - 2 oz. in public, 2 lbs. in private residence
  - Concentrate - 8 g
  - Edibles (including lower-potency hemp) - 800 mg THC
- **Consumption** only allowed on private property or at licensed businesses with on-site consumption endorsements. Consumption not allowed in public.
- **Gifting** cannabis to another individual over 21 years old is allowed, subject to possession limits.
- **Home cultivation** is limited to four mature and four immature plants (eight total) in a single residence. Plants must be in an enclosed and locked space.
- **Home extraction** using volatile substances (e.g., butane, ethanol) is not allowed.
- **Unlicensed sales** are not allowed.

For Businesses

- **Advertising**:
  - May not include or appeal to those under 21 years old.
  - Must include proper warning statements.
  - May not include misleading claims or false statements.
  - Billboards are not allowed.
- The flow of all products through the supply chain must be tracked by the state-authorized **tracking system**.
- All products sold to consumers and patients must be **tested for contaminants**.
- **Home delivery** is allowed by licensed businesses.

The Cannabis Licensing Process

An applicant will take the following steps to proceed from application to active licensure. As described, processes vary depending on social equity status and/or whether the type of license being sought is capped or uncapped in the general licensing process.

License Preapproval: Early Mover Process for Social Equity Applicants

The license preapproval process is a one-time application process available for verified social equity applicants. State law requires OCM to open the application window on July 24, 2024, and close the window on August 12, 2024. The preapproval process is available for the following license types, and all are capped in this process: microbusiness, mezzobusiness, cultivator, retailer, wholesaler, transporter, testing facility, and delivery service.

Preapproval steps:

1. Applicant's social equity applicant (SEA) status verified.
2. Complete application and submit application fees.
3. Application vetted for minimum requirements by OCM.
4. Application (if qualified) entered into lottery drawing.
5. If selected in lottery, OCM completes background check of selected applicant and issues license preapproval.
6. Applicant with license preapproval* submits business location and amends application accordingly.
7. OCM forwards completed application to local government.
8. Local government completes certification of zoning compliance.
9. OCM conducts site inspection.
10. When regulations are adopted, license becomes active, operations may commence.

*For social equity applicants with license preapproval for microbusiness, mezzobusiness, or a cultivator license, they may begin growing cannabis plants prior to the adoption of rules if OCM receives approval from local governments in a form and manner determined by the office. This is only applicable to cultivation and does not authorize retail sales or other endorsed activities of the licenses prior to the adoption of rules.

The Cannabis Licensing Process (cont.)

The general licensing process will align with the adoption of rules and OCM will share more information about the timing of general licensing process. The general licensing process includes social equity applicants and non-social equity applicants.

General Licensing: Cultivator, Manufacturer, Retailer, Mezzobusiness

1. Complete application and submit application fees.
2. Application vetted for minimum requirements by OCM.
3. Application (if qualified) entered into lottery drawing.
4. If selected in lottery, OCM completes background check of selected applicant and issues preliminary approval.
5. Applicant with preliminary approval submits business location and amends application accordingly.
6. OCM forwards completed application to local government.
7. Local government completes certification of zoning compliance.
8. OCM conducts site inspection.
9. License becomes active, operations may commence.*

General Licensing: Microbusiness, Wholesaler, Transporter, Testing Facility, Event Organizer

1. Complete application and submit application fees.
2. Application vetted for minimum requirements by OCM.
3. For qualified applicants, OCM completes background check of vetted applicant and issues preliminary approval.
4. Selected applicant submits business location and amends application accordingly.
5. OCM forwards completed application to local government.
6. Local government completes certification of zoning compliance.
7. OCM conducts site inspection.
8. License becomes active, operations may commence.*

*For businesses seeking a retail endorsement (microbusiness, mezzobusiness, and retailer), a valid local retail registration is required prior to the business commencing any retail sales. See Page 16 for information on the local retail registration process.

General Authorities

Local governments in Minnesota have various means of oversight over the cannabis market, as provided by the adult-use cannabis law. Local governments may not issue outright bans on cannabis business, or limit operations in a manner beyond what is provided by state law.

Cannabis Retail Restrictions (342.13)

Local governments may limit the number of retailers and microbusiness/mezzobusinesses with retail endorsements allowed within their locality, as long as there is **at least one retail location per 12,500 residents**. Local units of government are not obligated to seek out a business to register as cannabis business if they have not been approached by any potential applicants, but cannot prohibit the establishment of a business if this population requirement is not met. Local units of government may also issue more than the minimum number of registrations. Per statutory direction, a municipal cannabis store (Page 19) cannot be included in the minimum number of registrations required. For population counts, the state demographer estimates will likely be utilized.

Tribal Governments (342.13)

OCM is prohibited from and will not issue state licenses to businesses in Indian Country without consent from a tribal nation. Tribal nations hold the authority to license tribal cannabis businesses on tribal lands – this process is separate than OCM's licensing process and authority. Subject to compacting, Tribal nations may operate cannabis businesses off tribal lands. There will be more information available once the compacting processes are complete.

Taxes (295.81; 295.82)

Retail sales of taxable cannabis products are subject to the state and local sales and use tax and a 10% gross receipts tax. Cannabis gross receipts tax proceeds are allocated as follows: 20% to the local government cannabis aid account and 80% to the state general fund. Local taxes imposed solely on sale of cannabis products are prohibited.

Cannabis retailers will be subject to the same real property tax classification as all other retail businesses. Real property used for raising, cultivating, processing, or storing cannabis plants, cannabis flower, or cannabis products for sale will be classified as commercial and industrial property.

General Authorities (cont.)

Retail Timing Restrictions (342.13)

Local governments may prohibit retail sales of cannabis between the hours of 8 a.m. and 10 a.m. Monday-Saturday, and 9 p.m. and 2 a.m. the following day.

Operating Multiple Locations with One License

Certain cannabis licenses allow for multiple retail locations to be operated under a single license, with the following limitations:

- **Retailers**: up to five retail locations.
- **Mezzobusinesses**: up to three retail locations.
- **Microbusinesses:** up to one retail location.
- **Medical cannabis combination businesses**: one retail location per congressional district. Additionally, medical cannabis combination businesses may cultivate at more than one location within other limitations on cultivation.

For all other license types, one license permits the operation of one location. Each retail location requires local certification and/or registration.

Zoning and Land Use

Buffer Guidelines (342.13)

State law does not restrict how a local government conducts its zoning designations for cannabis businesses, except that they may prohibit the operation of a cannabis business within 1,000 feet of a school, or 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including playgrounds and athletic fields.

Zoning Guidelines

While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite, and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Industrial hemp is an agricultural product, and should be zoned as such.

Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business. Note that certain types of licenses may be able to perform multiple activities which may have different zoning analogues. In the same way municipalities may zone a microbrewery that predominately sells directly to onsite consumers differently than a microbrewery that sells packaged beer to retailers and restaurants, so too might a municipality wish to zone two microbusinesses based on the actual activities that each business is undertaking. Table 1, included on Pages 13 and 14, explains the types of activities that cannabis businesses might undertake, as well as, some recommended existing zoning categories.

Zoning and Land Use (cont.)

Table 1: Cannabis and Hemp Business Activities

Endorsed Activity	License Type Eligible to Do Endorsed Activity	Description of Activity	Comparable Districts	Municipal Considerations
Cultivation	Cultivator Mezzobusiness Microbusiness Medical Cannabis Combination	"Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis plants, cannabis flower, hemp plants, or hemp plant parts.	Indoor: Industrial, Commercial, Production Outdoor: Agricultural	Odor Potential need for transportation from facility Waste, water, and energy usage Security
Cannabis Manufacturing, Processing, Extraction	Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This group of endorsed activities turn raw, dried cannabis and cannabis parts into other types of cannabis products, e.g. edibles or topicals.	Industrial, Commercial, Production	Odor Potential need for transportation from facility Waste, water, and energy usage Security
Hemp Manufacturing	Lower-Potency Hemp Edible (LPHE) Manufacturing	These business convert hemp into LPHE edible prodcuts.	Industrial, Commercial, Production	Odor Waste, water, and energy
Wholesale	Wholesale Cultivator Manufacturer Mezzobusiness Microbusiness Medical Cannabis Combination	This activity and license type allows a business to purchase from a business growing or manufacturing cannabis or cannabis products and sell to a cannabis business engaged in retail.	Industrial, Commercial, Production	Need for transportation from facility Security

Zoning and Land Use (cont.)

Table 1: Cannabis and Hemp Business Activities (continued)

Endorsed Activity	License Type Eligible to Do Endorsed Activity	Description of Activity	Comparable Districts	Municipal Considerations
Cannabis Retail	Retailer Mezzobusiness Microbusiness Medical Cannabis Combination	This endorsed activity and license types allow a business to sell cannabis and cannabis products directly to consumers.	Retail, Neighborhood Shopping Districts, Light Industrial, Existing districts where off-sale liquor or tobacco sales are allowed.	Micros may offer onsite consumption, similar to breweries. Micros and Mezzos may include multiple activities: cultivation, manufacture, and/or retail.
Transportation	Cannabis Transporter	This license type allows a company to transport products from one license type to another.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Delivery	Cannabis Delivery	This license type allows for transportation to the end consumer.		Fleet based business that will own multiple vehicles, but not necessarily hold a substantial amount of cannabis or cannabis products.
Events	Event Organizer	This license entitles license holder to organizer a temporary event lasting no more than four days.	Anywhere that the city permits events to occur, subject to other restrictions related to cannabis use.	On site consumption. Retail sales by a licensed or endorsed retail business possible.

Local Approval Process

Local governments play a critical role in the licensing process, serving as a near-final approval check on cannabis businesses nearing the awarding of a state license for operations. Once an applicant has been vetted by OCM and is selected for proceeding in the verification process, they are then required to receive the local government's certification of zoning compliance and/or local retail registration before operations may commence.

Local Certification of Zoning Compliance (342.13; 342.14)

Following OCM's vetting process, local governments must **certify** that the applicant with preliminary approval has achieved **compliance with local zoning ordinances** prior to the licensee receiving final approval from OCM to commence operations.

During the application and licensing process for cannabis businesses, OCM will notify a local government when an applicant intends to operate within their jurisdiction and request a certification as to whether a proposed cannabis business complies with local zoning ordinances, and if applicable, whether the proposed business complies with state fire code and building code.

According to Minnesota's cannabis law, a local unit of government has 30 days to respond to this request for certification of compliance. If a local government does not respond to OCM's request for certification of compliance within the 30 days, the cannabis law allows OCM to issue a license. OCM may not issue the final approval for a license if the local government has indicated they are not in compliance.

OCM will work with local governments to access the licensing software system to complete this zoning certification process.

Local Approval Process (cont.)

Local Retail Registration Process (342.22)

Once the licensing process begins, local government registration applies to cannabis retailers or other cannabis/hemp businesses seeking a retail endorsement. Local governments must issue a retail registration after verifying that:

- The business has a valid license or license preapproval issued by OCM.
- The business has paid a registration fee or renewal fee to the local government;
    - Initial registration fees collected by a local government may be $500 or half the amount of the applicable initial license fee, whichever is less, and renewal registration fees may be $1,000 or half the amount of the applicable renewal license fee, whichever is less.
- The business is found to be in compliance with Chapter 342 and local ordinances.
- If applicable, the business is current on all property taxes and assessments for the proposed retail location.

Local registrations may also be issued by counties if the respective local government transfers such authorities to the county.

Determining a Process for Limiting Retail Registrations

If a local government wishes to place a limitation on the number of retailers and microbusiness/mezzobusinesses with retail endorsements allowed within their locality (as long as there is at least one retail location per 12,500 residents, see Page 10), state law does not define the process for a local government's selection if there are more applicants than registrations available. A few options for this process include the use of a lottery, a first-come/first-serve model, a rolling basis, and others. Local governments should work with an attorney to determine their specific process for selection if they wish to limit the number of licensed cannabis retailers per 342.13. Local governments are not required to limit the number of licensed cannabis retailers.

Local Approval Process (cont.)

Local governments are permitted specific authorities for registration refusal and registration suspension, in addition to—and not in conflict with—OCM authorities.

Registration and Renewal Refusals

Local governments may refuse the registration and/or certification of a license renewal if the license is associated with an individual or business who no longer holds a valid license, has failed to pay the local registration or renewal fee, or has been found in noncompliance in connection with a preliminary or renewal compliance check.

Local Registration Suspension (342.22)

Local governments may suspend the local retail registration of a cannabis business or hemp business if the business is determined to not be operating in compliance with a local ordinance authorized by 342.13 or if the operation of the business poses an immediate threat to the health and safety of the public. The local government must immediately notify OCM of the suspension if it occurs. OCM will review the suspension and may reinstate the registration or take enforcement action.

Expedited Complaint Process (342.13)

Per state law, OCM will establish an expedited complaint process during the rulemaking process to receive, review, read, and respond to complaints made by a local unit of government about a cannabis business. Upon promulgation of rules, OCM will publish the complaint process.

At a minimum, the expedited complaint process shall require the office to provide an initial response to the complaint within seven days and perform any necessary inspections within 30 days. Within this process, if a local government notifies OCM that a cannabis business poses an immediate threat to the health or safety of the public, the office must respond within one business day.

Inspections & Compliance Checks

Local governments are permitted specific business inspection and compliance check authorities, in addition to—and not in conflict with—OCM authorities.

Inspections and Compliance Checks (342.22)

Local governments must conduct **compliance checks** for cannabis and hemp businesses holding retail registration **at least once per calendar year**. These compliance checks must verify compliance with age verification procedures and compliance with any applicable local ordinance established pursuant to 342.13. OCM maintains inspection authorities for all cannabis licenses to verify compliance with operation requirements, product limits, and other applicable requirements of Chapter 342.

Municipal Cannabis Stores

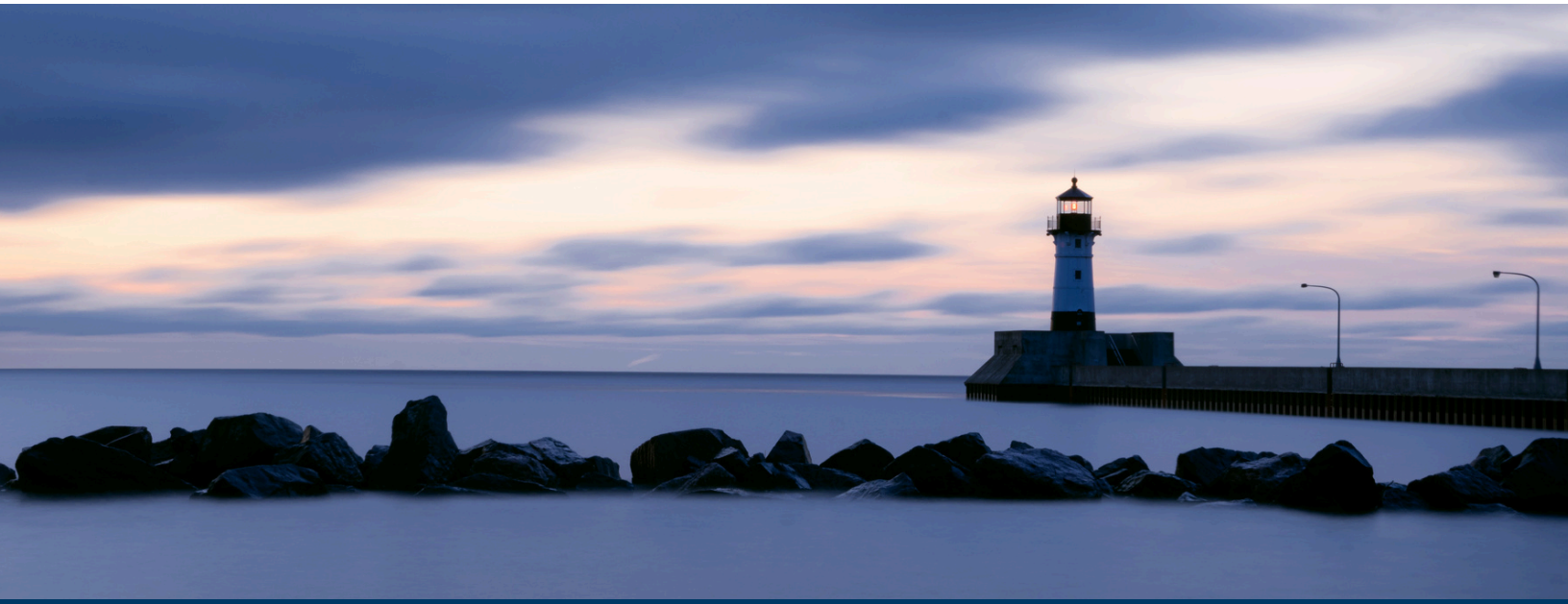
As authorized in Chapter 342.32, local governments are permitted to apply for a cannabis retail license to establish and operate a municipal cannabis store.

State law requires OCM issue a license to a city or county seeking to operate a single municipal cannabis store if the city or county:

- Submits required application information to OCM,
- Meets minimum requirements for licensure, and
- Pays applicable application and license fee.

A municipal cannabis store will not be included in the total count of retail licenses issued by the state under Chapter 342.

A municipal cannabis store cannot be counted as retail registration for purposes of determining whether a municipality's cap on retail registrations imposed by ordinance.



Creating Your Local Ordinance

As authorized in 342.13, a local government may adopt a local ordinance regarding cannabis businesses. Establishing local governments' ordinances on cannabis businesses in a timely manner is critical for the ability for local cities or towns to establish local control as described in the law, and is necessary for the success of the statewide industry and the ability of local governments to protect public health and safety. The cannabis market's potential to create jobs, generate revenue, and contribute to economic development at the local and state level is supported through local ordinance work. The issuance of local certifications and registrations to prospective cannabis businesses is also dependent on local ordinances.

- Local governments may not prohibit the possession, transportation, or use of cannabis, or the establishment or operation of a cannabis business licensed under state law.
- Local governments may adopt reasonable restrictions on the time, place, and manner of cannabis business operations (see Page 11).
- Local governments may adopt interim ordinances to protect public safety and welfare, as any studies and/or further considerations on local cannabis activities are being conducted, until January 1, 2025. A public hearing must be held prior to adoption of an interim ordinance.
- If your local government wishes to operate a municipal cannabis store, the establishment and operation of such a facility must be considered in a local ordinance.

Model Ordinance

For additional guidance regarding the creation of a cannabis related ordinance, please reference the addendum in this packet.

Additional Resources

OCM Toolkit for Local Partners

Please visit OCM webpage (mn.gov/ocm/local-governments/) for additional information, including a toolkit of resources developed specifically for local government partners. The webpage will be updated as additional information becomes available and as state regulations are adopted.

These resources are also included in the addendum of this packet.

Toolkit resources include:

- Appendix A: Model Ordinance
- Appendix B: Hemp Flower and Hemp-Derived Cannabinoid Product Checklist
- Appendix C: Enforcement Notice from the Office of Cannabis Management
- Appendix D: Notice to Unlawful Cannabis Sellers

Local Organizations

There are several organizations who also have developed resources to support local governments regarding the cannabis industry. Please feel free to contact the following for additional resources:

- League of Minnesota Cities
- Association of Minnesota Counties
- Minnesota Public Health Law Center

Appendix A: Model Ordinance

Cannabis Model Ordinance

The following model ordinance is meant to be used as a resource for cities, counties, and townships within Minnesota. The italicized text in red is meant to provide commentary and notes to jurisdictions considering using this ordinance and should be removed from any ordinance formally adopted by said jurisdiction. Certain items are not required to be included in the adopted ordinance: 'OR' and (optional) are placed throughout for areas where a jurisdiction may want to consider one or more choices on language.

AN ORDINANCE OF THE (CITY/COUNTY OF _____) TO REGULATE CANNABIS BUSINESSES

The (city council/town board/county board) of (city/town/county) hereby ordains:

Section 1. Administration

1.1 Findings and Purpose

(insert local authority) makes the following legislative findings:

The purpose of this ordinance is to implement the provisions of Minnesota Statutes, chapter 342, which authorizes (insert local authority) to protect the public health, safety, welfare of (insert local here) residents by regulating cannabis businesses within the legal boundaries of (insert local here).

(insert local authority) finds and concludes that the proposed provisions are appropriate and lawful land use regulations for (insert local here), that the proposed amendments will promote the community's interest in reasonable stability in zoning for now and in the future, and that the proposed provisions are in the public interest and for the public good.

1.2 Authority & Jurisdiction

A county can adopt an ordinance that applies to unincorporated areas and cities that have delegated authority to impose local zoning controls.

(insert local authority) has the authority to adopt this ordinance pursuant to:

a) Minn. Stat. 342.13(c), regarding the authority of a local unit of government to adopt reasonable restrictions of the time, place, and manner of the operation of

a cannabis business provided that such restrictions do not prohibit the establishment or operation of cannabis businesses.

b) Minn. Stat. 342.22, regarding the local registration and enforcement requirements of state-licensed cannabis retail businesses and lower-potency hemp edible retail businesses.
c) Minn. Stat. 152.0263, Subd. 5, regarding the use of cannabis in public places.
d) Minn. Stat. 462.357, regarding the authority of a local authority to adopt zoning ordinances.

Ordinance shall be applicable to the legal boundaries of (insert local here).

(Optional) (insert city here) has delegated cannabis retail registration authority to (insert county here). However, (insert city here) may adopt ordinances under Sections (2.6, 3 and 4) if (insert county here) has not adopted conflicting provisions.

1.3 Severability

If any section, clause, provision, or portion of this ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

1.4 Enforcement

The elected body of a jurisdiction can choose to designate an official to administer and enforce this ordinance.

The (insert name of local government or designated official) is responsible for the administration and enforcement of this ordinance. Any violation of the provisions of this ordinance or failure to comply with any of its requirements constitutes a misdemeanor and is punishable as defined by law. Violations of this ordinance can occur regardless of whether or not a permit is required for a regulated activity listed in this ordinance.

1.5 Definitions

1. Unless otherwise noted in this section, words and phrases contained in Minn. Stat. 342.01 and the rules promulgated pursuant to any of these acts, shall have the same meanings in this ordinance.
2. Cannabis Cultivation: A cannabis business licensed to grow cannabis plants within the approved amount of space from seed or immature plant to mature plant. harvest cannabis flower from mature plant, package and label immature plants and seedlings and cannabis flower for sale to other cannabis businesses, transport cannabis flower to a cannabis manufacturer located on the same premises, and perform other actions approved by the office.
3. Cannabis Retail Businesses: A retail location and the retail location(s) of a mezzobusinesses with a retail operations endorsement, microbusinesses with a retail operations endorsement, medical combination businesses operating a retail location, (and/excluding) lower-potency hemp edible retailers.

4. Cannabis Retailer: Any person, partnership, firm, corporation, or association, foreign or domestic, selling cannabis product to a consumer and not for the purpose of resale in any form.
5. Daycare: A location licensed with the Minnesota Department of Human Services to provide the care of a child in a residence outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.
6. Lower-potency Hemp Edible: As defined under Minn. Stat. 342.01 subd. 50.
7. Office of Cannabis Management: Minnesota Office of Cannabis Management, referred to as "OCM" in this ordinance.
8. Place of Public Accommodation: A business, accommodation, refreshment, entertainment, recreation, or transportation facility of any kind, whether licensed or not, whose goods, services, facilities, privileges, advantages or accommodations are extended, offered, sold, or otherwise made available to the public.
9. Preliminary License Approval: OCM pre-approval for a cannabis business license for applicants who qualify under Minn. Stat. 342.17.
10. Public Place: A public park or trail, public street or sidewalk; any enclosed, indoor area used by the general public, including, but not limited to, restaurants; bars; any other food or liquor establishment; hospitals; nursing homes; auditoriums; arenas; gyms; meeting rooms; common areas of rental apartment buildings, and other places of public accommodation.
11. Residential Treatment Facility: As defined under Minn. Stat. 245.462 subd. 23.
12. Retail Registration: An approved registration issued by the (insert local here) to a state-licensed cannabis retail business.
13. School: A public school as defined under Minn. Stat. 120A.05 or a nonpublic school that must meet the reporting requirements under Minn. Stat. 120A.24.
14. State License: An approved license issued by the State of Minnesota's Office of Cannabis Management to a cannabis retail business.

Section 2. Registration of Cannabis Businesses

A city or town can delegate authority for registration to the County. A city or town can still adopt specific requirement regarding zoning, buffers, and use in public places, provided said requirements are not in conflict with an ordinance adopted under the delegated authority granted to the County.

2.1 Consent to registering of Cannabis Businesses

No individual or entity may operate a state-licensed cannabis retail business within (insert local here) without first registering with (insert local here).

Any state-licensed cannabis retail business that sells to a customer or patient without valid retail registration shall incur a civil penalty of (up to $2,000) for each violation.

Notwithstanding the foregoing provisions, the state shall not issue a license to any cannabis business to operate in Indian country, as defined in United States Code, title 18, section 1151, of a Minnesota Tribal government without the consent of the Tribal government.

2.2 Compliance Checks Prior to Retail Registration

A jurisdiction can choose to conduct a preliminary compliance check prior to issuance of retail registration.

Prior to issuance of a cannabis retail business registration, (insert local here) (shall/shall not) conduct a preliminary compliance check to ensure compliance with local ordinances.

Pursuant to Minn. Stat. 342, within 30 days of receiving a copy of a state license application from OCM, (insert local here) shall certify on a form provided by OCM whether a proposed cannabis retail business complies with local zoning ordinances and, if applicable, whether the proposed business complies with the state fire code and building code.

2.3 Registration & Application Procedure

2.3.1 Fees.

(insert local here) shall not charge an application fee.

A registration fee, as established in (insert local here)'s fee schedule, shall be charged to applicants depending on the type of retail business license applied for.

An initial retail registration fee shall not exceed $500 or half the amount of an initial state license fee under Minn. Stat. 342.11, whichever is less. The initial registration fee shall include the initial retail registration fee and the first annual renewal fee.

Any renewal retail registration fee imposed by (insert local here) shall be charged at the time of the second renewal and each subsequent renewal thereafter.

A renewal retail registration fee shall not exceed $1,000 or half the amount of a renewal state license fee under Minn. Stat. 342.11, whichever is less.

A medical combination business operating an adult-use retail location may only be charged a single registration fee, not to exceed the lesser of a single retail registration fee, defined under this section, of the adult-use retail business.

2.3.2 Application Submittal.

The (insert local here) shall issue a retail registration to a state-licensed cannabis retail business that adheres to the requirements of Minn. Stat. 342.22.

(A) An applicant for a retail registration shall fill out an application form, as provided by the (insert local here). Said form shall include, but is not limited to:
   i. Full name of the property owner and applicant;
   ii. Address, email address, and telephone number of the applicant;
   iii. The address and parcel ID for the property which the retail registration is sought;
   iv. Certification that the applicant complies with the requirements of local ordinances established pursuant to Minn. Stat. 342.13.
   v. (Insert additional standards here)

(B) The applicant shall include with the form:

i. the application fee as required in [Section 2.3.1];
ii. a copy of a valid state license or written notice of OCM license preapproval;
iii. (Insert additional standards here)

(C) Once an application is considered complete, the (insert local government designee) shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.

(D) The application fee shall be non-refundable once processed.

2.3.3 Application Approval

(A) *(Optional)* A state-licensed cannabis retail business application shall not be approved if the cannabis retail business would exceed the maximum number of registered cannabis retail businesses permitted under Section 2.6.

(B) A state-licensed cannabis retail business application shall not be approved or renewed if the applicant is unable to meet the requirements of this ordinance.

(C) A state-licensed cannabis retail business application that meets the requirements of this ordinance shall be approved.

2.3.4 Annual Compliance Checks.

The (insert local here) shall complete at minimum one compliance check per calendar year of every cannabis business to assess if the business meets age verification requirements, as required under [Minn. Stat. 342.22 Subd. 4(b) and Minn. Stat. 342.24] and this/these [chapter/section/ordinances].

The (insert local here) shall conduct at minimum one unannounced age verification compliance check at least once per calendar year.

Age verification compliance checks shall involve persons at least 17 years of age but under the age of 21 who, with the prior written consent of a parent or guardian if the person is under the age of 18, attempt to purchase adult-use cannabis flower, adult-use cannabis products, lower-potency hemp edibles, or hemp-derived consumer products under the direct supervision of a law enforcement officer or an employee of the local unit of government.

Any failures under this section must be reported to the Office of Cannabis Management.

2.3.5 Location Change

A jurisdiction may decide to treat location changes as a new registration, or alternatively treat a location change as allowable subject to compliance with the rest of the registration process.

A state-licensed cannabis retail business shall be required to submit a new application for registration under Section 2.3.2 if it seeks to move to a new location still within the legal boundaries of (insert local here).

or

If a state-licensed cannabis retail business seeks to move to a new location still within the legal boundaries of (insert local here), it shall notify (insert local here) of the proposed location change, and submit necessary information to meet all the criteria in this paragraph.

2.4 Renewal of Registration

The (insert local here) shall renew an annual registration of a state-licensed cannabis retail business at the same time OCM renews the cannabis retail business' license.

A state-licensed cannabis retail business shall apply to renew registration on a form established by (insert local here).

A cannabis retail registration issued under this ordinance shall not be transferred.

2.4.1 Renewal Fees.

The (insert local here) may charge a renewal fee for the registration starting at the second renewal, as established in (insert local here)'s fee schedule.

2.4.2 Renewal Application.

The application for renewal of a retail registration shall include, but is not limited to:

- Items required under Section 2.3.2 of this Ordinance.
- Insert additional items here

2.5 Suspension of Registration

2.5.1 When Suspension is Warranted.

The (insert local here) may suspend a cannabis retail business's registration if it violates the ordinance of (insert local here) or poses an immediate threat to the health or safety of the public. The (insert local here) shall immediately notify the cannabis retail business in writing the grounds for the suspension.

2.5.2 Notification to OCM.

The (insert local here) shall immediately notify the OCM in writing the grounds for the suspension. OCM will provide (insert local here) and cannabis business retailer a response to the complaint within seven calendar days and perform any necessary inspections within 30 calendar days.

2.5.3 Length of Suspension.

A jurisdiction can wait for a determination from the OCM before reinstating a registration.

The suspension of a cannabis retail business registration may be for up to 30 calendar days, unless OCM suspends the license for a longer period. The business may not make sales to customers if their registration is suspended.

The (insert local here) may reinstate a registration if it determines that the violations have been resolved.

The (insert local here) shall reinstate a registration if OCM determines that the violation(s) have been resolved.

2.5.4 Civil Penalties.

Subject to Minn. Stat. 342.22, subd. 5(e) the (insert local here) may impose a civil penalty, as specified in the (insert local here)'s Fee Schedule, for registration violations, not to exceed $2,000.

2.6 Limiting of Registrations

A jurisdiction may choose to set a limit on the number of retail registrations within its boundaries. The jurisdiction may not however, limit the number of registrations to fewer than one per 12,500 residents.

(Optional) The (insert local here) shall limit the number of cannabis retail businesses to no fewer than one registration for every 12,500 residents within (insert local legal boundaries here).

(Optional) If (insert county here) has one active cannabis retail businesses registration for every 12,500 residents, the (insert local here) shall not be required to register additional state-licensed cannabis retail businesses.

(Optional) The (insert local here) shall limit the number of cannabis retail businesses to (insert number <= minimum required).

Section 3. Requirements for Cannabis Businesses

State Statutes note that jurisdictions may "adopt reasonable restrictions on the time, place, and manner of the operation of a cannabis business." A jurisdiction considering other siting requirements (such as a buffer between cannabis businesses, or a buffer from churches) should consider whether there is a basis to adopt such restrictions.

3.1 Minimum Buffer Requirements

A jurisdiction can adopt buffer requirements that prohibit the operation of a cannabis business within a certain distance of schools, daycares, residential treatment facilities, or from an attraction within a public park that is regularly used by minors, including a playground or athletic field. Buffer requirements are optional. A jurisdiction cannot adopt larger buffer requirements than the requirements here in Section 3.1. A jurisdiction should use a measuring system consistent with the rest of its ordinances, e.g. from lot line or center point of lot.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-1,000] feet of a school.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of a day care.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of a residential treatment facility.

(Optional) The (insert local here) shall prohibit the operation of a cannabis business within [0-500] feet of an attraction within a public park that is regularly used by minors, including a playground or athletic field.

(Optional) The (insert local here) shall prohibit the operation of a cannabis retail business within [X] feet of another cannabis retail business.

Pursuant to Minn. Stat. 462.367 subd. 14, nothing in Section 3.1 shall prohibit an active cannabis business or a cannabis business seeking registration from continuing operation at the same site if a (school/daycare/residential treatment facility/attraction within a public park that is regularly used by minors) moves within the minimum buffer zone.

3.2 Zoning and Land Use

For jurisdictions with zoning, said jurisdiction can limit what zone(s) Cannabis businesses can operate in. As with other uses in a Zoning Ordinance, a jurisdiction can also determine if such use requires a Conditional or Interim Use permit. A jurisdiction cannot outright prohibit a cannabis business. A jurisdiction should amend their Zoning Ordinance and list what zone(s) Cannabis businesses are permitted in, and whether they are permitted, conditional, or interim uses. While each locality conducts its zoning differently, a few themes have emerged across the country. For example, cannabis manufacturing facilities are often placed in industrial zones, while cannabis retailers are typically found in commercial/retail zones. Cannabis retail facilities align with general retail establishments and are prohibited from allowing consumption or use onsite and are also required to have plans to prevent the visibility of cannabis and hemp-derived products to individuals outside the retail location. Cannabis businesses should be zoned under existing zoning ordinances in accordance with the license type or endorsed activities held by the cannabis business.

3.2.1. Cultivation.

Cannabis businesses licensed or endorsed for cultivation are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Manufacturer.

Cannabis businesses licensed or endorsed for cannabis manufacturer are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Hemp Manufacturer.

Businesses licensed or endorsed for low-potency hemp edible manufacturers permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Wholesale.

Cannabis businesses licensed or endorsed for wholesale are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Retail.

Cannabis businesses licensed or endorsed for cannabis retail are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Transportation.

Cannabis businesses licensed or endorsed for transportation are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.2.1. Cannabis Delivery.

Cannabis businesses licensed or endorsed for delivery are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

3.3 Hours of Operation

A jurisdiction may adopt an ordinance limiting hours of operation between 10 a.m. and 9 p.m., seven days a week, and that State statute prohibits the sale of cannabis between 2 a.m. and 8 a.m., Monday through Saturday, and between 2 a.m. and 10 a.m. on Sundays.

(Optional) Cannabis businesses are limited to retail sale of cannabis, cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products between the hours of (insert time here) and (insert time here).

3.4 (Optional) Advertising

Cannabis businesses are permitted to erect up to two fixed signs on the exterior of the building or property of the business, unless otherwise limited by (insert local here)'s sign ordinances.

Section 4. Temporary Cannabis Events

Any individual or business seeking to obtain a cannabis event license must provide OCM information about the time, location, layout, number of business participants, and hours of operation. A cannabis event organizer must receive local approval, including obtaining any necessary permits or licenses issued by a local unit of government before holding a cannabis event.

4.1 License or Permit Required for Temporary Cannabis Events

4.1.1 License Required.

A cannabis event organizer license entitles the license holder to organize a temporary cannabis event lasting no more than four days. A jurisdiction should determine what type of approval is consistent with their existing ordinances for events.

A license or permit is required to be issued and approved by (insert local here) prior to holding a Temporary Cannabis Event.

4.1.2 Registration & Application Procedure

A registration fee, as established in (insert local here)'s fee schedule, shall be charged to applicants for Temporary Cannabis Events.

4.1.3 Application Submittal & Review.

The (insert local here) shall require an application for Temporary Cannabis Events.

(A) An applicant for a retail registration shall fill out an application form, as provided by the (insert local here). Said form shall include, but is not limited to:
   i. Full name of the property owner and applicant;
   ii. Address, email address, and telephone number of the applicant;
   iii. (Insert additional standards here)

(B) The applicant shall include with the form:
   i. the application fee as required in (Section 4.1.2);
   ii. a copy of the OCM cannabis event license application, submitted pursuant to 342.39 subd. 2.

The application shall be submitted to the (insert local authority), or other designee for review. If the designee determines that a submitted application is incomplete, they shall return the application to the applicant with the notice of deficiencies.

(C) Once an application is considered complete, the designee shall inform the applicant as such, process the application fees, and forward the application to the (insert staff/department, or elected body that will approve or deny the request) for approval or denial.

(D) The application fee shall be non-refundable once processed.

(E) The application for a license for a Temporary Cannabis Event shall meet the following standards:

A jurisdiction may establish standards for Temporary cannabis events which the event organizer must meet, including restricting or prohibiting any on-site consumption. If there are public health, safety, or welfare concerns associated with a proposed cannabis event, a jurisdiction would presumably be authorized to deny approval of that event.

- Insert standards here

(G) A request for a Temporary Cannabis Event that meets the requirements of this Section shall be approved.

(H) A request for a Temporary Cannabis Event that does not meet the requirements of this Section shall be denied. The (insert city/town/county) shall notify the applicant of the standards not met and basis for denial.

(Optional) Temporary cannabis events shall only be held at (insert local place).

(Optional) Temporary cannabis events shall only be held between the hours of (insert start time) and (insert stop time).

Section 5. (Optional) Lower-Potency Hemp Edibles

A jurisdiction can establish different standards or requirements regarding Low-Potency Edibles. A jurisdiction can consider including the following section and subsections in their cannabis ordinance.

5.1 Sale of Low-Potency Hemp Edibles

The sale of Low-Potency Edibles is permitted, subject to the conditions within this Section.

5.2 Zoning Districts

If sales are permitted, a jurisdiction can limit what zone(s) the sales of Low-Potency Edibles can take place in. A jurisdiction can also determine if such activity requires a Conditional or Interim Use permit.

Low-Potency Edibles businesses are permitted as a (type of use) in the following zoning districts:

- (Insert zoning districts use is permitted in here)
- (Insert zoning districts use is permitted in here)

5.3 (Optional) Additional Standards

5.3.1 Sales within Municipal Liquor Store.

A jurisdiction that already operates a Municipal Liquor Store may sell Low-Potency Edibles within the same store.

The sale of Low-Potency Edibles is permitted in a Municipal Liquor Store.

5.3.2 Age Requirements.

A jurisdiction is able to restrict the sale of Low-Potency Edibles to locations such as bars.

The sale of Low-Potency Edibles is permitted only in places that admit persons 21 years of age or older.

5.3.3 Beverages.

The sale of Low-Potency Hemp Beverages is permitted in places that meet requirements of this Section.

5.3.4 Storage of Product.

A jurisdiction is able to set requirements on storage and sales of Low-Potency Edibles.

Low-Potency Edibles shall be sold behind a counter, and stored in a locked case.

Section 6. (Optional) Local Government as a Cannabis Retailer

(insert local here) may establish, own, and operate one municipal cannabis retail business subject to the restrictions in this chapter.

The municipal cannabis retail store shall not be included in any limitation of the number of registered cannabis retail businesses under Section 2.6.

(insert local here) shall be subject to all same rental license requirements and procedures applicable to all other applicants.

Section 7 Use in Public Places

No person shall use cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products in a public place or a place of public accommodation unless the premises is an establishment or an event licensed to permit on-site consumption of adult-use.

Appendix B: Hemp Flower and Hemp-Derived Cannabinoid Product Checklist

MINNESOTA

Office of Cannabis Management
Department of Health

Hemp Flower and Hemp-Derived Cannabinoid Product Checklist

Minnesota Statute 18K.02, Definitions
Minnesota Statute 152.01, Subdivision 9
Minnesota Statute 151.72, Sale of Certain Cannabinoid Products
Minnesota Statute 152.0264, Cannabis Sale Crimes
Minnesota Statute 342.09, Personal Adult Use of Cannabis

Question	Yes	No	Comments	Additional Information
Business License and Registration Compliance				
Is the business registered with the Minnesota Department of Health?				All businesses selling hemp-derived cannabinoid products must be registered. See Hemp-Derived Cannabinoid Products (www.health.state.mn.us/people/cannabis/edibles/index.html)
If the business offers on-site consumption, do they have a liquor license?				Local authorities issue on-site consumption licenses. These are required for all businesses permitting on-site consumption of THC.
Product Compliance – All Products				
Does the business ensure that all sales are made to persons 21 years old or older?				Only persons 21 years of age or older may purchase hemp-derived cannabinoid products, with the exception of topicals. These products may be sold to anyone.
Does the business have all edible cannabinoid products, except beverages, behind the counter or in a locked cabinet?				Businesses must ensure all edible cannabinoid products are secure and inaccessible to customers.

Question	Yes	No	Comments	Additional Information
Only delta-8 and delta-9 are allowed for human consumption. Does the business sell edibles or beverages with any other intoxicating cannabinoids?				MDH has identified products containing many different intoxicating cannabinoids, such as HHC, THC-O, THC-P, PHC, delta-10, delta-11, delta-8p, delta-9p, etc. The product must contain only delta-8 and/or delta-9.
Does the business sell any edible products that are similar to a product marketed to or consumed by children?				Edible products that appear similar to candy or snacks marketed toward or consumed by children are not allowed.
Does the label on the edible or beverage state “Keep out of reach of children”?				All products must include the warning label “Keep out of reach of children.”
Is the manufacturer’s name, address, website, and contact phone number included on the label or provided through a QR code?				If not, the product is not in compliance.
Does the QR code on the product bring the user to a Certificate of Analysis on the website, which includes the name of the independent testing laboratory, cannabinoid profile, and product batch number?				All products must be tested by batch in an independent, accredited laboratory. The results must include the cannabinoid profile.
Does the label on the product indicate the cannabinoids by serving and in total?				The label must indicate the potency by individual serving as well as in total.

Question	Yes	No	Comments	Additional Information
Does the label on the product make any claim the product offers any kind of health benefit?				Health claims are not permitted on hemp or cannabis products unless approved by the FDA. At this time, there is not an approved statement.
Does the label on the product state that the product does not claim to diagnose, treat, cure or prevent any disease?				The manufacturer cannot claim the product will provide any health benefit unless the product has been formally approved by the FDA.
Does the business sell CBD (or other forms of cannabidiol) in the form of a softgel, tablet, or tincture?				Non-intoxicating cannabinoids may only be sold in the form of an edible, beverage, or topical. Therefore, softgels and tablets cannot be sold. Tinctures must be labeled as either an edible or beverage and comply with the edible or beverage requirements.
Product Compliance – Edibles				
Does the edible product contain more than 5 mg delta-8 and/or delta-9 per serving?				Edibles may not exceed 5 mg delta-8 and/or delta-9 per serving.
Does the edible product package/container contain more than 50 mg total THC (delta-8 and/or delta-9)?				Edibles may not exceed 50 mg total delta-8 or delta-9 per package. The edible cannot contain any other form of THC or intoxicating cannabinoid.
Are all the edible product's servings clearly marked, wrapped, or scored on the product?				Edible product servings must be clearly distinguished on the product. Bulk products that require the consumer to measure are not allowed.

Question	Yes	No	Comments	Additional Information
Does the business sell any edible products in the shape of bears, worms, fruits, rings, ribbons?				Edibles in shapes that appeal to children are not allowed.
Is the edible product in a child-proof, tamper-evident, opaque container?				All edibles must be in a container that is child-resistant and tamper evident. If the container is clear, the business must place the edible into an opaque bag at the point of sale. Clear bags are not allowed.
Product Compliance - Beverages				
Does the beverage product contain more than 5 mg delta-8 or delta-9 per serving?				Beverages may not exceed 5 mg delta-8 and/or delta-9 per serving.
Does the beverage product contain more than 2 servings?				Beverages cannot exceed two servings, regardless of the THC potency.
Is the beverage product in an opaque container?				If the beverage is in a clear container, the business must place the beverage in an opaque bag at the point of sale.
Product Compliance – Smokables (non-flower)				
Does the business sell vapes, pre-rolls, dabs, or other smokable products which contain more than 0.3% THC?				A product's certificate of analysis will show the concentration of THC the product contains. The certificate typically is found through the QR code on the product package. In MDH's experience, most vapes contain 50% - 90%+ THC. Pre-rolls may consist of raw hemp flower. These products are not regulated by 151.72. However, if a pre-roll is labeled as "infused" or "coated" have additional cannabinoids applied to the material, of which the product typically exceeds the 0.3% THC limit.

Question	Yes	No	Comments	Additional Information
Does the business sell vapes, pre-rolls, dabs, or other smokeable products that contain other intoxicating cannabinoids, such as HHC?				MN Statutes do not allow any cannabinoid, other than delta-8 or delta-9, to be sold if the cannabinoid is intended to alter the structure or function of the body. HHC is a cannabinoid known to have potency greater than THC.
Does the business sell vapes, pre-rolls, dabs, or other smokable products which contain CBD?				Non-intoxicating cannabinoids cannot be smoked, vaped, or inhaled.
Product Compliance – Flower				
Does the business sell raw hemp flower?				Raw hemp flower must contain 0.3% or less of delta-9 on a dry weight basis. Products exceeding 0.3% delta-9 dry weight are marijuana, and are illegal for sale. THC-A is the non psychoactive precursor to delta-9. Once heated THC-A converts to delta-9. In that process some amount of THC-A is lost. To determine whether, once heated, the hemp flower will exceed the allowable 0.3% of delta-9, one can use a decarboxylation formula which takes into account the conversion of THC-A into delta-9. That formula is as follows: Total THC = (0.877 X THC-A) + d-9 THC) Raw flower must include a certificate of analysis to show testing below 0.3% delta-9. • A lack of a certificate of analysis would constitute an illegal sale.

Question	Yes	No	Comments	Additional Information
				• A certificate of analysis showing that under the decarboxylation formula that delta-9 would exceed the 0.3% threshold would also indicate the flower is cannabis and not hemp and therefore being sold illegally.
Product Compliance – On-Site Consumption				
If the business offers on-site consumption, do they serve the edible or beverage in its original packaging?				The business may not pour out or remove an edible from its original packaging.
If the business offers on-site consumption, do they mix a cannabis-infused beverage with alcohol?				The business may not mix cannabis-infused products with alcohol.
If the business offers on-site consumption, do they permit customers to remove from the premises products which have been removed from their original packaging?				Products which have been removed from their original packaging cannot be removed from the premises by the customer.

NOTE: If a person suspects that a hemp-derived cannabinoid product is being sold in violation of Minnesota law, they can use the complaint form at Submitting Hemp-Derived Cannabinoid Product Complaints (www.health.state.mn.us/people/cannabis/edibles/complaints.html).

Appendix C: Enforcement Notice from the Office of Cannabis Management

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT

Enforcement Notice from the Office of Cannabis Management

Dear Registered Hemp Derived Cannabinoid Business:

The Office of Cannabis Management (OCM), established in 2023, is charged with developing and implementing the operational and regulatory systems to oversee the cannabis industry in Minnesota as provided in Minnesota Statutes Chapter 342.

When Minnesota legalized the sale of adult-use of cannabis flower, cannabis products, and lower-potency hemp edibles/ hemp-derived consumer products, the Minnesota Legislature included statutory provisions, Minnesota Statutes, chapter 152.0264, making the sale of cannabis illegal until a business is licensed by OCM. The Office of Cannabis Management has not yet issued licenses for the cultivation, manufacture, wholesale, transportation or retail sale of cannabis, therefore any retail sales of cannabis products, including cannabis flower, are illegal.

The Office of Cannabis Management has received complaints of retailers selling cannabis flower under the label of hemp flower. Under an agreement between The Minnesota Department of Health (MDH) and OCM, inspectors from MDH will begin to examine any flower products being sold during their regular inspections to determine whether they are indeed hemp flower or cannabis flower.

In distinguishing between hemp and cannabis flower, OCM, consistent with federal rules and regulations related to hemp under 7 CFR 990.1, will consider the total concentration of THC post- decarboxylation, which is the process by which THC-A is converted into Delta-9 to produce an intoxicating effect. The examination of raw flower products will include reviewing the certificate of analysis for compliance in several areas, including:

Compliance with the requirement that raw flower listed for sale includes a Certificate of Analysis (COA). Products for sale without a COA will constitute an illegal sale.

A COA that affirms concentrations of 0.3% or less of Delta-9 on a dry weight basis. Products exceeding 0.3% Delta-9 dry weight are considered marijuana and are therefore illegal to sell.

A COA that confirms that the total levels of Delta-9 and THC-A after the decarboxylation process do not exceed 0.3%. A COA that indicates the raw flower will exceed 0.3 percent Delta-9 post-decarboxylation, or a subsequent test conducted by an independent laboratory utilized by OCM that confirms Delta-9 in excess of 0.3 percent will be considered illegal.

Minnesota Statutes, Chapter 342 governs Minnesota's cannabis market, and empowers OCM to ensure regulatory compliance. Minnesota Statutes, chapter 342.09, subdivision 4 prohibits the retail sale of cannabis flower and cannabis products "without a license issued under this chapter that authorizes the sale."

To date, the Office of Cannabis Management has not issued any cannabis licenses, applications for licenses are expected to be available in the first half of 2025. As such, selling cannabis is a clear violation of law. Be aware that under Minnesota Statutes, 342.09, subdivision 6, OCM may assess fines in excess of a $1 million for violations of this law. Likewise, under Minnesota Statutes, chapter 342.19, OCM is empowered to embargo any product that it has "probable cause to believe . . . is being distributed in violation of this chapter or rules adopted under this chapter[.]" Furthermore, violations of law may be considered in future licensing decisions made by OCM.

As inspectors enter the field, we encourage you to review the products you are currently selling to ensure they fall within the thresholds outlined above. If you have any questions related to the products you are selling, please send an email to cannabis.info@state.mn.us.

Thank you for your attention to this matter.

Charlene Briner
Interim Director
Office of Cannabis Management

Appendix D: Notice to Unlawful Cannabis Sellers

MINNESOTA
OFFICE OF CANNABIS MANAGEMENT

Notice to Unlawful Cannabis Sellers

This notice is to inform you that your current course of action may run afoul of Minnesota law, and continuing this course of action may result in civil actions and potential criminal prosecution. To avoid such outcomes, you should immediately cease and desist any plans to engage in the unlicensed sale of cannabis and cannabis products.

Minnesota Statutes, Chapter 342 (www.revisor.mn.gov/statutes/cite/342) governs Minnesota's cannabis market, and empowers OCM to ensure regulatory compliance. Minnesota Statutes, chapter 342.09, subdivision 4 (www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.4) prohibits the retail sale of cannabis flower and cannabis products "without a license issued under this chapter that authorizes the sale." To date the Office of Cannabis Management has not issued any retail, or other, cannabis licenses. As such, your plan to sell cannabis in a retail setting at this date would be in flagrant violation of the law. Be aware that under Minnesota Statutes, 342.09, subdivision 6 (www.revisor.mn.gov/statutes/cite/342.09#stat.342.09.6), OCM may assess fines in excess of a $1,000,000 for violations of this law.

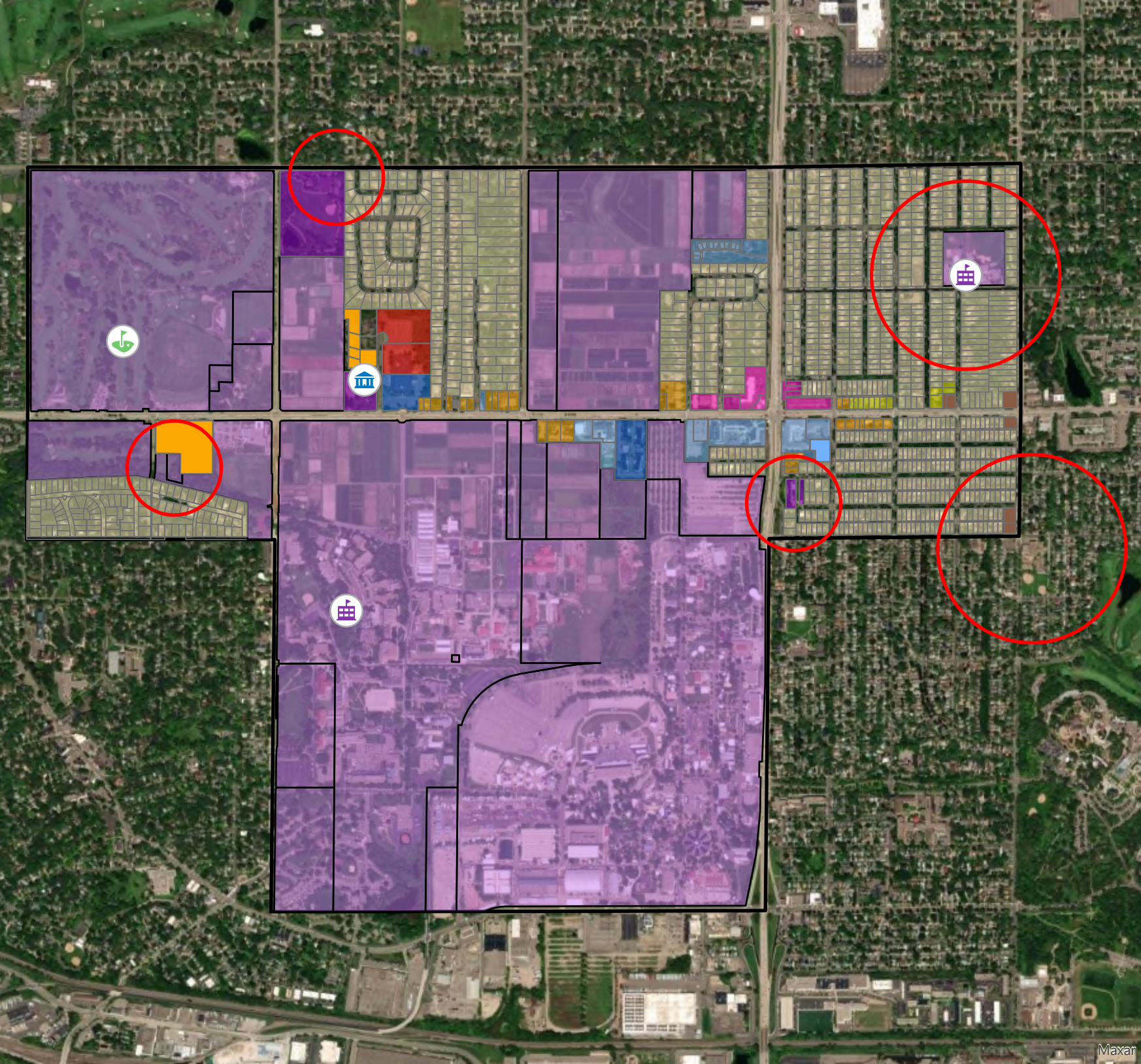
Likewise, under Minnesota Statutes, chapter 342.19 (www.revisor.mn.gov/statutes/cite/342.19), OCM is empowered to embargo any product that it has "probable cause to believe . . . is being distributed in violation of this chapter or rules adopted under this chapter[.]" It is believed that products attempted to be sold at your retail location might be distributed in violation of the law, and would therefore be subject to embargo by OCM. Under Minnesota Statutes, chapter 342.19, subd. 2 (www.revisor.mn.gov/statutes/cite/342.19#stat.342.19.2), once embargoed OCM "shall release the cannabis plant, cannabis flower, cannabis product, artificially derived cannabinoid, lower-potency hemp edible, or hemp-derived consumer product when this chapter and rules adopted under this chapter have been complied with or the item is found not to be in violation of this chapter or rules adopted under this chapter."

While Minnesota has legalized the sale of adult-use of cannabis flower, cannabis products, lower-potency hemp edibles, or hemp-derived consumer products, the legislature did add new statutory provisions, Minnesota Statutes, chapter 152.0264 (www.revisor.mn.gov/statutes/cite/152.0264), making illegal the unlawful sale of cannabis. As there are not yet any licenses issued by OCM for the cultivation, manufacture, wholesale, transportation, or retail of cannabis, any sales of cannabis products in excess of the limits in 152.0264 is illegal.

If you are only planning to sell cannabinoid products that are derived from hemp, you should ensure that the sale of those products is consistent with Minnesota Statutes, chapter 151.72 (www.revisor.mn.gov/statutes/cite/151.72), including but not limited to the requirement that your business be registered with the Commissioner of Health, and that all products are in compliance with the relevant statutes.

Finally, in addition to the state laws outlined above, please be aware that any retail location must be in compliance with local government ordinances and zoning requirements.

OCM takes seriously its charge to enforce Minnesota Statutes, Chapter 342, and its responsibility to ensure a safe and legal cannabis market. In order to avoid the above-described actions, all attempts to open a cannabis retail dispensary in Minnesota without the appropriate license should be ceased.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LOWER-POTENCY HEMP EDIBLES & CANNABIS

A Model Ordinance for Minnesota City Retailers

This model ordinance was prepared to assist Minnesota counties and cities interested in establishing local regulation of cannabis and lower-potency hemp edible retailers.

Edible hemp products containing intoxicating levels of THC were legalized for manufacture and sale in Minnesota on July 1, 2022. Cannabis use was legalized on Aug. 1, 2023, and it is anticipated that cannabis retail establishments will be licensed for sales sometime in 2025. All cannabis retailers or cannabis businesses that are permitted to engage in retail sales, will be required to secure a license from the Office of Cannabis Management and register with their local unit of government before sales are allowed.

Updates to the 2023 cannabis legalization law were made by the Minnesota Legislature in 2024 to allow the Office of Cannabis Management (OCM) to "preapprove" licenses for certain cannabis businesses July 24, 2024, through

August 12, 2024. Full licensing of cannabis businesses and hemp businesses will occur after rulemaking is completed in 2025. Hemp businesses, including lower-potency hemp edible retailers, are currently required to register with the state; the requirement to register with the Minnesota Department of Health began Oct. 1, 2023, and the authority over these registrations transferred to OCM beginning July 1, 2024. Since legalization, some local governments have enacted moratoria, licensing, and other ordinances to regulate cannabis businesses and lower-potency hemp edible retailers. State law requires that -local moratoria and licensing over these entities must expire on January 1, 2025. Local units of government are required to register cannabis and lower-potency hemp retailers that are pre-approved for licenses and licensed by the state. While local units of government do not have licensing authority, they may use their registration authority as a framework to set local regulations for the sale of these products through authority granted in the state cannabis law, their authority to regulate to protect the general health, safety, and welfare of the community, and, in some cases, their public health authority. From a public health standpoint, local units of government may wish to explore these other areas of regulatory authority that may be aimed at reducing youth exposure and access, in addition to other areas that emphasize public health and prevention surrounding the sale of adult-use cannabis and lower-potency hemp edibles.

While hemp businesses are subject to OCM licensing requirements, they are not explicitly included in all aspects of the "cannabis business"[1] regulatory scheme. As such, local governments may have broader authority to regulate hemp businesses more stringently beyond the time, place, and manner restrictions prescribed for the regulation of cannabis businesses by local units of government. However, local units of government are not allowed to outright prohibit cannabis and hemp businesses.

It is important to note that local regulation of the retail sale of cannabis and lower-potency hemp edibles is untested in Minnesota courts. While the law is clear about some areas of local regulation that are permitted and not permitted, there is ambiguity in the law. For more information on authority for local regulation of the retail sale of cannabis, please see the Public Health Law Center's resources: *Minnesota Regulation of Legalized Cannabis: FAQ Public Health Options* and *Minnesota's New Cannabis Law*. A jurisdiction planning to adopt this model ordinance, in whole or in part, should first review it with its attorney to determine suitability for the jurisdiction's circumstances. The city or county attorney should review the planned ordinance to ensure it conforms to applicable state and federal laws.

1 Cannabis businesses are defined to include the cannabis-specific businesses that will be licensed under the law, including cannabis microbusinesses, mezzobusinesses, cultivators, manufacturers, retailers, wholesalers, transporters, testing facilities, event organizers, delivery services, and medical cannabis combination businesses. MINN. STAT. § 342.01, subd. 14

Tips for Using This Model Ordinance

This model ordinance represents a balance between state standards, best public health policy practices, and practicality for city governments in Minnesota. Communities will differ on their readiness and willingness to adopt certain policy components contained in this model ordinance and, therefore, may or may not choose to adopt policies that may go beyond minimum state requirements. As noted above, some of these provisions would apply only to those selling lower-potency hemp edibles, some will apply only to cannabis retailers, and some will apply to both types of retailers. This is a summary of each category:

Provisions that would apply only to lower-potency hemp edible retailers:

- Limiting the number of lower-potency hemp edible retailers in a jurisdiction and regulating the distance between these retailers and youth-oriented facilities (see **Registration Cap for Lower-Potency Hemp Edible Retailers and Cannabis Retailers on page 14**).
- Restricting the sale of lower-potency edibles to retail locations in which only persons 21 years and older are permitted, or restricting sales to cannabis retailers;
- Requiring lower-potency hemp beverages to be prohibited in self-service displays as is already the case under state law regarding non-beverage lower-potency hemp edibles.
- Establishing a minimum clerk age for employees selling lower-potency hemp edibles and beverages.
- Prohibiting pharmacies from selling lower-potency hemp edible products.
- Requiring products only be sold in child-resistant packaging.
- Prohibiting sales of beverages for on-site consumption that are removed from their original packaging.
- Prohibiting sales of products that may be added to food or beverages.
- Prohibiting on-site consumption of lower-potency hemp edibles.

Provisions that would apply only to cannabis retailers:

- Prohibiting the sale of flavored products that are consumed by smoking or vaping.
- Restricting the hours of operation.
- Restricting the sale of higher-potency products.

Provisions that apply to both lower-potency hemp edible retailers and cannabis retailers:

- Raising the minimum legal sales age to 25.
- Restricting the redemption of coupons, and other price promotions.
- Prohibiting the delivery and/or online sales of cannabis and lower-potency hemp edible products.
- Prohibiting the distribution of free samples of cannabis and lower-potency hemp edibles.
- Prohibiting all smoking within the retail establishment.

Some provisions in this ordinance mirror the state law requirements while other provisions are more protective than the state law. Public health provisions that strictly conform to the state law are **highlighted in green** ✅ and public health provisions that exceed state law are **highlighted in orange** ⚠️. Provisions that are primarily structural or necessary for the operation of the ordinance are not highlighted. This model ordinance includes provisions that mirror state law, which enables local enforcement actions along with the state OCM enforcement of such provisions.

City and County Authority to Register and Regulate Cannabis and Lower-Potency Hemp Edible Retailers

State law allows cities and townships to delegate to the county their authority to register cannabis and lower-potency hemp edible retailers. (Minn. Stat. § 342.22, subd. 1) Counties will be responsible for the registration of retailers in any unincorporated area of the county and in any local units of government within the county that choose to delegate their registration authority. Along with registration authority, counties have the authority to regulate such businesses under the public health authority granted to them by the state under Minn. Stat. Chapter 145A. State law allows cities and towns to enact stronger protections than the county, but they cannot have policies less restrictive than those counties enact under their public health authority. Cities or towns using this model policy should review any county requirements to ensure conformity or identify opportunities to enact more protective regulations.

Customizing the Ordinance

Context boxes are included throughout the ordinance to explain some key provisions. These boxes are not meant to be included in any final ordinance. A local unit of government wishing to adopt all or part of this ordinance should keep this in mind and remove the context boxes.

In some instances, blanks (such as [____]) prompt you to customize the language to fit your community's needs. In other instances, the ordinance offers you a choice of options (such as [choice one/choice two]). Some options are followed by a comment that describes the legal provisions in more detail. A degree of customization is always necessary to make sure the ordinance is consistent with a community's existing laws. Such customization also ensures that communities are using this model ordinance to address local needs and engender health equity.

Immigration Impacts of Cannabis and Lower-Potency Hemp Edibles Use or Sale

Federal law still prohibits and criminalizes the sale, use, possession, or growing of cannabis, despite Minnesota's decriminalization and legalization. As such, anyone who is not a U.S. citizen and who possesses, uses, sells, grows, or interacts in any way with cannabis or works in the cannabis industry may face severe immigration consequences, including the loss of legal permanent residency or other immigration status, or their removal or deportation from the United States. (8 U.S.C. § 1182(a)(2); 8 U.S.C. § 1227(a)(2)(B)(1); 8 U.S.C. § 1227(a)(1)) According to the Immigrant Law Center of Minnesota, even lower-potency hemp edibles may trigger some immigration consequences.

Unfortunately, most non-citizens are not aware of these risks, particularly in states that have decriminalized or legalized cannabis. Prior to issuing a registration, state and local governments are encouraged to alert registrants, registration applicants, and their employees that there are immigration risks for non-citizens who interact with cannabis or the cannabis industry and that these risks exist regardless of any local or state license or registration. Registrants who employ or contract with non-citizens for any task related to their cannabis business may put those non-citizen employees and their family members at risk of losing their legal status or facing deportation from the United States. This is the case even for those non-citizens who work with employment authorization granted by the U.S. Department of Homeland Security.

The Immigrant Law Center of Minnesota provides background information that could be incorporated into an information notice to be disseminated by the local offices that process cannabis retail establishment registrations. The information is available in several languages. Please contact the Immigrant Law Center of Minnesota for further information.

For an example of such an information notice from the State of California, see *Non-U.S. Citizen Referral Process and Possible Legal Consequences when Working in the Cannabis Industry*.

Notice

For Cities

This ordinance is drafted in the form prescribed by state law for statutory cities. Statutory cities must publish their ordinances — or a summary thereof — in the city's official newspaper before they become effective. Home rule charter cities may have to follow the formatting and other procedural requirements found in their city's charter. Charter cities should consult their charter and their city attorney to ensure they are in compliance with all charter requirements. All cities must provide copies of their ordinances to their county law library or its designated depository pursuant to Minn. Stat. § 415.021.

Additionally, Minn. Stat. § 415.19 requires statutory and home rule charter cities to post proposed new ordinances and ordinance amendments on the city website at least 10 days prior to a final vote by the city council, if the city already posts ordinances on its website. Under the same statute, within 10 days of a final vote, cities must also provide this same notice to all city listserv subscribers via their electronic notification system or, if the city does not have an electronic notification system, in the location where the city posts public notices.

Note

While the Public Health Law Center does not lobby, advocate, or directly represent communities, adopting effective public health policies starts early with education, stakeholder and community engagement, and a strong advocacy plan. If a community is unaware of resources available to them for engaging the community and developing an advocacy plan, or if a jurisdiction is considering adopting an ordinance and is interested in learning about the range of resources available, the Public Health Law Center can help through our publications and referrals to experts in the field.

This model ordinance was prepared by the Public Health Law Center, located at the Mitchell Hamline School of Law in St. Paul, Minnesota, and made possible by the financial support of the Center for Prevention at Blue Cross & Blue Shield of Minnesota.

ORDINANCE NO. [_____]

AN ORDINANCE REGULATING THE RETAIL SALE OF CANNABIS AND LOWER-POTENCY HEMP EDIBLES WITHIN THE [CITY OF _____], MINNESOTA

THE [CITY COUNCIL OF THE CITY OF _____] DOES ORDAIN:

Section 1. Findings of Fact.

Note

The Findings Section is important because it provides the evidentiary basis for the proposed cannabis and lower-potency hemp retailer regulations and demonstrates a municipality's reasoning for adopting specific provisions. Findings of fact could include data, statistics, and relevant epidemiological information, for example, that support the purposes of the ordinance. In addition to providing educational background and building support for the ordinance, the findings can also serve a legal purpose. If the ordinance is challenged in court, the findings are an admissible record of the factual determinations made by the legislative body when considering the ordinance. Courts generally defer to legislative determinations of factual issues and can, in turn, influence a court's legal findings. A list of Findings of Fact supporting this model ordinance appears in a companion publication on Public Health Law Center's website titled, *Minnesota Findings for Local Regulation of Cannabis and Lower-Potency Hemp Edibles*. Jurisdictions may select findings from this list to insert here, along with additional findings on local or regional conditions and outcomes.

NOW THEREFORE it is the intent of the City Council, in enacting this ordinance, to regulate the establishment, operations, and sales of cannabis retailers and lower-potency hemp edible retailers located in [city name] .

Section 2. Authority and Jurisdiction.

Authority. The City Council is authorized to adopt this Ordinance by Minnesota Statutes sections 144.417, subd. 4(a), 145A.05, subd. 9, 412.221, 152.0263, subd. 5, Chapter 342, Chapter 412, and any other applicable state law, as may be adopted or amended from time to time.

Section 3. Definitions.

Except as otherwise provided or clearly implied by context, all terms are given their commonly accepted definitions. For this ordinance, the following definitions apply unless the context clearly indicates or requires a different meaning:

Advertisement. Any written or oral statement, illustration, or depiction that is intended to promote sales of approved products or sales at a specific cannabis business or hemp business and includes any newspaper, radio, internet and electronic media, or television promotion; the distribution of fliers and circulars; and the display of window and interior signs in a cannabis

business. "Advertisement" does not include a fixed outdoor sign that meets the requirements in Minn. Stat. § 342.64, subd. 2, paragraph (b) as amended from time to time.

Approved products. Any cannabis plants, cannabis flower, cannabis products, artificially derived cannabinoids, and lower-potency hemp edibles that are a product category approved by the Office of Cannabis Management and that comply with Chapter 342 and rules adopted pursuant to Chapter 342 regarding the testing, packaging, and labeling of cannabis plants, cannabis flower, cannabis products, artificially derived cannabinoids, and lower-potency hemp edibles. "Approved Products" does not include medical cannabinoid products, as defined in Minn. Stat. Ch. 342.

Attractive to underage persons. Products that are attractive to individuals under age 21 as described in Minn. Stat. § 342.62, subd. 3, and products prohibited under Minn. Stat. § 342.06 (d), as may be amended from time to time.

Child-resistant. Packaging that meets the poison prevention packaging standards in Code of Federal Regulations, title 16, section 1700.15.

Compliance checks. The system the city uses to investigate and ensure that those retail establishments authorized to sell approved products and medical cannabinoid products are following and complying with age verification requirements and the requirements of this ordinance. Compliance checks may also be conducted by the city or other units of government for educational, research, and training purposes or for investigating or enforcing state or local laws and regulations relating to approved products.

Delivery sale. The sale of any approved products and medical cannabinoid products to any person for personal consumption and not for resale when the sale is conducted by any means other than an in-person, over-the-counter sales transaction in a registered retail establishment. Delivery sale includes but is not limited to the sale of any approved product and medical cannabinoid product when the sale is conducted by telephone, other voice transmission, mail, the internet, or app-based service. Delivery sale includes delivery by registered retail establishments or third parties by any means, including curbside pickup.

Electronic delivery device. Any product containing or delivering nicotine, lobelia, or any other substance, whether natural or synthetic, intended for human consumption through the inhalation of aerosol or vapor from the product. Electronic delivery device includes, but is not limited to, devices manufactured, marketed, or sold as e-cigarettes, e-cigars, e-pipes, vape pens, mods, tank systems, or under any other product name or descriptor. Electronic delivery device includes any component part of a product, whether or not marketed or sold separately. Electronic delivery device does not include any nicotine cessation product that has been

authorized by the U.S. Food and Drug Administration to be marketed and for sale as "drugs," "devices," or "combination products," as defined in the Federal Food, Drug, and Cosmetic Act.

Flavored product. Any cannabis flower, cannabis product, hemp-derived consumer product or medical cannabinoid product intended to be inhaled as smoke, aerosol, or vapor from the product that: (1) contains any added artificial, synthetic, or natural flavoring, either in the product itself or in its components or parts; (2) presents any descriptor or depiction of flavor that would imply to an ordinary person that the product contains flavors other than the natural taste or smell of cannabis; (3) imparts a taste or smell, other than the taste or smell of cannabis, that is distinguishable by an ordinary consumer prior to or during the consumption of the product; or (4) imparts a cooling, a burning, a numbing, or another sensation distinguishable by an ordinary consumer to impart a flavor other than cannabis either prior to or during the consumption of the product.

Lower-potency hemp edible. "Lower-potency hemp edible" as defined in Minn. Stat. § 342.01, subd. 50, as amended from time to time.

Lower-potency hemp edible retailer. Any place of business with a preapproved license, license, or endorsement to sell lower-potency hemp edible products to the public from the Office of Cannabis Management and that has a lower-potency hemp edible retail registration from the city.

Medical cannabinoid product. "Medical cannabinoid product" as defined in Minn. Stat. § 342.01, subd. 52, as amended from time to time.

Medical cannabis combination business. "Medical Cannabis combination business" as described in Minn. Stat. § 342.515, as amended from time to time.

Moveable place of business. Any form of business that is operated out of a kiosk, truck, van, automobile or other type of vehicle or transportable shelter and that is not a fixed address or other permanent type of structure licensed for over-the-counter sales transactions.

Pharmacy. A place of business at which prescription drugs are prepared, compounded, or dispensed by or under the supervision of a pharmacist and from which related clinical pharmacy services are delivered.

Registered cannabis retail business. Any cannabis business with a preapproved license, license, or endorsement from the Office of Cannabis Management for retail sales of approved products or medical cannabinoid products and that has a retail registration from a local unit of government.

Registered retail establishment. Refers to registered cannabis retail businesses, medical cannabis combination businesses with retail sales, and lower-potency hemp edible retailers.

Retail establishment. Any place of business where products are available for sale to the general public. "Retail establishment" includes, but is not limited to, grocery stores, tobacco product shops, convenience stores, liquor stores, gasoline service stations, bars, and restaurants.

Sale. Any transfer of goods for money, trade, barter, or other consideration.

Sample. Refers to any approved products or medical cannabinoid products that are offered free of charge or for sale at a nominal cost.

Self-service display. The open display of approved products or medical cannabinoid products in a retail establishment in any manner where any person has access to the products without the assistance or intervention of the registered retail establishment or its employee and where a physical exchange of the products from the registered retail establishment or its employee is not required to access the products.

Smoking. Inhaling, exhaling, burning, or carrying any lighted or heated cigar, cigarette, or pipe, or any other lighted or heated product containing, made, or derived from nicotine, tobacco, cannabis, or other substance, whether natural or synthetic, that is intended for inhalation. Smoking also includes carrying or using an activated electronic delivery device. "Smoking" does not include the use of traditional, or sacred, tobacco used by any American Indian, Indigenous, and Alaska Native communities for spiritual and medicinal purposes.

Temporary cannabis event. Events described in Minnesota Statutes 342.39 and 342.40, held by an individual or business with a cannabis event organizer license granted by the Office of Cannabis Management, with approval from the city.

True party of interest. Any party with ownership or control over the business, as defined in Minn. Stat. § 342.185 subd. 1(g).

Vending machine. Any mechanical, electric or electronic, or other type of device that dispenses products upon payment by any form by the person seeking to purchase the product.

Youth-oriented facility. Any facility with residents, customers, visitors, or inhabitants of which 25 percent or more are regularly under the age of 21 or that primarily sells, rents, or offers services or products that are consumed or used primarily by persons under the age of 21. Youth-oriented facilities includes, but is not limited to, schools, playgrounds, places of worship, recreation centers, and parks.

Municipal Cannabis Retailer

Similar to municipal liquor stores, state law allows for local governments to operate municipal cannabis retailer businesses. (Minn. Stat. § 342.32, subd. 5) Operating their own retailer would allow local jurisdictions to better control store location, types of products available, advertising, and marketing while making products available. Any municipal cannabis retailers do not count toward the total number of retailer licenses offered by OCM during a licensing period and the municipal retail license does not count toward any local ordinance capping the number of retailers to no more than 1 per 12,500 residents. (Minnesota Session Laws, 2024 Regular Session, Ch. 121 Art. 2 Sec. 65 creates new Minn. Stat. § 342.32, subd. 7)

Section 4. Registration and Operations of Registered Retailers.

(A) **License required.** No person shall sell or offer to sell any approved product or medical cannabinoid product without first having obtained a license or retail endorsement to do so from the Office of Cannabis Management.

(B) **Registration required.** No person shall sell or offer to sell any approved product or medical cannabinoid product without first being granted a registration by the city. Operating a retail establishment without a valid retail registration is a violation of this Ordinance and of Minn. Stat. § 342.22, subd. 5(e) and is subject to a civil penalty of up to $2,000 per violation.

Registration

State law mandates that cannabis businesses and hemp businesses with retail sales, including lower-potency hemp edible retailers and retail businesses selling medical cannabis, must register with the city, town, or county in which the retail establishment is located. A county may issue a registration in cases where a city or town has provided consent for the county to issue the registration for the jurisdiction. A second registration from the county is not required if a city or town provides the registration.

(C) **Application.** An application for a registration to sell approved products and medical cannabinoid products must be made on a form provided by the city. The application must contain the full name of the applicant and any true parties of interest, the applicant's and true parties' residential and business addresses and telephone numbers, the name of the business for which the registration is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the city will timely review the application. If an application is incomplete, it will be returned to the applicant with notice of the information necessary to make the application complete.

(D) **Action.** The city shall review the application for conformance with this Ordinance and all applicable state and local laws and rules, including but not limited to compliance with local zoning code, building code, and fire code. The city may approve or deny the application for a registration, or it may delay action for a reasonable period of time to complete any investigation of the application or the applicant deemed necessary. If the city approves the application, the city will issue the registration to the applicant. If the city denies the application, notice of the denial will be given to the applicant along with notice of the applicant's right to appeal the decision.

(E) **Term.** All registrations issued are valid for one calendar year from the date of issue.

(F) **Revocation or suspension.** Any registration issued may be suspended or revoked following the procedure set forth in **Section 12 (A)** of this ordinance.

(G) **Transfers.** All registrations issued are valid only on the premises for which the registration was issued and only for the person to whom the registration was issued. The transfer of any registration to another location or person is prohibited.

(H) **Display.** All registrations must be posted and displayed at all times at the registered retail establishment or medial cannabis combination business in plain view of the general public.

(I) **Renewals.** The renewal of a registration issued under this Ordinance will be handled in the same manner as the original application. The request for a renewal must be made at least 30 days but no more than 60 days before the expiration of the current registration.

(J) **Issuance is privilege and not a right.** The issuance of a registration is a privilege and does not entitle the registration holder to an automatic renewal of the registration.

⚠ Provisions that exceed state law

(K) **Maximum number of registrations.**

(1) **Lower-potency hemp edible retailer registrations.** The maximum number of lower-potency hemp edible retailer registrations issued by the city at any time is limited to [see "Registration Cap" context box below]. When the maximum number of registrations has been issued, the city may place persons seeking registration on a waiting list and allow them to apply on a first-come, first-served basis, as registrations are not renewed or are revoked. A new applicant who has purchased a business location with a valid county registration held by a different owner will be entitled to first priority, provided the new applicant meets all other application requirements in accordance with this ordinance.

(2) **Cannabis retailer registrations.** No registrations will be granted after the county or cities within the county have granted at least one registration for every 12,500 residents in the county.

Registration Cap for Lower-Potency Hemp Edible Retailers and Cannabis Retailers

Communities with a higher concentration of cannabis and lower-potency hemp edible retailers within their jurisdiction expose more youth and young adults to commercial cannabis and lower-potency hemp edible marketing, making it easier for them to obtain the products. Additionally, proximity to cannabis retailers is associated with increased harms of cannabis use including, increases in poison control calls, increased cannabis use during pregnancy, cannabis related hospitalization during pregnancy, and an increase of cannabis use in adults and young adults. (.) One way to address retailer density issues is to place a limit or cap on the number of registrations of cannabis retailers and lower-potency hemp edible retailers that may be issued by the city/county. The above provisions would set the maximum number of registrations available for lower-potency hemp edible retailers and sets a limit of one cannabis retailer per 12,500 residents in the county pursuant to Minn. Stat. § 342.13 (j). Note that while state law allows for local governments to limit the number of cannabis and hemp businesses, it does not allow local jurisdictions to outright prohibit cannabis and hemp businesses. (Minnesota Session Laws, 2024 Regular Session, Ch. 121 Art. 2 § 64)

Provision that exceeds state law

(L) **Pharmacies ineligible for registration.** No new or renewed registration will be granted to a pharmacy or any retail establishment that operates an on-site pharmacy.

Section 5. Fees.

No registration will be issued under this ordinance until the appropriate registration fees are paid in full. The fees will be established pursuant to Minn. Stat. § 342.22, subd. 2, as amended from time to time.

Fee Limits

State law limits the registration fees that local jurisdictions may charge for cannabis businesses. This Fees provision reflects and limits fees pursuant to state law. No additional licensing fees may be charged. (See Minn. Stat. § 342.22, subd. 2)

Section 6. Basis for Denial of Registration

(A) An initial application for registration or a renewal of registration with the city will be denied if:

Provisions that strictly conform to the state law

(1) the applicant is under 21 years of age;

(2) the applicant does not have a valid retail license, preapproved license, or retail endorsement from the Office of Cannabis Management;

(3) the applicant fails to provide any of the information required on the licensing application or provides false or misleading information;

(4) the applicant is prohibited by state, or local law, ordinance, or other regulation from holding a registration; or,

(5) the applicant fails a pre-application inspection by the [city/county] as provided under Minn. Stat. § 342.22, subd. 3(b) as amended from time to time.

(B) If a registration is mistakenly issued or renewed to any person, it will be revoked upon the discovery of ineligibility for registration under this ordinance or state or other local law, ordinance or other regulation. Any revocation will comply with the requirements of Minn. Stat. § 342.22, subd. 5, as amended from time to time.

Section 7. Prohibited Sales and Other Restrictions.

(A) **In general.** In addition to the prohibitions and restrictions set forth under Minn. Stat. § 342.46, subd. 7, and Minn. Stat. § 342.27, subd. 12 no registered cannabis retailer, lower-potency hemp edible retailer, or medical cannabis combination business shall sell or offer to sell any approved product or medical cannabinoid product:

Provision that strictly conforms to the state law

(1) **By means of any type of vending machine.**

Provision that exceeds state law

(2) **By means of self-service display.** All approved products and medical cannabinoid products, including lower-potency hemp beverages, must be stored in a locked case behind the sales counter, in a storage unit, or in another area not freely accessible by the general public. This does not prohibit registered cannabis retailers from displaying single product samples pursuant to Minn. Stat. § 342.27, subd. 5.

Self-Service Display Prohibition

Minn. Stat. § 342.46, subd. 4 requires lower-potency hemp edible retailers to "ensure that all lower-potency hemp edibles, other than lower-potency hemp edibles that are intended to be consumed as a beverage, are displayed behind a checkout counter where the public is not permitted or in a locked case. All lower-potency hemp edibles that are not displayed must be stored in a secure area." Cities and counties, therefore, may wish to regulate beverages more stringently in the same manner as non-beverage edibles, such that beverages, too, must be displayed behind a checkout counter where the public is not permitted or in a locked case. Additionally, cities/counties could require the products always be stored in a locked case, whether behind the counter or in another area of the store. Similarly, cannabis products for sale by a cannabis retailers must be stored in a secure area, with the exception that the retailer may display one "sample" of each cannabis flower and cannabis product. (See Minn. Stat. § 342.27, subd. 5)

Provision that exceeds state law

(3) **At a moveable place of business.** Only fixed location businesses may sell approved products and medical cannabinoid products.

Provision that strictly conforms to the state law

(4) **That does not comply with the packaging and labeling required** under Minn. Stat. §§ 342.62 and 342.63 as may be amended from time to time, except that:

Provisions that exceed state law

(a) No lower-potency hemp edible beverage may be sold outside of its original packaging; and,

(b) No lower-potency hemp edible product may be sold that does not indicate a single serving by scoring or use of another indicator that appears on the product. If it is not possible to indicate a single serving by scoring or use of another indicator that appears on the product, the lower-potency hemp edible may not be packaged in a manner that includes more than a single serving in each container.

(5) **By means of delivery sales.** All sales of approved products and medical cannabinoid products must be conducted in person, in a registered retail establishment, in over-the-counter sales transactions.

Provision that strictly conforms to the state law

This does not prohibit sale of medical cannabinoid products by medical cannabis combination businesses by curbside pick-up as allowed in Minn. Stat. § 342.51, subd. 5.

Delivery Sales Prohibition

State law allows for licensed delivery services to transport and deliver cannabis flower, cannabis products, lower-potency hemp edibles, and hemp-derived consumable products to customers. (Minn. Stat. § 342.41) Cannabis delivery services are businesses specifically licensed by the Office

Delivery Sales Prohibition *(continued)*

of Cannabis Management. State law prohibits local jurisdictions from outright prohibiting any cannabis businesses. However, cities and counties *may* have the authority to prohibit delivery sales within their jurisdiction as an effective means of curtailing underage access to approved products. A licensed cannabis delivery business may still be located within the jurisdiction to deliver outside the boundaries of the jurisdiction, where permitted. This approach recognizes the challenges inherent in trying to effectively monitor online retailers and prevent underage access to the vast market of hemp-derived THC products found online, acknowledging that age verification processes do not prevent underage persons from obtaining these and similar products online.

(6) **By any other means, to any other person, or in any other manner or form prohibited** by state or other local law, ordinance provision, or other regulation.

Provision that strictly conforms to the state law

(B) **Legal age.** No person shall sell any approved product to any person under the age of 21. Businesses licensed or endorsed to sell medical cannabinoid products may sell medical cannabinoid products to persons under age 21 who are enrolled in the medical registry program pursuant to Minn. Stat. § 342.24, subd. 1.

Minimum Legal Sales Age Higher than Age 21

State law sets a minimum legal sales age for adult-use cannabis and lower-potency hemp edibles at age 21. There is nothing in the law that prohibits a local jurisdiction from setting a higher minimum legal sales age. Evidence supports a higher minimum legal sales age of 25.

For instance, frequent cannabis use between the ages of 14 and 21 is associated with lower high school completion and college graduation and subsequent lower income levels at age 25 (reference provided below). If the minimum legal sales age of 25 is enacted, then other provisions should also be adjusted, such as minimum clerk age and store ownership. If MLSA of 25 is enacted, then other provisions could also be adjusted, such as minimum clerk age and store ownership.

Edmund Silins et al., Young Adult Sequelae of Adolescent Cannabis Use: An Integrative Analysis, 1 The Lancet Psychiatry 286-93 (2014), DOI: 10.1016/S2215-0366(14)70307-4;David Fergusson & Joseph Boden, Cannabis Use and Later Life Outcomes, 103Addiction 969-76 (2008), https://pubmed.ncbi.nlm.nih.gov/18482420.

Medical Cannabis Sales to Persons 18 and Older

State law allows medical cannabinoids to be sold to persons age 18 and older if they are enrolled in the medical program as a patient or as a caregiver. This provision allows sales of medical cannabinoid products to persons age 18 to 20 by a registered retail establishment that is approved to sell medical cannabinoid products.

Provision that strictly conforms to the state law

(C) **Age verification.** Before any sale of approved products, the registered retail establishment must verify by means of government-issued photographic identification containing the bearer's date of birth that the purchaser is at least twenty-one (21) years of age.

Provisions that exceed state law

(D) **Signage.** Notice of the legal sales age, age verification requirement, and possible penalties for underage sales must be posted prominently and in plain view at all times at each location where approved products are offered for sale. The required signage, which will be provided to the retail establishment by the city, must be posted in a manner that is clearly visible to anyone who is, or is considering, making a purchase.

(E) **No admittance of any person under age 21.** No person shall sell or offer for sale any approved products or medical cannabinoid products, except in registered retail establishments that prohibit persons under the age of 21 from entering at all times.

Provision that strictly conforms to the state law

Businesses licensed or endorsed to sell medical cannabinoid products may allow admittance to persons under age 21 who are enrolled in the medical registry program for the sole purpose of purchasing medical cannabinoid products pursuant to Minn. Stat. § 342.24.

Provisions that exceed state law

(F) **Sale of lower-potency hemp edibles restricted to registered cannabis retailers.** Lower-potency hemp edibles must only be sold at registered cannabis retail business.

⚠ Provisions that exceed state law

(G) **Proximity to youth-oriented facilities.** No lower-potency hemp edible retailer may be located within [1,000] feet of a youth-oriented facility, as measured by the shortest line from the property line of the space to be occupied by the proposed licensee to the nearest property line of a youth-oriented facility.

(H) **Proximity to other registered lower-potency hemp edible retailers or cannabis retailers.** No lower-potency hemp edible retailer may be located within [2,000] feet of any other existing registered lower-potency hemp retailer or registered cannabis retail business, as measured by the shortest line from the property line of the space to be occupied by the applicant for a lower-potency hemp edible registration to the nearest property line of the existing lower-potency hemp edible retailer or registered cannabis retail business.

(I) **Cannabis retailer distance restrictions.**

(1) No registered cannabis retail business may be located within 1,000 feet of a school as measured by the shortest line from the property line of the space to be occupied by the proposed retail establishment to the nearest property line of a school.

(2) No registered cannabis retail business may be located within 500 feet of a day care, residential treatment facility, or an attraction within a public park that is regularly used by minors, including a playground or athletic field, as measured by the shortest line from the property line of the space to be occupied by the proposed retail establishment to the nearest property line of a daycare, residential treatment facility, or attraction within a public park that is regularly used by minors.

Local Restriction of the Location of Cannabis Retailers

State law allows local jurisdictions to set specific minimum distance requirements between the location of cannabis retail businesses and schools, daycares, residential treatment facilities, and attractions within parks that are regularly used by children. (Minn. Stat. § 342.13 (c)). The language here reflects the language in state law. There is not a similar provision in state law limiting the local jurisdictions' authority to restrict the location of lower-potency hemp edible retailers so there are separate provisions at paragraphs (G) and (H) above prohibiting those businesses from locating within 1,000 feet of a youth-oriented facility and requiring minimum distances between cannabis and lower-potency hemp retailers. The above restrictions do not restrict the location of

Local Restriction of the Location of Cannabis Retailers *(continued)*

medical cannabis combination businesses that sell medical cannabinoid products at retail. A jurisdiction may want to extend these location requirements to those businesses, as well.

Note: Some jurisdictions may choose to enact these minimum distance requirements through their zoning code. However, a zoning code may sometimes be subject to discretion by the zoning board to grant zoning variances or other methods to circumvent the intent of these restrictions. As such, setting the minimum distance requirements in the retail sales registration ordinance does not allow for exceptions to the general rule.

⚠ Provision that exceeds state law

(J) **Cannabis retailer hours of operation.** Sales of approved products at a registered cannabis retail business are only allowed between the hours of 10 a.m. and 9 p.m. seven days per week and may not be open to the public or sell any other products at times when the business is prohibited from selling approved products.

Cannabis Retailer Hours of Operation

State law allows local governments to restrict cannabis retailer hours of operation pursuant to Minn. Stat. § 342.27, subd. 7. This provision only applies to registered cannabis retailers. It does not apply to medical cannabis combination businesses nor to lower-potency hemp edible retailers. It could be broadened to apply to lower-potency hemp edible retailers, but that would mean that anyone selling lower-potency hemp edibles would not be able to be open or sell any other products during the mandatory closure period. While this fits with an overall goal of treating the sale of these intoxicating products similarly, it is likely that there will be pushback since lower-potency hemp edibles are currently sold without any restrictions on hours of operation.

⚠ Provisions that exceed state law

(K) **Instructional program.** Registered retail establishments must ensure that all salesclerks complete a training program on the legal requirements related to the sale of approved products or medical cannabinoid products, and the possible consequences of registration or license violations. Registered retail establishments must maintain documentation demonstrating their compliance and must provide this documentation to the city at the time of renewal, or whenever requested to do so during the registration term.

(L) **Minimum clerk age.** Individuals employed by a registered retail establishment and medical cannabis combination business must be at least 21 years of age to sell approved products and medical cannabinoid products.

Minimum Age for Clerks

State law prohibits cannabis businesses from employing any person under age 21 if the scope of work includes handling cannabis. As such, the law requires that all clerks selling at cannabis retailers would have to be at least 21 to sell products and this provision reflects that requirement (Minn. Stat. § 342.24, subd. 1) Cities and counties may also be interested in establishing a minimum age for employees to sell lower-potency hemp edibles at registered retail establishments. In the commercial tobacco control context, the tobacco industry has acknowledged that peer pressure facing young clerks from their underage peers seeking to purchase products at the counter plays a role in youth access. Establishing a minimum clerk age addresses the peer pressure issue and youth access. This sample language allows individuals under minimum clerk age to work for a lower-potency hemp edible retailer but not engage in sales of approved products. For example, a 20-year-old clerk employed at a grocery store may sell potato chips and soda to a customer, but not lower-potency hemp edibles (including beverages) that are also offered for sale at the same retail establishment.

⚠ Provision that exceeds state law

(M) **Samples prohibited.** No samples of any approved products or medical cannabinoid products may be distributed free of charge or at a nominal cost. The distribution of approved products or medical cannabinoid products as a free donation is prohibited.

Prohibiting Free Samples and the Sampling of Approved Products in Retail Settings

Under Minn. Stat. § 342.46, subd. 7, lower-potency hemp edible retailers are prohibited from distributing or allowing free samples of lower-potency hemp edibles, except when the business is licensed to permit on-site consumption and samples are consumed within its licensed premises. A provision prohibiting all samples would be more protective of public health than state law.

State law also prohibits cannabis retailers from "giving away" cannabis products. (342.09, subd. 1 (b)(8)) While it is unclear whether this provision in state law prohibits giving away products for a nominal cost, as well, local jurisdiction can make clear that no samples are allowed with the provision included in this model ordinance.

⚠ Provisions that exceed state law

(N) **Smoking prohibited.** Smoking is prohibited within the indoor area of any registered retail establishment.

(O) **On-site consumption prohibited.** No registered retail establishment may allow on-site consumption of lower-potency hemp edible products on the premises.

(P) **Sale of other products.** Registered cannabis retail businesses and medical cannabis combination businesses are limited to selling only the products allowed under Minn. Stat. § 342.27 subd. 3 as amended from time to time. The sale of any products other than approved products by registered retailers must comport with all requirements of state law.

(Q) **Child-resistant packaging.** All sales of any approved products and medical cannabinoid products must be packaged in child-resistant packaging. Upon request by the city, a registered retail establishment must provide a copy of the certificate of compliance or full laboratory testing report for the packaging used.

Note

Cannabis retailers are limited in the products they are allowed to sell under state law. (Minn. Stat. § 342.27, subd. 3) Limiting the availability and exposure to lower-potency hemp edibles to cannabis retailers would reduce youth access and would reduce exposure and marketing of the products at the point of sale.

Provisions that strictly conform to the state law

(R) **Advertising restrictions.** Registered retail establishments must follow all advertisement restrictions pursuant to Minn. Stat. § 342.64, as amended from time to time.

(S) **Products that are attractive to underage persons**. No person shall sell or offer for sale any approved products and medical cannabinoid products that are attractive to underage persons.

Products that are attractive to children

Prohibiting products that are intentionally designed and marketed to attract youth has strong potential to subvert youth initiation and use of these products. State law prohibits products that resemble commercially available food product or is "designed to appeal to persons under age 21." (Minn. Stat. § 342.62, subd. 3) The law specifically prohibits the Office of Cannabis Management from approving products that is or appears to be a lollipop or ice cream; bears the likeness or contains characteristics of a real or fictional person, animal, or fruit; are modeled after a type or brand of products primarily consumed by or marketed to children; are similar to certain food products; or are added to a finished food product that does not contain cannabinoids. (Minn. Stat. § 342.06 (d)) Given that many edible products are marketed as gummies and other food products attractive to youth, it is important to ensure these products do not portray images containing cartoons, toys, robots, real or fictional animate creatures, or any likenesses to images, characters, or phrases commonly used to advertise to youth. This includes products that imitate packaging or labeling for candy, cereals, sweets, chips or other foods typically marketed to youth.

Provision that exceeds state law

(T) **Coupon and price promotion.** No registered retail establishment may accept or redeem any coupon, price promotion, or other instrument or mechanism, whether in paper, digital, electronic, mobile, or any other form, that provides any approved products to a consumer at no cost or at a price that is less than the non-discounted, standard price listed by a retailer on the item or on any shelving, posting, advertising, or display at the location where the item is sold or offered for sale, including all applicable taxes.

Product Discounts

The price of these cannabis and lower-potency hemp edible products, like any product promotion strategy, directly affects consumption levels, particularly among price-sensitive consumers, such as people with lower incomes, including youth and young adults. For example, the commercial tobacco industry devotes billions of dollars per year to innovative pricing strategies designed to entice new customers to purchase their products and to discourage current users from quitting. Jurisdictions, in turn, can prohibit the redemption of such price promotions and coupons to negate industry discount marketing strategies, which has been shown in the commercial tobacco control space to be an effective point-of-sale regulation in curbing youth initiation and use.

Note: This provision does not apply to sale of medical cannabinoid products.

⚠ Provision that exceeds state law

(U) **Flavored product.** No person shall sell or offer for sale any flavored products intended to be inhaled as smoke, aerosol, or vapor.

Prohibiting flavored products intended to be smoked or vaped

Flavored products are a common and effective marketing tactic to attract children and youth. This tactic has been extremely successful with commercial tobacco marketing, particularly with electronic cigarettes (vapes). Flavored cigarettes have been banned across the United States since 2009 and many flavored e-cigarettes have been banned at the federal level, along with the many jurisdictions in Minnesota and across the nation that prohibit the sale of flavored commercial tobacco products. The Office of Cannabis Management will have the authority to approve or deny classes of cannabis products, including flavored products for smoking or vaping. It is unknown what the OCM will do with this class of products, however, local jurisdictions *may* have the authority to enact stricter restrictions and prohibit flavored cannabis products that may be smoked or vaped. This approach may be particularly attractive to Minnesota jurisdictions that have already prohibited or are considering prohibiting the sale of flavored commercial tobacco products.

Provision that strictly conforms to the state law

(V) **Potency and amount per sale transaction.**

(1) Registered cannabis retail businesses may sell or offer for sale approved products that comply with potency limits in accordance with Minn. Stat.§ 342.27, subd. 2, c, d, and e, as amended from time to time.

(2) Lower-potency hemp edible retailers and cannabis retailers may sell or offer for sale lower-potency hemp edible products that comply with potency limits in accordance with Minn. Stat.§ 342.46, subd. 6, as amended from time to time.

Section 8. Temporary Cannabis Events.

Provisions that exceed state law

(A) No sales of approved products are allowed at temporary cannabis events.

(B) No use of approved products is allowed at temporary cannabis events.

Section 9. Compliance Checks and Inspections.

(A) All registered retail establishments must be open to inspection by authorized city officials or their designees during regular business hours.

(B) In accordance with Minn. Stat. § 342.22, subd. 4, city will conduct compliance checks of every retail establishment with a retail registration issued by the city. The checks will assess compliance with age verification requirements and all provisions of this ordinance.

(C) From time to time, but at least [twice] per year, the city must conduct compliance checks to ensure compliance with all provisions of this ordinance.

(D) In accordance with state law, the city will conduct at least two annual compliance checks that involves participation of a person at least 17 years of age, but under the age of 21 to enter the registered retail establishment to attempt to purchase approved products under the supervision of a law enforcement officer or an employee of the city. Prior written consent from a parent or guardian is required for any person under the age of 18 to participate in a compliance check.

Compliance Checks

State law requires municipalities to conduct age verification compliance checks of both registered cannabis retail businesses and lower-potency hemp edible retailers at least once each calendar year. Cities may, however, require additional compliance checks. For retailer education purposes, and to identify and cite repeat offending retailers, the model language above requires at least two compliance checks per year.

Along with the state minimum requirements for underage compliance checks, the city should adopt inspection and compliance check procedures that test for retailer compliance with all provisions of the ordinance. For example, if a city requires lower-potency hemp edible beverages offered for sale to be stored behind the sales counter, in a locked case or unit not freely accessible to the public, the city should inspect each retailer to ensure compliance with that provision.

Section 10. Responsibility.

All registered medical cannabis combination businesses, cannabis retail businesses and lower-potency hemp edible retailers are responsible for the actions of their employees regarding the sale, offer to sell, and furnishing of approved products or medical cannabinoid products on the licensed and registered premises. The sale, offer to sell, or furnishing of any approved product or medical cannabinoid product by an employee will be considered an act of the registrant.

Section 11. Defenses.

It is an affirmative defense to a violation of this ordinance for a person to have reasonably relied on proof of age as described by state law.

Penalizing Underage Purchase, Use, and Possession and the Use of False Identification

This model ordinance does not include penalties for underage Purchase, Use, and Possession (PUP) nor penalties for the use of false IDs for the following reasons. At its core, a point-of-sale ordinance is intended to regulate the behavior of retailers. Penalizing underage persons detracts from the focus of the retailer regulations and siphons enforcement resources away from the retailers to young consumers, many of whom may struggle with addiction, substance abuse, and mental health issues. There is no strong evidence to support an assertion that PUP penalties are effective in significantly reducing youth use of these products. And while the cannabis and consumer hemp industries are fairly new, especially in Minnesota, PUP laws were historically lobbied for by the commercial tobacco industry to punish youth users while the industry simultaneously targeted, and continues to target, youth to replace an older, sicker, and dying customer base and maintain profits.

Section 12. Violations, Penalties, and Administrative Hearings.

(A) **Violations.**

(1) **Notice.** A person violating this ordinance may be issued, either personally or by mail, an administrative citation from the city that sets forth the alleged violation and informs the alleged violator of their right to a hearing on the matter and how and where a hearing may be requested, including a contact address and phone number.

(2) **Hearings.**

(a) Upon issuance of a citation, a person accused of violating this ordinance may request in writing a hearing on the matter. Hearing requests must be made within 10 business days of the issuance of the citation and delivered to the City Administrator or other designated city officer. Failure to properly request a hearing within 10 business days of the issuance of the citation will terminate the person's right to a hearing.

(b) The city Administrator or other designated city officer will set the time and place for the hearing. Written notice of the hearing time and place will be mailed or delivered to the accused violator at least 10 business days prior to the hearing.

(3) **Hearing officer.** The City Council will designate a hearing officer. The hearing officer will be an impartial employee of the city or an impartial person retained by the city to conduct the hearing.

(4) **Decision.** A decision will be issued by the hearing officer within 10 business days of the hearing. If the hearing officer determines that a violation of this ordinance did occur, that decision, along with the hearing officer's reasons for finding a violation and the penalty to be imposed, will be recorded in writing, a copy of which will be provided to the city and the accused violator by in-person delivery or mail as soon as practicable. If the hearing officer finds that no violation occurred or finds grounds for not imposing any penalty, those findings will be recorded and a copy will be provided to the city and the acquitted accused violator by in-person delivery or mail as soon as practicable. The decision of the hearing officer is final, subject to an appeal as described in **Section 12 (A)(6)** of this ordinance.

(5) **Costs.** If the citation is upheld by the hearing officer, the city's actual expenses in holding the hearing up to a maximum of [$1,000] must be paid by the person requesting the hearing.

(6) **Appeals.** Appeals of any decision made by the hearing officer must be filed in [____] County district court within 10 business days of the date of the decision.

(7) **Continued violation.** Each violation, and every day in which a violation occurs or continues, will constitute a separate offense.

(B) **Administrative penalties.**

(1) **Registrants.** Any registrant cited for violating this ordinance, or whose employee has violated this ordinance, will be charged an administrative fine of [$300] for a first violation; [$600] for a second offense at the same registered premises within a 36-month period; and [$1,000] for a third or subsequent offense at the same location within a 36-month period from the first violation. Upon the third violation, the registration will be suspended for a period of not less than [30] consecutive days and may be revoked. Upon a fourth violation within a 36-month period from the first violation, the registration will be revoked..

(2) **Registration suspension.** In accordance with Minn. Stat. § 342.22, subd. 5, the city will suspend the retail registration of any registered retail establishment for 30 days for violations of this ordinance or if the operation of the business poses an immediate threat to the health or safety of the public.

(3) **Retail establishment operating without a registration.** Pursuant to Minn. Stat. § 342.22, subd. 5(e), any retail establishment found to be making or attempting to make any sales to a customer or patient without a valid retail registration will be charged a civil penalty of $2,000 for each violation.

(C) **Tobacco retail licensees.** In accordance with Minn. Stat. § 461.12, subd. 2a, a tobacco retail license will be suspended for no less than seven (7) days and may be revoked for certain cannabis-related violations by the licensed tobacco retailer on the licensed premises.

(D) **Statutory penalties.** If the administrative penalties for violations of this ordinance authorized to be imposed by Minn. Stat. Chapter 342, as amended from time to time, differ from those established in this ordinance, then the higher penalty will prevail.

(E) **Complaints submitted to the Office of Cannabis Management.** In accordance with Minn. Stat. § 342.13 (h), any violations of this ordinance will be submitted as complaints to the Office of Cannabis Management.

Section 13. Severability.

If any section or provision of this ordinance is held invalid, such invalidity will not affect other sections or provisions that can be given force and effect without the invalidated section or provision.

Section 14. Effective Date.

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minn. Stat. § 412.191, subd. 4, as amended from time to time.

Chapter 113 - ZONING[1]

Article/Division/Section:

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ARTICLE I - IN GENERAL

Sec. 113-1 - Purpose and intent

The purpose and intent of this chapter is to:

(1) Protect and promote the health, safety, comfort, convenience and general welfare of the people who are citizens of, reside in, transact business in or own property in the city;

(2) Divide the city into zones and districts to restrict and regulate therein the location, construction, reconstruction, alteration and improvements of land and structures thereon;

(3) Promote the orderly development of the residential, business, industrial, recreational, and public uses;

(4) Provide adequate light, air, and convenience of access to property;

(5) Limit congestion in the public rights-of-way;

(6) Prevent overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them;

(7) Provide for the compatibility of different land uses and the most appropriate use of land throughout the city;

(8) Stage development and redevelopment to coincide with the availability of necessary public services;

(9) Protect the character and maintain the stability of residential, business, and commercial and industrial areas within the city, and prohibit uses, buildings, or structures which are incompatible with the character of development in such areas;

(10) Provide adequate privacy;

(11) Provide protection against fire, explosions, obnoxious fumes, and other hazards in the interest of public health, safety and comfort;

(12) Prevent environmental pollution;

(13) Prevent the destruction or improvident exploitation of community resources;

(14) Preserve the value of land and buildings throughout the city;

(15) Provide for the gradual elimination of those uses of land, buildings, structures, and improvements, and of those buildings, structures and improvements, which do not conform to the standards for the areas in which they are located and which may adversely affect the development and the value of property in such areas;

(16) Provide for the regulation and control of such nonconforming buildings, structures, or improvements and uses of land as is necessary or appropriate for the rehabilitation of the areas blighted thereby;

(17) Provide for the enforcement of this chapter, to define and limit the powers and duties of the administrative officers and agencies responsible therefor, and to provide penalties for the violation of the provisions herein contained;

(18) Provide for the wise use and conservation of energy resources; and

(19) Assist in the implementation of the comprehensive city plan.

(Code 1993, § 9-1.01)

State Law reference – General purposes of zoning, Minn. Stats. § 462.357, subd. 1.

Sec. 113-2 - Chapter cumulative

(a) *No consent or permit implied.* Nothing contained in this chapter shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure, facility, improvement or to carry on any trade, industry, occupation or activity.

(b) *Provisions cumulative.* Except as herein provided, the provisions of this chapter are cumulative, both with respect to the provisions herein contained and with respect to other laws and ordinances, not in effect or hereafter ordained or enacted, governing the same subject matters as this chapter. It is noted, however, that the land use districts are mutually exclusive in that uses permitted include only those listed and are not cumulative from district to district. Land uses not listed as permitted are prohibited.

(Code 1993, § 9-1.02(1))

Sec. 113-3 - Definitions

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory building means a subordinate building which is located on the same lot as the main building and the purpose of which is clearly incidental to that of the principal building.

Accessory dwelling unit means a second dwelling unit contained within a single-family

dwelling or within a detached building located on the same lot as a single-family dwelling. This definition includes accessory dwelling units constructed in connection with a private garage, a private garage converted into an accessory dwelling unit, or a newly constructed detached building located on the same lot as a single-family dwelling.

Accessory use means a use incidental or subordinate to the principal use of the same land.

Administrator means the zoning administrator of the city.

Adult uses, defined but not allowed in any district, and includes the following:

(1) *Adult entertainment center* means an enclosed building or a part of an enclosed building, no portion of which enclosed building is licensed to sell liquor, which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals, or the charging of any admission or fee for the viewing of any such activity.

(2) *Adults-only bookstore* means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined in this section, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.

(3) *Adults-only motion picture theater* means an enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined in this section, for observation by patrons therein.

(4) *Massage parlor* means an establishment or place primarily in the business of providing massage services but not a therapeutic massage enterprise as defined in this section.

(5) *Rap parlor* means an establishment or place primarily in the business of providing nonprofessional conversation or similar services for adults.

(6) *Sauna* means an establishment or place primarily in the business of providing a steam bath and massage services.

Affordable apartment building means that at least 50 percent of the units are reserved for persons whose income is no more that 60 percent of the median, an additional 20 percent of the units are reserved for persons whose income is no more that 110 percent of the median and at least ten percent of the units are reserved for persons whose income is no more that 150 percent of the median for the Twin Cities metropolitan area.

Agricultural building means a structure on agricultural land as defined in "farm, rural" of this section designed, constructed, and used to house farm implements, livestock or agricultural produce or products used by the owner, lessee or sublessee of the building and members of their immediate families, their employees and persons engaged in the pickup or delivery of agricultural produce or products.

Agriculture. See Farm, rural (agriculture) and Farm, suburban (agriculture).

Alley means public right-of-way giving secondary access to abutting property.

Amusement devices means any game of skill or chance requiring the payment of money to play or operate.

Amusement establishment means any building, area, or place whose principal purpose is providing entertainment derived from the operation of amusement devices.

Animal unit means a unit of measure used to compare differences in the production of animal wastes which has a standard as the amount of waste produced on a regular basis by a slaughter steer or heifer.

Animals, domestic pets means dogs, cats, birds, and similar animals commonly kept in a residence. Animals considered wild, exotic or nondomestic, such as bears, lions, wolves, ocelots, and similar animals shall not be considered domestic pets.

Animals, farm, means cattle, hogs, horses, bees, sheep, goats, chickens and other animals commonly kept for commercial food-producing purposes.

Antenna means equipment used for transmitting or receiving telecommunication, television, or radio signals, or other electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes and omni-directional antennas, such as whip antennas.

Antenna, commercial means any pole, spire or structure, or any combination, to which an antenna is, or could be, attached, or which is designed for an antenna to be attached, and all supporting lines, cables, wires and braces erected for the commercial use of information.

Antenna, satellite dish means a parabolic-shaped antenna (including all supporting apparatus) used for receiving television signals, which is located on the ground or exterior of, or outside of, any building or structure.

Apartment means a room or suite of rooms with cooking facilities designed to be occupied as a residence by a single family.

Apartment building. The term "apartment building" means a multifamily dwelling that may be owner occupied or rental, including condominiums and cooperatives.

Apparel and accessory stores means retail stores primarily engaged in selling new clothing, shoes, hats, underwear, and related articles for personal wear and adornment. Uniform stores, furriers, and custom tailors carrying stocks of materials are included.

Applicant means any individual, partnership, corporation, association, society or group seeking and/or receiving a special event permit from the city.

Area, net developable means those lands within a development parcel remaining after the deletion of floodplains, wetlands, slopes greater than 12 percent, and unbuildable easements or rights-of-way.

Attorney means the city attorney of Falcon Heights.

Auto or motor vehicle reduction yard means a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking, crushing, repairing, rebuilding of parts, sale as scrap, storage, or abandonment. (See also Junkyard.)

Automobile repair establishments means establishments primarily engaged in general automotive repair, including the installation, repair, or sale and installation of automotive

exhaust systems and automotive transmissions.

Automobile service station (gas station; service station) means a place where any motor fuel, lubricating oil or grease for operating motor vehicles is offered for sale to the public and deliveries are made directly into motor vehicles. This definition includes greasing, oiling or sale of automobile accessories on the premises. This definition also includes minor repairs and replacement of 1½ tons capacity. This definition includes a private site where sales and service are not offered to the general public but motor fuel is stored and deliveries are made directly to employee, company owned, or leased motor vehicles. Such private service stations shall comply with all standards as outlined in section 113-383.

Barbershops means establishments primarily engaged in furnishing barber and men's hair styling services, including barber colleges.

Basement means a portion of a building between the floor and ceiling, located partly above and partly below grade and having one-half or less of its floor-to-ceiling height below the average grade of the adjoining ground. Underground houses that meet all other requirements of the building code shall not be considered basements.

Beauty shops means establishments primarily engaged in furnishing beauty or hairdressing services. Beauty and cosmetology schools are included in this industry. Beauty shops include beauty and barber shops (combined), beauty culture schools, beauty shops or salons, cosmetology shops or salons, facial salons, hairdressers, manicure and pedicure salons, and unisex hairdressers.

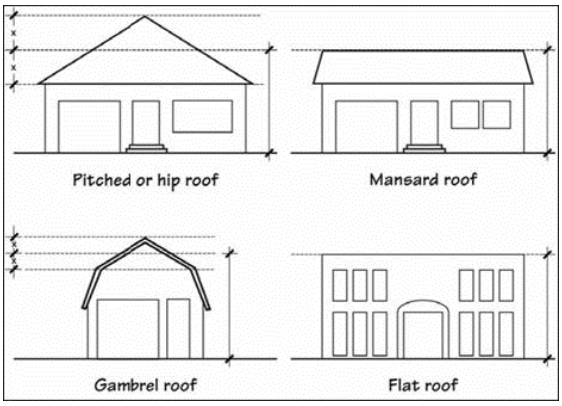
Boardinghouse means a building other than a motel or hotel where, for compensation and by pre-arrangement for definite periods, meals or lodging are provided for three or more unrelated persons.

Building means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of any person, animal, or property of any kind. When any portion thereof is completely separated from every other part thereof by area separation, each portion of such building shall be deemed as a separate building.

Building code means the Minnesota State Building Code as adopted by the city.

Building height means the vertical distance between the average grade level at the building line and the uppermost point on a flat roof, to the mean distance of the highest gable on a pitched, hip, or gambrel roof, to the deck line of a mansard roof, and to the uppermost point on all other roof types.

Middle line on images for pitched/hip and gambrel roofs denotes mean distance. Image for reference only. Refer to city Code for complete definition.



Building official means the officer or other designated authority, certified by the state, charged with the administration and

enforcement of the Minnesota State Building Code, or his or her duly authorized representative.

Building setback means the minimum horizontal distance between the building and the lot line.

Building setback line means a line within a lot parallel to a public right-of-way line, a side or rear lot line, a bluff line, or a high water mark or line, behind which buildings or structures must be placed.

Business means any occupation, employment, or enterprise wherein merchandise is exhibited or sold, or where services are offered for compensation.

Cable and other pay television services means establishments primarily engaged in the dissemination of visual and textual television programs, on a subscription or fee basis. Establishments which are primarily engaged in cable casting and which also produce taped program materials are included.

Cannabis retail establishment means a cannabis business with a license or endorsement authorizing the retail sale of cannabis flower, plants, cannabis products, and lower-potency hemp products.

Carport means an automobile shelter having one or more sides open.

Cellar means that portion of the building having more than one-half of the clear floor-to-ceiling height below the average grade of the adjoining ground. Underground buildings that meet all other requirements of the building code shall not be considered cellars.

Church means a building, together with its accessory buildings and uses, where persons regularly assemble for religious worship and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.

Club or *lodge* means a nonprofit association of persons who are bona fide members paying annual dues, and the use of their premises being restricted to members and their guests. Serving of alcoholic beverages to members and their guests may be allowed providing such serving is secondary and incidental to the operation of a dining room for the purpose of serving food and meals.

Commercial art services means establishments primarily engaged in providing commercial art or graphic design services for advertising agencies, publishers, and other business and industrial users.

Commercial automobile repair means the replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine, transmission, or differential; incidental body and fender work, minor painting and upholstering service when said service is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross vehicle weight.

Commercial food producing farm operations. See Farm, rural.

Commercial photography services means establishments primarily engaged in providing commercial photography services for advertising agencies, publishers, and other business and industrial users.

Commercial recreation means bowling alley, cart track, jump center, golf, pool hall, vehicle racing or amusement, dance hall, skating, tavern, theater, firearms range and similar uses.

Community means the City of Falcon Heights except as otherwise indicated.

Comprehensive municipal plan means the policies, statements, goals, and interrelated plans for private and public land and water use, transportation and community facilities, including recommendations for planned execution, documented in texts, ordinance, code and maps, which constitute the guide for the future development of the community or any portion of community, as on file with the city planning commission. This shall include the city comprehensive plan and all subsequent amendments, additions, and elements developed as per requirements of the Metropolitan Land Planning Act (Minn. Stats. §§ 473.851—473.871)

Computer programming, and data processing services means establishments primarily engaged in providing computer programming and data preparation and processing services. Establishments of this industry perform a variety of additional services, such as computer software design and analysis; modifications of custom software; and training in the use of custom software. Also included are application software programming, computer code authors, computer programs or systems software development (custom), computer software writers (freelance), software programming, calculating service, computer time-sharing, data entry, data processing, data verification, keypunch, leasing of computer time, optional scanning, rental of computer time, service bureaus (computer), and tabulating.

Conditional use means a use which is generally appropriate in a specified zoning district but requires special planning considerations and, in certain instances, unusual and extraordinary limitations peculiar to the use for the protection of the public health, safety and welfare or the integrity of the Falcon Heights comprehensive plan.

Condominium. See Dwelling, multiple or apartment building.

Convenience store means a retail establishment that generally sells a limited range of food products, nonprescription drugs, candy and other perishable goods. This includes soda and similar beverage dispensing and food products, which can be heated and/or prepared on site.

Council means the governing body of the City of Falcon Heights, Minnesota.

Curb level means the grade elevation of the curb in front of the center of the building. Where no curb has been established, the city engineer shall determine a curb level or its equivalent for the purpose of this chapter.

Dance studios, schools and halls means establishments primarily engaged in operating dance studios, schools, and public halls or ballrooms.

Depth of lot means the horizontal distance between the frontage right-of-way line and rear lot line. On a corner lot, the side with the largest frontage is its depth, and the side with the lesser frontage is its width.

Depth of rear yard means the horizontal distance between the rear building line and the rear lot line.

Development means any manmade change to real estate, including but not limited to construction or reconstruction of buildings, installing manufactured homes or travel trailers, installing utilities, construction of roads or bridges, erection of levees, walls, or fences, drilling, mining, filling, dredging, and storage of materials.

Disposal area, on-site sewage treatment means that ground within the confines of the lot that does not contain buildings and has an elevation of at least 80 inches above the highest known or calculated water table or bedrock formation; does not slope in excess of 13 percent; and meets the requirements of permeability as determined by the rate of water percolation in the

soil.

Dredging means the process by which soils or other surface materials, normally transported by surface water erosion into a body of water, are removed for the purpose of deepening the body of water.

Drinking establishments, bars and taverns means establishments primarily engaged in the retail sale of alcoholic drinks, such as beer, ale, wine, and liquor, for consumption on the premises.

Drive-in means any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where service to the automobile's occupants is offered regardless of whether service is also provided within a building. This shall include, but not necessarily be limited to, the following: car and truck wash, drive-in banking, restaurants where some or all customers may consume their food and/or beverages in an automobile, restaurants providing carryout or delivery service, service stations, parcel pick-up, and similar uses.

Drive-through facility means the use of land, buildings or structures, or parts thereof, to provide or dispense products or services, either wholly or in part, through an attendant or window or automated machine, to persons remaining in motorized vehicles that are in a designated stacking lane. A drive-through facility may be permitted only as an accessory use in combination with a bank of financial institution. A drive-through facility does not include a vehicle washing facility, a vacuum cleaning station accessory to a vehicle washing facility, or an automobile/gasoline service station.

Drugstores/pharmacies means establishments engaged in the retail sale of prescription drugs, proprietary drugs, and nonprescription medicines, and which may also carry a number of related lines, such as cosmetics, toiletries, tobacco, and novelty merchandise. These stores are included on the basis of their usual trade designation rather than on the stricter interpretation of commodities handled. This industry includes drugstores which also operate a soda fountain or lunch counter.

Dwelling means a building or one or more portions thereof occupied or intended to be occupied exclusively for human habitation, but not including rooms in hotels, motels, nursing homes, boardinghouses, nor trailers, tents, cabins, or trailer coaches. (See also Dwelling unit.)

Dwelling, attached, means a dwelling that is joined to another dwelling at one or more sides by a party wall or wall.

Dwelling, detached, means a dwelling that is entirely surrounded by open space on the same lot.

Dwelling, duplex or two-family, means a residential building containing two complete dwelling units.

Dwelling, multifamily, means a residential building, or portion of a building, containing three or more dwelling units which may or may not be served by a common entrance.

Dwelling, single-family, means a residential building containing one detached dwelling unit.

Dwelling, townhouse, means a residential building containing two or more dwelling units with at least one common wall, each unit so oriented as to have all exits directly to the out-of-doors.

Dwelling unit means a residential accommodation including complete kitchen and bathroom

facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one family.

Dwelling unit, attached. See accessory dwelling unit.

Earth-sheltered buildings means any building constructed so that 50 percent or more of the exterior surface is covered or in contact with earth. Exterior surface includes all walls and roof, but excludes garages and other accessory buildings. Earth covering on walls is measured from the floor of the structure's lowest level. Earth covering on the roof must be at least 12 inches deep to be included in calculations of earth covering. Partially completed buildings shall not be considered earth-sheltered buildings. Earth-sheltered buildings are permitted by conditional use permit only.

Eating establishments means establishments primarily engaged in the retail sale of prepared food and drinks for on-premises or immediate consumption. Caterers and industrial and institutional food service establishments are also included in this industry.

Educational institution means a college or university authorized by the state to award degrees.

Electric vehicle means any vehicle that operates either partially or exclusively on electrical energy from an off-board source that is stored on board.

Electric vehicle charger means battery charging equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in an electric vehicle.

Electric vehicle charger-private means an electric vehicle charger with restricted access to the public.

Electric vehicle charger-public means an electric vehicle charger that is publicly available or available to visitors of the primary use.

Electric vehicle supply equipment means any equipment or electric component used in charging electric vehicles at a specific location.

Engineer means the City Engineer of Falcon Heights.

Essential services (governmental uses, building, and storage) means governmental services such as office buildings, garages, temporary open space, open storage when not the principal use, fire and police stations, recreational areas, training centers, correctional facilities, or other essential uses proposed by federal, state, county, local, special districts, and school districts, except that schools shall not be permitted under this provision.

Essential services (public utility uses) means underground or overhead gas, electrical, steam, or water distribution systems, collection, communication, supply, or disposal system including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, or other similar equipment and accessories; but not including buildings or transmission services.

Essential services (public utility uses, transmission services, buildings and storage) means transmission service such as electrical power lines of a voltage of 35 kv or greater, or bulk gas or fuel being transferred from station to station and not intended for en route consumption or other similar equipment and accessories.

Exterior storage (includes open storage) means the storage of goods, materials, equipment,

manufactured products, and similar items not fully enclosed by a building.

Family means an individual, or two or more persons each related by blood, marriage, domestic partnership, adoption, or foster care arrangement living together as a single housekeeping unit, or group of not more than four persons not so related, maintaining a common household.

Farm, rural (agriculture) means a rural farm is a commercial food-producing use on ten or more contiguous acres and as defined under a portion of the Minnesota Agricultural Property Tax Law (Minn. Stats. § 273.111).

Farm, suburban (agriculture) means a suburban farm is a noncommercial food-producing use primarily intended for the use of the residents, and usually on less than ten contiguous acres. Suburban agricultural uses may include production of crops such as fruit trees, shrubs, plants, flowers, vegetables, and domestic pets.

Farmer's market means an open-air public market at which vendors sell farm products directly to consumers.

Feed lot means the place of housing or feeding of livestock or other animals for food, fur, pleasure, or resale purposes in yards, lots, pens, buildings, or other areas not normally used for pasture or crops and in which substantial amounts of manure or related other wastes may originate by reason of such feeding of animals.

Fence means a partition, structure, wall, or gate erected as a dividing marker, visual or physical barrier, or enclosure.

Fill means any act by which soil, earth, sand, gravel, rock, or any similar material is deposited, placed, pushed, or transported and shall include the conditions resulting therefrom.

Final plat means a drawing or map of an approved subdivision, meeting all requirements of the subdivision chapter, and in such form as required by the community for purposes of recording.

Financial institution means a place of business where people store, borrow and exchange money including banks, trust companies, savings banks, savings and loan associations, credit unions, check cashing facilities, and loan and thrift companies.

Firearm means any weapon (including starter gun) which will, can, or is designed to, or may readily be converted to expel any missile, projectile, bullet or other mass through a barrel by means of explosives or gas or air or electronic mechanism, and any frame, receiver, muffler or silencer of any such weapon, but excluding the following: children's toy guns, "BB" guns, antique firearms, scuba guns, medical instruments, industrial tools such as stud and nail guns and any replica of any firearm which replica cannot, is not designed to, and cannot be readily converted to, expel any missile, projectile, bullet or other mass through a barrel by any means.

Firearm, antique means any firearms (including any firearm with a matchlock, flintlock, percussion cap, or similar type of ignition system) manufactured in or before 1898.

Firearms dealer means a person who is federally licensed to sell firearms and operates a gun shop in which firearms are sold from a permanent business location or any person engaged in the business of repairing firearms or making or fitting special barrels, stocks or trigger mechanisms to firearms.

Flood means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid

accumulation or runoff of surface waters from any source.

Floodplain or *flood prone area* means any land area susceptible to being inundated by water from any source (see Flood).

Flood-proofing means any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floor area means a gross area of the main floor of a residential building measured in square feet and not including an attached garage, breezeway, or similar attachment.

Floor area gross means the sum of the gross area of the various floors of a building measured in square feet. The basement floor area shall not be included unless such area constitutes a story.

Floor area ratio means the numerical value obtained through dividing the gross floor area of a building by the net area of the lot or parcel of land on which such building are located.

Floor plan, general, means a graphic representation of the anticipated use of the floor area within a building or structure.

Florists means establishments primarily engaged in the retail sale of cut flowers and growing plants. This excludes retail nurseries and lawn and garden supply stores.

Food stores means retail stores primarily engaged in selling food for home preparation and consumption. Included are grocery and convenience food stores, meat and fish markets, fruit and vegetable markets, candy, nut, and confectionery stores, dairy products stores, retail bakeries, retail coffee stores, spice and herb stores, retail water and mineral water stores, and vitamin food stores.

Footing means the foundation below frost line as prescribed by the building code.

Frontage means that boundary of a lot that abuts a public street or private road.

Fuel dealers means establishments primarily engaged in the retail sale of fuel oil, liquefied petroleum gas (bottle gas), and coal and wood dealers.

Garage, private, means a detached accessory building or portion of the principal building, including a carport, which is used primarily for the storing of passenger vehicles, trailers, recreational vehicles, or farm trucks.

Garage, public, means a building or portion of a building, where vehicles are kept for remuneration or hire and in which any sale of gasoline, oil, and accessories is only incidental to the principal use.

Garment pressing, and agents for laundries and dry cleaners means establishments primarily engaged in providing laundry and dry cleaning services but which have the laundry and dry cleaning work done by others. Establishments in this industry may do their own pressing, finishing work, alterations and incidental repairs.

Governing body means the city council of the City of Falcon Heights, Minnesota.

Group home, large, means a state licensed residential facility serving from seven through 16 persons or a licensed day care facility serving from 13 through 16 persons.

Gun shop means a building or a portion of a building occupied by a firearms dealer that has devoted some portion of its floor area to the sale of firearms or ammunition.

Hardware stores means establishments primarily engaged in the retail sale of a number of basic hardware lines, such as tools, builders' hardware, paint and glass, housewares and household appliances, and cutlery.

Health care, offices and clinics means establishments of health practitioners engaged in furnishing medical, surgical and other health services to persons, but does not include inpatient health care services. Included are individual practitioners, group clinics in which a group of practitioners are associated for the purpose of carrying on their profession, and clinic which provide the same services through practitioners that are employees. Practitioners may or may not be licensed or certified, depending on state law.

Home furnishing; appliance and equipment stores means retail stores selling goods used for furnishing the home such as furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, other household electrical and gas appliances, radios, televisions, computers and software, consumer electronics, prerecorded audio and video tapes and discs, music, and musical instruments. Establishments selling electrical and gas appliances are included in this group only if the major part of their sales consists of articles for home use.

Home occupation means an occupation carried on in a dwelling unit by the resident thereof, provided that the use is limited in extent and incidental and secondary to the use of the dwelling unit for residential purposes and does not change the character thereof.

Hotels and motels means commercial establishments, known to the public as hotels, motor hotels, motels, or tourist courts, primarily engaged in providing lodging, or loading and meals, for the general public. Hotels which are operated by membership organizations and open to the general public are included in this industry. Also included are auto courts, bed and breakfast inns, cabins and cottages, casino hotels, hostels, hotels (except residential), inns (furnishing food and lodging), motels, recreational hotels, resort hotels, seasonal hotels, ski lodges and resorts, tourist cabins, and tourist courts.

Institutional housing means housing for students, nurses, the mentally ill, infirm, elderly, physically retarded, and similar housing of a specialized nature.

Junkyard means an area where discarded or salvaged materials are bought, sold, exchanged, stored, baled, cleaned, packed, dissembled, or handled, including but not limited to scrap iron and other metals, papers, rags, rubber products, bottles, and used building materials. Storage of such material in conjunction with a permitted manufacturing process when within an enclosed area or building shall not be included.

Kennel, commercial, means any place where four or more of any type of domestic pets, over four months of age, are boarded, bred, trained, or offered for sale.

Kennel, private, means any place where four or more of any type of domestic pets, over four months of age, are owned by any member or members of the household.

Land alteration means the excavation or grading of land involving movement of earth and materials in excess of 100 cubic yards.

Land reclamation means the reclaiming of land by depositing material so as to elevate the grade or depositing of a total of more than 50 cubic yards of material per lot or parcel, either by hauling in or regrading the area.

Landscaping means planting trees, shrubs, and turf such as grasses and shrubs.

Laundries, power, means establishments primarily engaged in opening mechanical laundries with steam or other power. Included are family and commercial power laundries, and laundry

collecting and distributing outlets operated by power laundries.

Laundromats, self-serve, means establishments primarily engaged in the operation of coin-operated or similar self-service laundry and dry cleaning equipment for use on the premises, or in apartments, dormitories, and similar locations.

Laundry and garment services means establishments primarily engaged in furnishing laundry and garment services such as the repair, alteration, and storage of clothes for individuals and for the operation of hand laundries. Included are diaper services and dressmaking services.

Loading space means a space, accessible from a street, alley, or way, in or outside of a building, for the use of trucks while loading and unloading merchandise or materials.

Lodging room means a room rented as sleeping and living quarters, but without cooking facilities. In a suite of rooms without cooking facilities, each room which provides sleeping accommodations shall be counted as one lodging room.

Lot means a parcel of land designated by metes and bounds, registered land survey, plat, or other means, and which description is either recorded in the office of the county recorder or registrar of titles or used by the county treasurer or county assessor to separate such parcel from other lands for tax purposes. The word "lot" shall include the words "piece," "parcel," and "plots;" the word "building" includes all other structures of every kind regardless of similarity to buildings; and the phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

Lot area means the area of the horizontal plane within the lot lines.

Lot area, minimum per dwelling unit means the minimum number of square feet or acres of lot area required per dwelling unit.

Lot, buildable, means a lot which meets or exceeds all requirements of the city land use and development ordinances without the necessity variances.

Lot, corner, means a lot situated at the junction of, and abutting on two or more intersecting streets; or a lot at the point of a deflection in alignment of a single street, the interior angle of which does not exceed 135 degrees.

Lot depth means the mean horizontal distance between the front and rear lines of a lot.

Lot, interior, means a lot other than a corner lot, including through lots.

Lot line means the property line bounding a lot except that where any portion of a lot extends into a public right-of-way or a proposed public right-of-way, the line of such public right-of-way shall be the lot line.

Lot line, front, means that boundary of a lot which abuts a public street or a private road. In the case of a corner lot, it shall be the shortest dimension of a public street. If the dimensions of a corner lot are equal, the front lot line shall be designated by the owner. In the case of a corner lot in a nonresidential area, the lot shall be deemed to have frontage on both streets.

Lot line, rear, means that boundary of a lot which is opposite to the front lot line. If the rear lot line is less than ten feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ten feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot line, side, means any boundary of a lot which is not a front lot line or a rear lot line.

Lot, through and *double frontage* mean:

(1) Any lot other than a corner lot which abuts more than one street. On a through lot, all the street lines shall be considered the front lines for applying this chapter; or

(2) A lake or stream frontage lot having a public road as one lot line and a water body at the opposite lot line.

Lot width means the horizontal distance between the side lot lines of a lot measured at the setback line.

Mailing services means establishments primarily engaged in furnishing services for direct mail advertising, such as creating, producing, and mailing of direct mail advertising. This industry also includes establishments primarily engaged in compiling and selling mailing lists.

Manufacturing, general, means all manufacturing, pounding, processing, packaging, treatment, or assembly of goods or materials which involve a risk of offensive or dangerous noise, odor, or pollution beyond the lot on which the use is located. Such uses include, but are not limited to, the following: sawmill; refineries; commercial feedlots; acid; cement; explosives; flour, feed, and grain milling or storage; meat packing, slaughterhouses; coal or tar asphalt distillation; rendering of fat, grease, lard, or tallow; alcoholic beverages; poisons; exterminating agents; glue; lime; gypsum; plaster of Paris; tanneries; automobile parts; paper and paper products including storage; electric power generation facilities; vinegar works; junkyards; auto reduction yards; foundry; forge; casting of metal products; rock, stone, cement products, poultry keeping, processing and slaughter.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designated for use with or without a permanent foundation when attached to the required utilities.

Manufacturing, limited, means all compounding, processing, packaging treatment, or assembly of goods and materials, provided such use will not involve the risk of offensive odors, glare, smoke, dust, noise, vibrations, or other pollution extending beyond the lot on which the use is located. Such uses include, but are not limited to, the following: lumberyards, machine shops, products assembly, sheet metal shops, plastics, electronics, general vehicle repair (repair garage), body work and painting, contractor shops and storage yard, food and nonalcoholic beverages, signs and displays, printing, publishing, fabricated metal parts, appliances, clothing, textiles, and used auto parts.

Manure means any solid or liquid containing animal excreta.

Massage means any method of pressure on, or friction against, or the rubbing, stroking, kneading, tapping, pounding, vibrating, stimulating, or rolling of the external parts of the human body with the hands or with the aid of any mechanical or electrical apparatus, or other appliances or devices, with or without such supplementary aids as rubbing alcohol, liniment, antiseptic, oil, powder, cream, lotion, ointment, or other similar preparations.

Measured distances means the nearest foot. If a fraction is one-half foot or less, the "integral foot" next below shall be taken.

Medical uses means those uses concerned with the diagnosis, treatment, and care of human beings. These include: hospitals, dental services, medical services or clinic, nursing or convalescent home, orphan's home, rest home, and sanitarium.

Miscellaneous retail establishments means retail establishments which fall into the following categories: drugstores, liquor stores, used merchandise stores (including antiques), miscellaneous shopping goods stores (sporting goods and bicycles, books, stationary, jewelry,

hobby and toys, camera and photographic supplies, gift and novelty, luggage and leather, and sewing), nonstore retailers (catalog and mail order houses, automatic merchandising machine operators, and direct selling establishments), florists, tobacco stores and stands, news dealers and newsstands, optical goods stores and other miscellaneous retail establishments.

Mobile home means a single-family detached dwelling unit designed for yearround occupancy, constructed at a factory or assembly plant and drawn to the site on a permanently attached undercarriage and wheels. "Mobile home" shall not include "trailer (recreational vehicle)" nor shall it include modular or prefabricated dwelling units which meet or exceed the requirements of the Minnesota Building Code.

Mobile home park means any site or tract of land designed, maintained or intended for the placement of two or more occupied mobile homes. "Mobile home park" shall include any building, structure, vehicle, or enclosure intended for use as part of the equipment of such mobile home park.

Mobile storage structures means any assembly of materials which is so designed, constructed or reconstructed to make it portable and capable of movement from one site to another, designed to be used without a permanent foundation, designed with the purpose of storing tangible property and not for occupancy by persons.

Modular or *prefabricated home* means a nonmobile dwelling unit for yearround building site where final installations are made permanently affixing the dwelling unit to the site. Said dwelling unit shall be equivalent to a unit constructed on the site, meeting all requirements of the Minnesota Building Code. The term includes "manufactured" homes built in conformance to Minn. Stats. §§ 327.31—327.33.

Motion picture theaters means commercially operated theaters primarily engaged in the indoor exhibition of motion pictures.

Motor courts, motor hotel or motel means a building or group of buildings other than a hotel used primarily as a temporary residence of a motorist.

Municipality means the City of Falcon Heights.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM (flood insurance rate map) or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

Nit means a unit of measurement for luminance. The total amount of light emitted from a sign divided by the surface area of the sign (candelas per square meter).

Noise, ambient, means the all-encompassing noise associated with a given environment, being either a composite of sounds transmitted by any means from many sources near and far or a single predominant source.

Nominal five-acre parcel means a five-acre parcel not reduced by more than ten percent due to road right-of-way dedication.

Nonconforming use or *lot* means any legal use or lot 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.

Nudity means the showing of the human male or female genitals, pubic area or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state.

Nursery, day, means a use where care is provided for three or more children under kindergarten age for periods of four hours or more per day for pay.

Nursery, landscape, means a business growing and selling trees, flowering and decorative plants, and shrubs which may be conducted within a building or without (commercial production).

Nursing home means a building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the state as provided by law.

Office uses means those commercial activities that take place in office buildings, where goods are not produced, sold, or repaired, including, but not limited to, banks, professional offices, governmental offices, insurance offices, real estate offices, telephone exchanges, utility offices, radio broadcasting, and similar uses.

Official control means legislatively defined and enacted policies, standards, precise detailed maps, and other criteria, all of which control the physical development of a municipality or a county, or any part thereof, or any detail thereof, and the means of translating into ordinances all or any part of the general objectives of the comprehensive municipal plan. Such official controls may include, but are not limited to, ordinances or the code establishing zoning, subdivision controls, site plan regulations, sanitary codes, building codes, housing codes, and official maps.

Official map means a map adopted in accordance with the provisions of Minn. Stats. § 462.59.

Open sales lots means lands devoted to the display of goods for sale, rent, lease, or trade, where such goods are not enclosed within a building.

Open storage means storage of any material outside of a building.

Outdoor means activity conducted outside of a permanent structure or building.

Owner means all persons with an interest in a property as fee simple owner, life estate holder, encumbrancer, or otherwise.

Paint, glass, and wallpaper stores, retail, means establishments engaged in selling primarily paint, glass, and wallpaper, or any combination of these lines, to the general public. While these establishments may sell primarily to construction contractors, they are known as retail in the trade. Establishments which do not sell to the general public or who are known in the trade as wholesale are excluded.

Parking space means a suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store one standard automobile.

Pawn shop, defined but not allowed in any district. A business which loans money on deposit or pledge of personal property, or other valuable thing, or which deals in the purchasing of personal property or other valuable thing on condition of selling the same back again at a stipulated price, or which loans money secured by chattel mortgage on personal property, taking possession of the property or any part thereof so mortgaged.

Pedestrian way means a public or private right-of-way across or within a block or tract, to be used by pedestrians.

Performance standards means the minimum development standards as adopted by the governing body and on file in the office of the zoning administrator.

Person means any person, association, partnership, firm, business trust, corporation or company.

Personal wireless services means commercial mobile services, unlicensed wireless services, and common carrier wireless exchange services.

Photocopying and duplicating services means establishments primarily engaged in reproducing text, drawings, plans, maps, or other copy, by blueprinting, photocopying, mimeographing, or other methods of duplication other than printing or microfilming.

Photographic studios, portrait, means establishments primarily engaged in still or video portrait photography for the general public.

Photovoltaic system means an active solar energy system that converts solar energy directly into electricity.

Planning commission means the duly appointed planning commission of the city.

Porch means a roofed, open area attached to a building with direct access to and from the building to which it is attached.

Precious metal dealer means any person, who, either as principal or agent, engages in the business of buying coins or secondhand items containing precious metal, including, but not limited to, jewelry, watches, eating utensils, candlesticks, and religious and decorative objects; excluding businesses which deal only in coins and not other precious metals.

Precious metal item means an item made in whole or in part of metal and containing more than one percent by weight of silver, gold or platinum.

Precious metals means silver, gold, and platinum.

Principal structure or use means one which determines the predominant use as contrasted to accessory use or structure.

Proprietary school means any private business, trade, or correspondence school operated for a profit or charging tuition that is licensed by the state under Minn. Stats. ch. 141.

Protective or restrictive covenant means a contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

Public land means land owned and/or operated by a governmental unit, including school and other special districts.

Public utility means persons, corporations, or governments supplying gas, electric, transportation, water, sewer, or landline telephone service to the general public. For the purpose of this chapter, personal wireless services shall not be considered public utility uses, and are defined separately.

Radio broadcasting stations means establishments primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial religious, educational, and other radio stations. Also included are establishments primarily engaged in radio broadcasting and which produce radio program materials.

Recreation equipment means play apparatus such as swing sets and slides, sandboxes, poles for nets, unoccupied boats and trailers not exceeding 25 feet in length, picnic tables, lawn chairs, barbecue stands and similar equipment or structures, but not including tree houses, swimming pools, playhouses exceeding 25 square feet in floor area, or sheds utilized for storage of equipment.

Recreational vehicle means any vehicle or structure designed and used for temporary, seasonal human living quarters which meets all of the following qualifications:

(1) It is not used as the permanent residence of the owner or occupant;

(2) It is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;

(3) It is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities;

(4) Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained self-propelled truck chassis mounted vehicles providing living accommodations.

Renewable energy easement means an easement that limits the height or location, or both, of permissible development on the burdened land in terms of a structure or vegetation, or both, for the purpose of providing access for the benefited land to wind or sunlight passing over the burdened land.

Renewable energy system means a solar energy or wind energy system. Passive systems that serve dual functions, such as greenhouses or windows, are not considered renewable energy systems.

Research laboratory means an establishment or other facility for carrying on an investigation in the natural, physical, or social sciences, which may include engineering and product development. This definition does not include research laboratories operated by a school or educational institution. Research laboratories owned or operated by schools or educational institutions shall be defined as schools.

Retail business uses means stores and shops selling personal carriers or goods over a counter.

Roadside sales stand means a structure used only for the display and sale of products with no space for customers within the structure, on a seasonal basis.

Roof pitch means the final exterior slope of a building roof typically, but not exclusively, expressed as a ratio of the distance, in inches, of vertical "rise" to the distance, in inches, of horizontal "run," such as 3:12, 9:12, 12:12.

Sadomasochistic abuse means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

Sale, garage, means a sale of used household and personal items conducted on residential premises, where the property sold consists of items owned by the occupant of the premises at which the sale takes place, or by friends of such occupant, and where the sale is conducted by such occupant or friends. Items for sale shall not have been purchased for resale or received on consignment for the purpose of resale.

Sale, residential boutique means the sale of handcrafted items conducted on residential

premises, where the items sold are made by the occupant of the premises at which the sale takes place, or by friends of such occupant, and where the sale is conducted by said occupant or friends of such occupant. Items for sale shall be made in the home and not purchased for resale from any retail or wholesale business source nor received on consignment for the purpose of resale.

Sale, sidewalk, means the selling of goods by a business proprietor just outside of the public customer entrance of the proprietor's business where the merchandise sold outside is similar to what is ordinarily sold inside the abutting business and the sales are managed and operated by the abutting business proprietor.

School means a building used for the purpose of elementary, middle (junior high) or secondary (high school) education, public or private, which meets all the requirements of compulsory education laws of the state.

School (proprietary) means any private business, trade or correspondence operated for a profit or charging tuition that is licensed by the state under Minn. Stats. ch. 141.

Screening means earth mounds, berms or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers); used in combination or singularly, as to block direct visual access to an object throughout the year. Approval by the city council of all site and construction plans prior to development of construction or installation of any screening is required.

Secondhand goods store means any store engaged in the business of selling or receiving tangible personal property which has been previously used, rented, owned or leased, but excluding stores which engage in the sale of any used: automobiles; electronic equipment such as stereos, cameras, computers, televisions, audio and video equipment, and similar equipment or appliances; jewelry and precious gems; or guns. Stores which engage in any pawning activity whatsoever fall within the definition of "pawn shop" and shall not be included within the definition of "secondhand goods store."

Secretarial and stenographic services means establishments primarily engaged furnishing secretarial, typing, word processing, resume writing, and court reporting services. This category also includes the services of editing, letter writing, and proofreading.

Setback yard means the minimum horizontal distance between a structure and street right-of-way, lot line, or other reference point as provided by ordinance. Distances are to be measured perpendicularly from the property line to the most outwardly extended portion of the structure.

Sexual conduct means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's unclothed genitals, pubic area, buttocks or, if such person is a female, her breast.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Shooting gallery means a covered shooting range equipped with targets for practice with firearms.

Shopping center means any grouping of two or more principal retail uses whether on a single lot or on abutting lots under multiple or single ownership.

Sign means a display, illustration, structure, or device which directs attention to an object, product, place, activity, person, institution, organization, or business.

(1) *Sign, advertising*. A sign that directs attention to a business or profession or commodity, service, or entertainment not sold or offered upon the premises, where such sign is located or to which it is attached.

(2) *Sign area*. The entire area within the continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part of border of the sign. The maximum square footage of multifaced signs shall not exceed two times the allowed square footage of a single-faced sign.

(3) *Sign, business*. A sign that directs attention to a business or profession or to the commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is attached.

(4) *Sign, courtesy bench*. A sign which is affixed to a courtesy bench or shelter.

(5) *Sign, dynamic display.* Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure or any other component of the sign. This includes displays that incorporate technology or methods allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components as well as any rotating, revolving, moving, flashing, blinking or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, digital ink or any other method or technology that allows the sign face to present a series of images or displays.

(6) *Sign, flashing*. An illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.

(7) *Sign, ground*. A sign which is supported by one or more uprights, poles, or braces in or upon the ground.

(8) *Sign, identification*. A sign which identifies the inhabitant of the dwelling or occupant of a building.

(9) *Sign, illuminated*. A sign which is lighted with an artificial light source.

(10) *Sign, motion*. A sign that has moving parts or signs which produce moving effects through the use of illumination.

(11) *Sign, nameplate*. A sign which states the name and/or address of the business, industry, or occupant of the site and is attached to said building or site.

(12) *Sign, pedestal*. A ground sign usually erected on one central shaft or post which is solidly affixed to the ground.

(13) *Sign, permanent*. Any sign on a lot or parcel of land more than 365 consecutive days.

(14) *Sign, real estate*. A sign offering property (land and/or buildings) for sale, lease, or rent.

(15) *Sign, roof*. A sign erected upon or above a roof or parapet of a building.

(16) *Sign, shopping center or industrial park*. A business sign designating a group of shops or offices (more than three).

(17) *Sign, structure*. The supports, uprights, braces, and framework of the sign.

(18) *Sign, temporary or seasonal*. A sign placed on a lot or parcel of land for a period not to exceed 90 days out of any 12-month period.

(19) *Sign, wall*. A sign attached to or erected against the wall of a building with the exposed face of the sign a plane parallel to the plane of said wall.

(20) *Sign, warning*. A sign which warns the public of a danger, or hazard in the immediate vicinity and is obviously not intended for advertising purposes.

Solar means rays from the sun.

Solar access means a view of the sun, from any point on the collector surface, that is not obscured by any vegetation, building, or object located on parcels of land other than the parcel upon which the solar collector is located, between the hours of 9:00 a.m. and 3:00 p.m. Standard time on any day of the year.

Solar collector means a device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar collector surface means any part of a solar collector that absorbs solar energy for use in the collector's energy transformation process. Collector surface does not include frames, supports and mounting hardware.

Solar daylighting means a device specifically designed to capture and redirect the visible portion of the solar spectrum, while controlling the infrared portion, for use in illuminating interior building spaces in lieu of artificial lighting.

Solar energy means radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar energy device means a system or series of mechanisms designed primarily to provide heating, to provide cooling, to produce electrical power, to produce mechanical power, to provide solar daylighting or to provide any combination of the foregoing by means of collecting and transferring solar generated energy into such uses either by active or passive means. Such systems may also have the capability of storing such energy for future utilization. Passive solar systems shall clearly be designed as a solar energy device such as a trombe wall and not merely a part of a normal structure such as a window.

Solar energy easement See "renewable energy easement."

Solar energy system means a device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generating, or water heating.

Solar heat exchanger means a component of a solar energy device that is used to transfer heat from one substance to another, either liquid or gas.

Solar hot water system means a system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, including residential domestic hot water and hot water for commercial processes.

Solar mounting devices means devices that allow the mounting of a solar collector onto a roof surface or the ground.

Solar storage unit means a component of a solar energy device that is used to store solar generated electricity or heat for later use.

Solar system, active means a solar energy system that transforms solar energy into another form of energy or transfers heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar system, building-integrated means an active solar system that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar systems that are contained within roofing materials, windows, skylights, and awnings.

Solar system, grid-intertie means a photovoltaic solar system that is connected to an electric circuit served by an electric utility company.

Solar system, off-grid means a photovoltaic solar system in which the circuits energized by the solar system are not electrically connected in any way to electric circuits that are served by an electric utility company.

Solar system, passive means a solar energy system that captures solar light or heat without transforming it to another form of energy or transferring the energy via a heat exchanger.

Special event means any temporary, outdoor privately-sponsored event open to the general public and held on privately owned property except:

(1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium;

(2) Any event conducted on the campus of the University of Minnesota or the grounds of the Minnesota State Fair;

(3) Special events or activities sponsored by the city;

(4) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, wedding receptions, funerals and funeral processions;

(5) Garage sales and residential boutique sales as regulated in section 113-174;

(6) Block parties and neighborhood meetings;

(7) Any event attended by fewer than 150 persons at one time which does not require any special services and does not involve the sale of alcohol;

(8) Any event that is otherwise regulated by the city through the use of another regulatory manner, such as an interim use permit or conditional use permit; and

(9) The use of traditional public forums as alternative channels of communication by the public, provided that such use is for the free exercise of constitutionally protected activities and does not disrupt or interfere with traffic on public streets or the use of public places by other members of the public.

Special flood hazard area means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the FHBM (Flood Hazard Boundary Map). After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, zone A usually is refined into zones A, AO, AH, A1—30, AE, A99, AR, AR/A1—30, AR/AE, AR/AO, AR/AH, AR/A, VO, or V1—30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

Special services means the exclusive allocation of city resources, including, but not limited to, city personnel, equipment, rights-of-way, property or facilities for use in conjunction with a

specific event or activity, as requested by the host or sponsor of the event, or as requested by or on behalf of any person attending the event, or deemed necessary by city staff in order to maintain public safety. Special services shall include, but not be limited to, any of the following: street closures; requiring police officers to stop or reroute traffic; special police protection; stationing emergency vehicles at or in the immediate vicinity of the event; exclusive use of city streets as a staging area or for event parking; additional street cleaning and garbage removal services; special signage, such as temporary no parking signs; the use of any city building, equipment or other property for any purpose other than the normal daily operations of the city; or the city otherwise providing exclusive services.

Story (floor) means that portion of a building included between the surface of any floor and the surface of the floor next above. A basement shall be counted as a story and a cellar shall not be counted as a story. For purposes of this chapter, a story shall also include each multiple of 12 feet between the ground and eave.

Street means a public right-of-way that affords a primary means of access to abutting property.

Street, collector, means a street that serves or is designed to serve as a trafficway for a neighborhood or as a feeder to a major road or as designated on the comprehensive municipal plan.

Street, major or thoroughfare, means a street which serves or is designed to serve heavy flows of traffic and which is used primarily as a route for traffic between neighborhoods and/or other heavy traffic-generating areas or as designated on the comprehensive municipal plan.

Street, minor, means a street intended to serve primarily as an access to abutting properties.

Street pavement means the wearing or exposed surface of the roadway used by vehicular traffic.

Street width means the width of the right-of-way measured at right angles to the centerline of the street.

Structural alteration means any change, other than incidental repairs, which would affect the supporting members of a building, such as bearing walls, columns, beams, girders, or foundations.

Structure for floodplain management purposes, means a walled and roofed building, including gas or liquid storage tanks, that is principally above ground. The term includes recreational vehicles and travel trailers on site for more than 180 days.

Studio means a facility where students study or practice fine arts, pottery, or martial arts.

Substantial improvement means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a historic structure.

Subdivision means a described tract of land, which is to be, or has been divided into two or more lots or parcels for the purpose of transfer of ownership, building development, or for tax assessment purposes. The term includes resubdivision and where it is appropriate to the context, relates to either the process of subdividing, or to the land subdivided, or to the development for which it is being subdivided.

Substandard structure means any building or structure lawfully existing on the effective date of the ordinance from which this chapter is derived or any amendment thereto which building or structure does not conform with the regulations, including dimensional standards, for the district in which it is located after the effective date of the ordinance from which this chapter is derived or such amendment.

Supper club means a building with facilities for the preparation and serving of meals and where meals are regularly served at tables to the general public. The building must be of sufficient size and design to permit the serving of meals to not less than 50 guests at one time. Intoxicating liquors may be sold on-sale and live entertainment and/or dancing shall be permitted.

Swimming pool means any enclosure in ground or above ground on private property having a water surface area exceeding 100 square feet and a water depth of not less than 1½ feet.

Tanning salons means establishments primarily engaged in providing tanning services to the public through the use of tanning beds, and other tanning equipment.

Tavern or bar means a building with facilities for the serving of beer, wine, set-ups and other alcoholic beverages and may include short order foods.

Television broadcasting stations means establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay televisions services. Included in this industry are commercial, religious, educational, and other television stations. Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.

Therapeutic massage enterprise means a person who operates a business which hires only certified therapeutic massage therapists to provide therapeutic massage to the public. The owner/operator of a therapeutic massage enterprise need not be certified as a therapeutic massage therapist if he or she does not at anytime practice or administer massage to the public.

Tower means any ground- or roof-mounted pole, spire, structure, or combination thereof including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus abovegrade.

Tower, multi-user means a tower that is designed to accommodate the antennas of more than one telecommunications provider, personal wireless service provider or governmental entity.

Tower site means a location on which is or may be located one or more telecommunication radio or television antennas available for connection and use by any person, firm or corporation.

Transportation terminal means truck, taxi, air, bus, train, and mass transit terminal and storage area, including motor freight (solid and liquid) terminal.

Truck stop means a motor fuel station devoted principally to the needs of tractor-trailer units and trucks, and which may include eating and/or sleeping facilities.

Urban farm means the production, distribution and sale of food, excluding the production of poultry, livestock and bees.

Variance means a modification or variation of the strict provisions of this chapter, as applied to a specific piece of property in order to provide relief for a property owner because of undue hardship or particular difficulty imposed upon the property by this chapter. A variance shall normally be limited to height, bulk, density, and yard requirements. A modification in the allowable uses within a district shall not be considered a variance.

Vehicle repair means general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including bodywork, framework, welding and major painting services.

Veterinary means those uses concerned with the diagnosis, treatment and medical care of animals, including animal or pet hospitals.

Video rental stores means establishments primarily engaged in renting recorded videotapes and discs to the general public for personal or household use.

Warehousing means the storage, packing, and crating of materials or equipment, within an enclosed building or structure.

Wholesaling means the selling of goods, equipment, and materials by bulk to another person who in turn sells the same to customers.

Yard setback means the open space of an occupied lot that is not covered by any principal structure.

(1) *Yard, front setback,* means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.

(2) *Yard, rear setback,* means a yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.

(3) *Yard, required setback,* means a yard area which may not be built on or covered by structures because of the setbacks for said structures within the zoning district.

(4) *Yard, side setback,* means a yard between the side line of the lot and the nearest building line.

Zoning district means an area or areas within the city in which the regulations and requirements of this chapter are uniform.

(Code 1993, § 9-1.02(2), subd. 2; Ord. No. 0-91-2, 1-23-1991; Ord. No. 0-91-8, § 1, 5-22-1991; Ord. No. 0-93-06, § 2, 6-23-1993; Ord. No. 0-94-05, § 1, 3-23-1994; Ord. No. 0-95-01, § 1, 5-10-1995; Ord. No. 95-04, § 1, 5-24-1995; Ord. No. 0-97-01, § 2, 2-12-1997; Ord. No. 97-07, § 1, 9-24-1997; Ord. No. 0-99-09, § 1, 12-15-1999; Ord. No. 00-02, § 1, 7-26-2002; Ord. No. 03-02, § 1, 2-12-2003; Ord. No. 05-01, § 1, 1-12-2005; Ord. No. 06-03, § 1, 9-13-2006; Ord. No. 07-03, § 1, 1-10-2007; Ord. No. 08-03, § 1, 8-27-2008; Ord. No. 09-02, § 1, 8-12-2009; Ord. No. 10-06, § 1, 9-8-2010; Ord. No. 12-03, § 1, 5-9-2012; Ord. No. 13-01, § 1, 4-10-2013; Ord. No. 13-02, § 1, 5-22-2013; Ord. No. 13-05, § 1, 11-13-2013; Ord. No. 19-04, § 1, 5-8-2019)

State Law reference – Earth-sheltered buildings defined, Minn. Stats. § 216C.06, subd. 14; zoning provisions related to earth-sheltered buildings, Minn. Stats. § 436.357, subd. 1.

Sec. 113-4 - Application and interpretation

(a) *Interpretation.* In the interpretation and application of the provisions of this chapter, the provisions thereof shall be held to be the minimum requirements for the promotion of the

public health, safety, convenience and welfare of the citizens and residents of the city.

(b) *Conformance.* No structure or improvement shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner that is not in conformity with the provisions of this chapter.

(c) *District uses*. The uses as set out in the provisions for the various districts shall be the uses allowed under this chapter.

(Code 1993, § 9-2.01)

Sec. 113-5 - Nonconforming uses, buildings and structures

(a) *Nonconformities*-. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this chapter, unless:

(1) The nonconformity or occupancy is discontinued for a period of more than one year; or

(2) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.

(b) *Unlawful use, buildings, and structures*. No unlawful use of property existing on the effective date of the ordinance from which this chapter is derived nor any building or structure which is unlawfully existing on such day shall be deemed a nonconforming use or a nonconforming building or structure.

(c) *Nonconforming structures under construction*. Any nonconforming structure that is ready for or under construction on the effective date of the ordinance from which this chapter is derived may be completed and occupied in accordance with the requirements of any valid building permit issued therefor prior to such effective date.

(d) *Change from one nonconforming use to another*. A nonconforming use may be changed only to a use permitted in the district in which it is located; except that if no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification, and provided such change is approved by the city council. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use, all or partially conducted in a building or buildings, may be changed to another nonconforming use only upon determination by the city council, after a public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace and that there is no conforming use available for the building or buildings. In determining relative "detriment," the planning commission shall take into consideration, among other things, traffic-generated, nuisance characteristics, such as emission of noise,

dust, and smoke; fire hazard; and hours and manner of operation.

(e) *Additions and enlargements.*

(1) *Conforming use*. A nonconforming building or structure for a conforming use may be expanded provided that the expansion does not increase the nonconformity of the building or structure and is in compliance with other Code requirements.

(2) *Nonconforming use*. A nonconforming building or structure designed or intended for a nonconforming use may not be added to or enlarged structurally.

(3) *Land*. The nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be expanded, intensified or extended beyond the area it occupies.

(f) *Relocation of building or structure.*

(1) *Requirements.* Whenever an existing building is to be moved from its present location to a location within the city, the person or business association proposing to move said structure should first comply with the following specific requirements:

a. File an application for a permit within 60 days of the moving date with the zoning administrator providing the following information:

1. Location from which structure or building is being moved;

2. Location within the city to which the building or structure is being moved;

3. Construction plans for the building, if available;

4. The site plan for the location in the city upon which the building or structure is going to be placed;

5. Plans and specs which shall include the foundation; exterior repairs and improvements, including windows and doors; roofing, electrical and plumbing modifications; heating systems; and any necessary interior reconstruction decorating, all to be in accordance with applicable building codes and which shall indicate that the structure once moved shall be in reasonable conformance with surrounding property including but not limited to sodding, grading and planting.

b. Upon presentation of this application, deposit the fee as established by the city with the zoning administrator to defray costs incurred by the city in processing the application, inspecting the building and doing whatever else is necessary to determine whether the building conforms with or can be made to conform with existing codes. If any portion of the escrow payment required is not used, the amount remaining shall be returned to the petitioner following satisfactory completion of subsection (f)(1)d. of this section.

c. If the city requires an additional deposit to guarantee any street repairs that may be required following the process of moving the building, deposit such amount up to maximum established by the council with the zoning administrator. Any unused portion of such deposit will be returned to the petitioner following satisfactory completion of subsection (f)(1)d. of this section.

d. Furnish a surety bond to the city in the amount of 1½ times the estimated costs of remodeling, refurbishing or otherwise constructing or reconstructing such building

in accordance with the plans and specifications and the city's building code and such bond shall be further conditioned that work will be completed within 90 days of issuance of the permit. The bond shall operate in favor of the city and shall hold the city harmless from any loss or damage by reason of improper or inadequate work performed by the holder of said license under the provisions of this chapter. In addition, the bond shall set forth that the site will be cleaned up and that all rubbish, material, extra fill, dirt, debris and leftover materials shall be removed within 15 days after the building is moved on to the site.

e. Deposit with the zoning administrator a copy of a certificate of insurance indicating that the petitioner has sufficient insurance to protect the municipality and public from any and all damage that may result either directly or indirectly from the moving of said building.

(2) *Building inspection.* Upon receipt of the application, the zoning administrator shall inform the building inspector who shall inspect the building and be reimbursed for time and travel involved in making such inspection.

(3) *Site alterations.* The city engineer shall determine whether or not drainage of the new site is feasible and available and in connection therewith may require any appurtenances or new installations all of which shall be at petitioner's expense.

(4) *Review of application; approval requirements.* The city council shall review the application and grant the permit if all of the foregoing requirements have been met and so long as the council is satisfied that:

a. The building is not too large to move without endangering persons or property in the city;

b. The building is not in such a state of deterioration or disrepair or is otherwise structurally so unsafe that it could not be moved without endangering persons and/or property in the city;

c. The building is not structurally unsafe or unfit for the purpose for which it is being moved into the city.

(Code 1993, § 9-2.02; Ord. No. 0-89-9, 5-9-1989; Ord. No. 05-03, §§ 1—3, 6-8-2005)

State Law reference – Nonconformities, Minn. Stats. § 462.357, subds. 1c, 1e.

Sec. 113-6 - Lot provisions

(a) *Use of nonconforming lots*. A lot of record existing upon the effective date of the ordinance from which this chapter is derived, which does not meet the requirements of this chapter as to area or width, but which meets all other chapter requirements, may be utilized for single-family detached dwelling purposes provided it is zoned residential and the measurements of such area or width are within 66 2/3 percent of the requirements of this chapter, but said lot of record shall not be more intensively developed unless combined with one or more abutting lots or portions thereof so as to create a lot meeting the requirements of this chapter.

(b) *Building restriction.* Except in the case of planned unit developments (PUDs) as provided for hereinafter, not more than one principal building shall be located on a lot.

(Code 1993, § 9-2.03; Ord. No. 99-05, § 1, 8-25-1999)

Secs. 113-7 – 113-30 - Reserved

ARTICLE II - ADMINISTRATION AND ENFORCEMENT

DIVISION 1 - GENERALLY

Sec. 113-31 - Enforcement; violations; penalties

(a) *Zoning administrator and city attorney*. The zoning administrator, with the assistance of the city attorney, shall have the authority to enforce, and be responsible for the enforcement of this chapter. Any complaint received shall be promptly investigated by the zoning administrator. If the matter cannot be adjusted by the zoning administrator to the satisfaction of the complainant, he or she shall promptly be reported to the city attorney, who shall then proceed to enforce the chapter according to its provisions following approval and receipt of instructions from the city council.

(b) *Violations; cancellation of permits*. If any condition in any permit, including variances and conditional use permits, is violated, the zoning administrator shall serve notice on the owner of the permit that unless the violation is corrected in the time set by the zoning administrator, not to exceed ten days, the permit shall at the expiration of said period be terminated, provided, that if said owner shall within a period of 20 days from the service of said notice, correct the violation, the order shall be stayed until the appeal has been heard. Said notice shall be served either by personal service or by registered or certified mail, the period herein provided shall be extended by three days, not counting Saturdays, Sundays, or legal holidays. If an appeal is filed, it shall be processed as provided in this chapter. If there is no appeal, or if on appeal the zoning administrator is sustained, the permit shall terminate and the zoning administrator shall refer the matter to the city attorney for such action as is required under this chapter.

(c) *Injunctive relief*. The zoning administrator, upon approval of the city council, shall have the authority to petition the district court of the county, or such court as shall have jurisdiction to hear the matter, for injunctive relief against continued violations of any of the provisions of this chapter. It shall be the duty of the city attorney to represent the zoning administrator in the action.

(Code 1993, § 9-15.07)

State Law reference – Zoning violations, Minn. Stats. § 462.362.

Sec. 113-32 - Zoning administrator

(a) *Establishment; appointment.* There is hereby established the office of zoning administrator, which shall be filled by the city administrator unless otherwise appointed by the city council.

(b) *Duties.* The duties of the zoning administrator shall be to:

(1) Administer and enforce the provisions of this chapter either directly or through the building inspector;

(2) Issue building permits;

(3) Issue such other permits as are required by this chapter upon the determination thereof by the proper authority;

(4) Issue certificates of occupancy;

(5) Keep and maintain a permanent record of this chapter, to enter upon such record all amendments thereof, to provide for public inspection thereof at all times, and pursuant to the determination of the council to provide for the distribution or sale thereof;

(6) Keep secure the official land use map and the official zoning map and to make amendments thereof or additions thereto upon adoption thereof, to provide for public inspection thereof during official business hours of the city and pursuant to the determination of the council to provide for the distribution or sale thereof;

(7) Maintain all city plans (comprehensive municipal or guide plan and others) in an up-to-date condition;

(8) Assign conditional and other permit numbers to all land uses in the city which are automatically granted a permit upon enactment of the ordinance from which this chapter is derived; this may be done at such time as existing land uses change, alter, expand, construct, move or otherwise require an amendment due to change following enactment of the ordinance from which this chapter is derived;

(9) Prepare and submit to the planning commission, and the council, if appropriate, applications for building permits, variances, conditional use permits and appeals;

(10) Maintain records of all permits issued, appeals, variances, conditional use permits and the disposition thereof;

(11) Receive, file and forward to the respective official bodies applications for variances, conditional uses and appeals;

(12) Publish and attend to the service of all notices required under the provisions of this chapter and to make or prepare and file affidavits of service thereof;

(13) Refer to the city attorney all violations of this chapter that cannot be handled administratively;

(14) Assure that all building permits comply with the terms of this chapter;

(15) Conduct inspections of buildings and land to determine compliance with the terms of this chapter.

(c) *Discretion; interpretation.* The zoning administrator shall not have the discretion to vary the terms and provisions of this chapter. He or she shall have the power and the responsibility to interpret any provisions of this chapter that may be unclear. In the discharge of this duty the city attorney shall provide advice to him or her upon request. In the making of any such interpretation, the zoning administrator shall set forth a decision in writing, including reasons thereof.

(Code 1993, § 9-15.01)

Sec. 113-33 - Conformity of building plan to regulations

Upon application for a building permit, a detailed site and development plan, if applicable, shall be submitted to the zoning administrator indicating conformance with regulations of this chapter. Plan submission requirements shall be as noted herein and as may be requested by the zoning administrator.

(Code 1993, § 9-2.12)

Sec. 113-34 - Payment of city expenses

All applicants for the issuance of any permit or final plan approval shall pay in addition to the fees and charges for platting, subdividing, rezoning, and the permits for variances for land development or redevelopment within the city, all out-of-pocket expenses incurred by the city in employing the services of any engineer, legal counsel, or other professional consultants with regard to reviewing said plat, subdivision, application for rezoning and conditional use permit or variance.

(Code 1993, § 9-2.14)

Sec. 113-35 - Amendments

(a) *Initiation of amendments.* An amendment to this chapter may be initiated by the city council, the planning commission, or by petition of a property owner whose property would be affected by the proposed amendment.

(b) *Application for amendment.* All applications for amendments initiated by a property owner shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee established by city council resolution and a cash escrow, in an amount determined by the zoning administrator, to reimburse the city for all out-of-pocket costs the city may incur in reviewing the application. When the amendment involves the changing of zoning district boundaries, the application shall be accompanied by an abstractor's certified property certificate listing the property owners within 350 feet of the boundaries of the property to which the amendment relates.

(c) *Public hearing.* When a proposed amendment to this chapter has been properly initiated, the city clerk shall call a public hearing before the planning commission. A notice of the time, place, and purpose of the hearing shall be published in the city's official newspaper at least ten days prior to the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the date of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceeding, provided a bona fide attempt to comply has been made. The planning commission shall conduct the hearing and make a recommendation to the city council.

(d) *Action by city council.* The city council shall not act upon a proposed amendment until it has received the recommendation of the planning commission or until 60 days after the first regular planning commission meeting at which the proposed amendment was considered.

(e) *Consistency with comprehensive plan.* No amendment to this chapter shall be adopted which is in conflict with the city's comprehensive plan.

(f) *Time deadline; approval requirements.* Pursuant to Minn. Stats. § 15.99, an application for an amendment must be approved or denied within 60 days from the date a properly completed application is received by the city unless the time period is waived by the applicant or extended as provided by statute. Approval of an amendment shall require a majority vote of all the members of the city council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or

industrial require a two-thirds majority vote of all members of city council.

(Code 1993, § 9-15.05; Ord. No. 97-06, § 1, 9-24-1997)

State Law reference – Amendments, Minn. Stats. § 462.357, subds. 2 – 4.

Sec. 113-36 - Fees and costs

The zoning administrator or other administrative office having jurisdiction therein shall charge each applicant, petitioner or other person requesting a permit, rezoning or other zoning approval or review such fees as may be prescribed therefor by ordinance or by resolution published in the same manner as an ordinance. Each applicant, petitioner or other person shall also pay all legal, engineering, planning, and similar out-of-pocket costs incurred by the city in connection with the respective matter. The zoning administrator with the approval of the council may require each applicant, petitioner or other person to deposit with the city in escrow a cash amount based on an estimate by the zoning administrator of such fees and costs. Any surplus shall be refunded to and any additional costs paid by the applicant, petitioner or other person. The obligation to pay such fees and costs shall not be affected by the disposition of the matter.

(Code 1993, § 9-15.06)

Secs. 113-37 – 113-60 - Reserved

DIVISION 2 - APPEALS AND VARIANCES

Sec. 113-61 - Board of adjustments and appeals

The city council shall act as the board of adjustments and appeals.

(Code 1993, § 9-15.02)

State Law reference – Board of adjustments and appeals, Minn. Stats. § 462.354, subd. 2.

Sec. 113-62 - Variances

(a) *Definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Practical difficulties means the same as that term defined in Minn. Stats. § 462.357, as may be amended, meaning that the property owner proposes to use the property in a reasonable manner not permitted by this chapter, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include but are not limited to inadequate access to direct sunlight for solar energy systems.

Variance means a modification of or variation from the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter.

(b) *Purpose.* The purpose of this division is to provide the procedure and criteria for variances.

(c) *Application.*

(1) Any owner of property or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a variance, or the duly authorized agent of such appellant, may make application for a variance. The application shall be made on forms prepared by the zoning administrator.

(2) The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is requested, a statement of the ownership interest therein of the applicant and the names and addresses of the owners of all abutting property as listed on the current real estate tax rolls. The application shall be verified.

(d) *Use variances prohibited.* Variances may not be approved for a use that is not allowed in the zoning district where the property is located.

(e) *Review criteria.* The city council shall not approve any variance request unless they find that failure to grant the variance will result in practical difficulties on the applicant, and, as may be applicable, all of the following criteria have been met:

(1) The variance would be in harmony with the general purposes and intent of this chapter.

(2) The variance would be consistent with the comprehensive plan.

(3) That, there are practical difficulties in complying with this chapter.

(4) That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.

(5) That the requested variance is the minimum action required to eliminate the practical difficulties.

(6) Variances shall be granted for earth sheltered construction as defined in Minn. Stats. § 216C.06, subd. 14, when in harmony with this chapter. Variances may be approved for the temporary use of a one-family dwelling as a two-family dwelling.

(f) *Conditions.* The city may attach conditions to the grant of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

(g) *Procedure.*

(1) All applications for variances shall be referred to the planning commission for study and recommendation to the city council.

(2) Within 60 days, the planning commission shall forward its recommendations to the city council; if no recommendation is transmitted within 60 days after referral of the application for variance to the planning commission, the city council may take action without further awaiting such recommendation.

(3) Variances are granted or denied by motion of the city council.

(h) *Termination.* The violation of any condition of the variance shall be the basis for the city council, following a hearing, to terminate the variance. If the property is not used or improvements substantially begun within a period of one year after the decision granting the variance, unless the variance decision provides otherwise, the variance shall be terminated.

Unless the city council specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the planning commission or the city council, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one-year period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by city council. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review and approval of the zoning administrator. Should a second extension of time, or any extension of time longer than one year, be requested by the applicant, it shall be presented to the planning commission for a recommendation and to the city council for a decision.

(Code 1993, § 9-15.03; Ord. No. 11-01, § 1, 7-13-2011)

State Law reference – Variances, Minn. Stats. § 462.357, subd. 6(2).

Secs. 113-63 – 113-82 - Reserved

DIVISION 3 - CONDITIONAL USE PERMITS[2]

Sec. 113-83 - Purpose and public policy

Conditional uses are those uses authorized by this chapter which require special planning consideration due to traffic circulation and access needs or impacts, operational characteristics, proximity to other similar uses, impact on neighboring property, etc., and which therefore need special conditions imposed to establish or control these factors in order to protect the public health, safety and welfare and to assure compliance and harmony with the comprehensive plan of the city. In the enactment of the ordinance from which this chapter is derived, the city recognizes that there are certain uses that, because of their characteristics, limited number, or unique character, cannot be classified into any particular district or districts without providing for such districts extensive regulatory provisions herein. It is also recognized that there may be uses that are not provided for in this chapter. Certain uses, while generally not suitable in a particular zoning district, may, under some circumstances and conditions be suitable. A conditional use permit shall apply to the use and land and not to a particular person or firm; any change in land ownership, lease, rental, occupancy or similar change shall not affect the permit or its conditions except as may be specifically authorized and required by the city. Conditional use permits may be issued for any of the following:

(1) Any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter.

(2) Public utility or public service uses or public buildings in any district when found to be necessary for the public health, safety, convenience or welfare.

(3) To permit the location of any of the following uses in a district from which they are excluded by the provisions of this chapter: library, community center, church, hospital, any institution of an educational, philanthropic or charitable nature, cemetery or mausoleum.

(Code 1993, § 9-15.04(1))

Sec. 113-84 - Application; information required

(a) *Generally; fee*. Any owner of property, or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a conditional use permit; or the duly authorized agent of such applicant, may make application for a conditional use permit; however, any proceedings to classify certain uses as conforming uses may be initiated either by such application or by the city council or by the city planning commission. The application shall be made on forms prepared by the zoning administrator, and filed with him or her. The application shall contain the section number of the chapter which permits the issuance of the permit, a brief statement describing the use and why the applicant feels that it can be permitted, a statement of the ownership interest in the property of the applicant, as well as the additional information required below. An application for a conditional use permit shall be accompanied by payment of a fee as set from time to time by the city council in addition to the regular building permit fee, if any.

(b) *Site plan and graphic or written material; location map, etc.* A site plan and supplementary graphic or written material shall be provided with the application, containing the following information and/or such additional or lesser information as may be required by the zoning administrator:

(1) Name, address, and legal description of project/development.

(2) Location map, showing zoning district boundaries including area within one-half mile of the site.

(3) Name and mailing address of developer/owner and engineer/architect.

(4) Date of plan preparation.

(5) Scale and a north point indicator.

(6) Boundary line of property with their dimensions.

(7) Location identification and dimensions of existing and proposed:

a. Topographic contours of minimum intervals of two feet.

b. Adjacent streets and on-street right-of-way.

c. On-site streets and street right-of-way.

d. All utility and utility right-of-way easements.

e. Lighting plan, showing the lighting of parking areas, walks, security lights and driveway entrance lights.

f. Buildings and structures including:

1. Elevation drawings of all proposed building and structures with dimensions.

2. Elevation, height above mean sea level of all floors and roofs, when structure is sited in an area prone to flooding as determined by the city engineer.

3. Gross square footage of existing and proposed buildings and structures.

4. Exterior finish materials.

5. Type of business, proposed number of employees, and times of operations.

g. All parking facilities.

h. Water bodies and drainage ditches.

i. Fences and retaining walls.

j. Landscape plan, showing size and species of each planting.

k. On- and off-site traffic flow.

l. Parking plan.

(8) Site statistics including square footage, percentage of coverage, dwelling unit density, and percentage of park or open space.

(9) Names and addresses of the owners of all property abutting the subject property, as contained in the current real estate tax rolls, including property located across the street, avenue or alley from the subject property.

(Code 1993, § 9-15.04(2))

Sec. 113-85 - Hearing; development standards

(a) *Public hearing.* The planning commission shall hold a public hearing preceded by ten days' published and mailed notice. Mailed notice should be given to property owners within 350 feet of the property for which the conditional use permit is sought.

(b) *Review of applicant's plan*. The planning commission and/or council shall consider to what extent the applicant's plan minimizes possible adverse effects of the proposed conditional use, what modifications to the plan and what conditions on approval could further minimize the adverse effects of the proposed use.

(c) *General requirements.* The following development standards shall be considered general requirements for all conditional use permits except as hereinafter provided:

(1) The land area and setback requirements of the property containing such a use or activity meet the minimums established for the district.

(2) When abutting a residential use, the property shall be screened and landscaped.

(3) Where applicable, all city, county, state and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.

(4) Signs shall not adversely impact adjoining or surrounding residential uses.

(5) Adequate off-road parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses.

(6) The road serving the use or activity must be of sufficient design to accommodate the proposed use or activity, and such use or activity shall not generate such additional extra traffic as to create a nuisance or hazard to existing traffic or to surrounding land use.

(7) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust and drainage.

(8) All open and outdoor storage, sales and service areas shall be screened from view from public streets and from abutting residential uses or districts.

(9) All lighting shall be designed to prevent any direct source of light being visible from adjacent residential areas or from the public streets.

(10) The use or activity shall be properly drained to control surface water runoff.

(11) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.

(12) The proposed water, sewer and other utilities shall be capable of accommodating the proposed use.

(13) That the proposed use conforms to the comprehensive municipal plan. Such a finding shall be based upon the following considerations:

a. That certain uses may not be considered appropriate within the interior of residential neighborhoods because of noise, traffic, or other conditions that would tend to affect adversely the residential character of the neighborhood and possibly reduce property values. These uses are considered appropriate only on the periphery of residential neighborhoods, or under such conditions as the planning commission may deem proper. The uses may represent "buffer" uses for those areas lying between single-family dwellings and nonresidential uses.

b. That certain uses are considered, as a rule, unsuitable in business districts because of inherent business characteristics (e.g. traffic, noise, glare), proximity to residential areas, the fact that they tend not to serve nearby residential areas, or may adversely affect nearby permitted business uses.

c. That certain temporary uses that are generally not suitable within a particular zoning district are potentially suitable on a temporary basis. This may be due to the lack of development on existing property, to a short-term need (such as highway construction), or to a limited degree of adverse effects upon adjacent land use.

(d) *Exceptions.* These standards shall be strictly applied unless it is found in the particular case that the community safety, health and welfare can as well or better be served by modifying them. Any special requirements applicable to the particular case that are imposed elsewhere in this chapter shall be met in each case.

(e) *Recommendations.* When applications are reviewed by the planning commission but acted upon by the city council, the planning commission shall recommend to the city council whatever action it deems advisable, including all recommended conditions on the granting of the conditional use permit.

(Code 1993, § 9-15.04(3))

Sec. 113-86 - Action

In acting upon applications for conditional use permits, consideration shall be given to the effect of the proposed use upon the health, safety, morals, comfort, convenience and welfare of the occupants of the surrounding lands, existing and anticipated traffic conditions, including parking facilities on adjacent sites. When applications are reviewed by the planning commission but acted upon by the city council, the city council may hold whatever public hearings it deems advisable or may return the application to the planning commission for further consideration.

(1) *Approval.* If it is determined that the general and special requirements of this chapter

will be satisfied by the applicant's plan, the city may grant such permit and may impose conditions relating to the general and special requirements in each case, including durational conditions. Approval shall be by resolution.

(2) *Denial.* Conditional use permits may be denied by resolution. Such resolution shall state the reasons for denial, but may incorporate by reference the minutes and recommendations of the planning commission, staff reports, hearing testimony and any other material relevant to the decision.

(Code 1993, § 9-15.04(4))

Sec. 113-87 - Violations; termination

If compliance with all of the conditions of the conditional use permit has not taken place within the time prescribed by the city, the permit is deemed terminated, unless the council, in its sole discretion, extends the time for compliance for an additional permit not to exceed one year. Any violation of a continuing condition shall be grounds for revocation of the conditional use permit, after notice of violation served upon the permit holder in the manner of a civil summons at least ten days prior to hearing, and upon the council finding at the revocation hearing that the condition violated remains necessary to carry out the purposes of this section and that the permit holder is unable or unwilling to satisfy the condition. Such finding shall be made by majority vote, upon the preponderance of the evidence presented by the zoning administrator and anyone appearing on behalf of the permit holder.

(Code 1993, § 9-15.04(5))

Sec. 113-88 - Performance bond

The city may require a performance bond or other security, to guarantee performance of the conditions in any case where such performance is not otherwise guaranteed. Such security shall be provided prior to the issuance of building permits or initiation of work on the proposed improvements or development and shall be in an amount 1.25 times the approved estimated costs of labor and materials for the proposed improvements or development.

(Code 1993, § 9-15.04(6))

Secs. 113-89 – 113-119 - Reserved

DIVISION 4 - INTERIM USE PERMITS

Sec. 113-120 - Purpose and intent

The purpose and intent of allowing interim uses is to allow a use:

(1) For a temporary period of time until a permanent location is obtained or while the permanent location is under construction.

(2) That is presently judged acceptable by the city council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.

(3) Which is reflective of anticipated long-range change to an area and which is in

compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(Code 1993, § 9-15.08(1); Ord. No. 03-02, § 2, 2-12-2003)

Sec. 113-121 - Procedure

Interim uses shall be processed according to the standards and procedures for a conditional use permit as established by article II, division 3 of this chapter.

(Code 1993, § 9-15.08(2); Ord. No. 03-02, § 2, 2-12-2003)

Sec. 113-122 - General standards; termination

(a) An interim use shall comply with the following:

(1) Meet the standards of a conditional use permit set forth in section 113-85 of this chapter, except that screening and landscaping shall not be required unless specifically enumerated as a condition in the permit.

(2) Conform to the applicable general performance standards of article VI, division 3 of this chapter, except that screening and landscaping shall not be required unless specifically enumerated as a condition in the permit.

(3) The use is allowed as an interim use in the respective zoning district.

(4) The date or event that will terminate the use can be identified with certainty.

(5) The use will not impose additional unreasonable costs on the public.

(6) The user agrees to any conditions that the city council deems appropriate for permission of the use.

(b) An interim use shall terminate on the happening of any of the following events, whichever occurs first:

(1) The date or event stated in the permit.

(2) Upon violation of conditions under which the permit was issued.

(3) Upon change in the city's zoning regulations that render the use nonconforming.

(Code 1993, § 9-15.08(3); Ord. No. 03-02, § 2, 2-12-2003)

Secs. 113-123 – 113-142 - Reserved

ARTICLE III - ZONING DISTRICTS ESTABLISHED; ZONING MAP

Sec. 113-143 - Districts

The city is hereby divided into the following use districts and groups of use districts:

(1) Residential districts:
   a. R-1 one-family residential district.
   b. R-2 one- and two-family residential district.
   c. R-3 medium density multiple-family residential district-apartment buildings.
   d. R-4 high density multiple-family residential district-apartment buildings.
   e. R-5M mixed use high density residential district.

(2) Business districts:
   a. B-1 limited business district.
   b. B-2 limited business district.
   c. B-3 Snelling and Larpenteur community business district.

(3) Special purpose districts:
   a. Planned unit development.
   b. Public land (P-1).

(Code 1993, § 9-3.01; Ord. No. 10-06, § 2, 9-8-2010)

Editor's note – Ord. No. 10-06, § 2, adopted Sept. 8, 2010, set out provisions intended for use as § 113-144(1). For purposes of classification, and at the editor's discretion, these provisions have been included as § 113-143(1).

State Law reference – Zoning districts authorized, Minn. Stats. § 462.357, subd. 1.

Sec. 113-144 - Zoning district map

(a) *Adoption of zoning map.* The boundaries of the above districts are hereby established as shown on that certain original map entitled Zoning Map, City of Falcon Heights, Minnesota, which map is properly approved and filed, hereinafter referred to as the "zoning map." Said map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set down herein and are hereby incorporated by reference and made a part of this chapter.

(b) *District boundary lines.* The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. Whenever any street or public way is vacated, any zoning district line following the centerline of said vacated street or way shall not be affected by such vacation.

(c) *Conditional use permits.* When any conditional use permit is issued which affects any

zoning district in a substantial way, said permit shall be coded and noted on the zoning district map by the zoning administrator so as to clearly indicate the use so permitted which may not otherwise be clearly evident from the map or text of this chapter.

(Code 1993, § 9-3.02)

Sec. 113-145 - Annexed territory

Areas being annexed shall be appropriately zoned in accordance with the comprehensive municipal plan at the time of annexation. Pending official zoning action by the city council, all annexed land shall be considered as zoned R-1.

(Code 1993, § 9-2.09)

Secs. 113-146 – 113-173 - Reserved

ARTICLE IV - DISTRICT REGULATIONS

Sec. 113-174 - One-family R-1 residential district

(a) *Scope.* The provisions of this section apply to the R-1 one-family residential district.

(b) *Permitted Uses.* Within any R-1 one-family residential district, no structure or land shall be used except for one or more of the following uses: one-family detached dwellings.

(c) *Conditional uses.* Within any R-1 one-family residential district, no structure or land shall be used for the following uses except by conditional use permit:

(1) Public parks and playgrounds.

(2) Schools, provided no buildings shall be located within 50 feet of any lot line of an abutting lot in an R use district. Any fence erected around a play area shall be not less than 15 feet from a street line when said fence would be across the street from an R use district.

(3) Municipal buildings and structures, excluding storage of maintenance equipment and trucks over 1½ tons, stockpiling of aggregate and open storage of material, but including firefighting apparatus, provided these shall not be located within 30 feet of any lot line of an abutting lot in an R use district.

(4) Essential service structures, provided no building shall be located within 50 feet from any lot line of an abutting lot in an R use district. The architectural design of service structures should be compatible to the neighborhood in which they are to be located.

(5) Golf courses, country clubs, tennis clubs, public swimming pools serving more than one family.

(6) Off-street parking: when the proposed site of the off-street parking abuts on a lot which is in a B district and subject to those conditions set forth in article VI, division 2, subdivision II, and such other conditions as found necessary by the council to carry out the intent of this chapter. However, such off-street parking shall be permitted as a conditional use in any R-1 one-family use district for

church parking purposes.

(7) Room and/or board for up to four persons.

(8) Home occupations not meeting the definitions and requirements of section 113-391.

(d) *Permitted accessory uses.* No accessory structures or use of land shall be permitted except for one or more of the following uses:

(1) Home occupations meeting the definitions and requirements of section 113-391.

(2) Private tennis courts, provided no portion of the paved or fenced area is within a required front yard or less than ten feet from a property line.

(3) One private garage or carport and parking space as regulated in section 113-240.

(4) Private automobile repair or reconditioning as regulated in section 113-250.

(5) Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.

(6) Keeping of domestic pets as required in the Code.

(7) Signs as provided in subsection (g) of this section.

(8) Decorative landscape features and fences as regulated herein.

(9) Accessory buildings other than detached private garages as regulated herein. The design and placement of the accessory buildings must be approved by the planner as being in harmony with the surrounding residential neighborhood.

(10) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed the time necessary for such construction (approved by zoning administrator).

(11) One composting area, or one compost structure as defined in section 113-240(l), of plant material including leaves, grass clippings, plant trimmings, fruits, vegetables and peels, but excluding animal derived materials such as bones, meat scraps and dairy products, not to cover more than 25 square feet in area and five feet in height in the rear yard. A larger composting area requires a permitted accessory use permit. A compost area must be set back at least five feet from any property line. The compost shall be maintained according to accepted composting practices for the residential yard.

(12) Garage and residential boutique sales limited to four sales each calendar year per residential unit, not to exceed ten consecutive days or two consecutive weekends each.

(13) Keeping of chickens as regulated by the Code.

(14) Beekeeping as regulated by the Code.

(15) Electric vehicle chargers for private use.

(16) Accessory dwelling units as provided in section 113-240.

(e) *Lot area, height, lot width and yard requirements.*

(1) No structure or building shall exceed two stories or 25 feet in height, whichever is lesser in height, except as provided in section 113-243.

(2) A side yard abutting a street shall be at least 20 percent of the width of the lot.

(3) The following minimum requirements shall be observed subject to the additional requirements, exceptions and modifications as set forth in this section and section 113-241.

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
10,000 sq. ft.	75 feet interior lot, 90 feet corner	30 feet	5 feet	30 feet

Flexibility may be provided by allowing the side yard to be decreased to a minimum of three feet if a maintenance easement is recorded on the deeds of all affected properties. (No fences or significant landscaping could be installed in the easement areas).

(f) *Off-street parking and loading.* As provided in article VI, division 2 of this chapter.

(g) *Signs.* As provided in section 113-449.

(h) *Swimming pools.* As permitted in section 113-382.

(Code 1993, § 9-4.01; Ord. No. 0-89-12, 7-26-1989; Ord. No. 0-89-16, 11-8-1989; Ord. No. 0-91-2, 1-23-1991; Ord. No. 0-91-13, § 2, 11-27-1991; Ord. No. 0-99-09, § 3, 12-15-1999; Ord. No. 00-01, 6-3-2000; Ord. No. 07-05, § 1, 5-9-2007; Ord. No. 13-04, § 2, 7-24-2013; Ord. No. 19-04, § 2, 5-8-2019; Ord. No. 20-05, § 2, 10-14-2020; Ord. No. 20-07, § 2, 12-09-2020)

Sec. 113-175 - One- and two-family R-2 residential district

(a) *Scope.* The provisions of this section apply to the R-2 one- and two-family residential district.

(b) *Permitted uses.* No structure or land shall be used except for one or more of the following uses:

(1) One- or two-family detached dwellings.

(2) All permitted uses in the R-1 district.

(c) *Conditional uses.* Conditional uses shall be as permitted in the R-1 district.

(d) *Permitted accessory uses.* No accessory structures or use of land shall be permitted except for one or more of the following uses: all accessory uses as permitted in the R-1 district.

(e) *Lot area, height, lot width and yard requirements.* The following minimum requirements shall be observed subject to any additional requirements, exceptions or modifications as set forth herein:

(1) One-family building as required in the R-1 district.

(2) Two-family building as required for a one-family building except that any building

with two families shall have a minimum lot area of 12,500 square feet.

(f) *Off-street parking and loading.* As provided in article VI, division 2 of this chapter.

(g) *Signs.* As provided in section 113-449.

(h) *Swimming pools.* As permitted in section 113-382.

(i) *Permitted encroachments on required yards.* As permitted in the R-1 district.

(Code 1993, § 9-5.01; Ord. No. 0-93-07, § 6, 7-28-1993)

Sec. 113-176. - R-3 medium density multiple-family residential district-apartment buildings.

(a) *Scope.* The provisions of this section apply to the R-3 medium density multiple-family residential district.

(b) *Permitted uses.* All permitted uses in the R-2 district.

(c) *Conditional uses.* No structure or land shall be used for the following uses except by conditional use permit, except that multifamily dwellings shall not exceed 12 per acre.

(1) Any conditional use permitted in the R-1 and R-2 districts.

(2) Conversion or enlargement of existing homes to accommodate one-, two-, three- or four-dwelling units.

(3) Large group homes as defined in this chapter.

(4) Townhouses. See performance standards as permitted in article VI, division 3 of this chapter.

(5) Buildings containing two or more dwelling units not exceeding 12 dwelling units per acre.

(d) *Permitted accessory uses.* The following uses shall be permitted accessory uses:

(1) All accessory uses as permitted in the R-1, R-2 districts.

(2) Conversion or enlargement as required by terms of a conditional use permit.

(e) *Lot area, height, lot width and yard requirements.*

(1) See performance standards as permitted in article VI, division 3 of this chapter (or as required by conditional use permit).

(2) No structure or building shall exceed three stories, or 30 feet, whichever is lesser in height, except as provided in section 113-243.

(3) A side yard abutting on a street shall not be less than 30 feet in width, and when a side yard of a multifamily structure abuts a single-family residence, the side yard shall not be less than 20 feet.

(4) The following minimum requirements shall be observed subject to additional requirements except as a modification set forth in this section and section 113-241.

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
12,500 sq. ft.	90 feet	30 feet	10 feet or ½ the height of the building, whichever is greater	30 feet

*Lot area for single-family residence may be reduced to 10,000 square feet.

(Code 1993, § 9-7.01; Ord. No. 0-93-07, § 7, 7-28-1993; Ord. No. 10-06, § 3, 9-8-2010)

Editor's note – Ord. No. 10-06, § 3, adopted Sept. 8, 2010, changed the title of § 113-176 from "R-4 medium density multiple-family residential district-apartment buildings" to "R-3 medium density multiple-family residential district-apartment buildings". This historical notation has been preserved for reference purposes.

Sec. 113-177 - B-1 neighborhood convenience district

(a) *Scope.* The provisions of this section apply to the B-1 neighborhood convenience district.

(b) *Purpose and intent.* The purpose of the neighborhood convenience business district is to provide for small-scale consumer goods stores and limited service establishments which deal directly with the customer by whom the goods and services are consumed. The maximum business size limit is 5,000 square feet. Some business areas may be further restricted by zoning regulations to avoid adverse impacts on residential neighborhoods. The district is primarily intended to serve the surrounding neighborhood rather than the entire community. It is designed to be accessible to retail customers from the nearby neighborhoods, to be compatible with the character of the neighborhoods, and to minimize the blighting influence on surrounding residential neighborhoods by limiting and controlling the uses that are permitted.

(c) *Permitted uses.* No structure or land shall be used except for the following specific uses:

(1) Barbershops, except barber colleges.

(2) Beauty shops, but excluding cosmetology schools.

(3) Convenience stores, excluding motor fuel facilities.

(4) Coin and philatelic (stamp) stores.

(5) Drugstores/pharmacies.

(6) Florists.

(7) Garment pressing, and agents for laundries and dry cleaners, with a maximum of six employees.

(8) Health care, offices and clinics.

(9) Laundries - power, with a maximum of six employees.

(10) Laundromats - self serve.

(11) Miscellaneous retail establishments (small) (excluding repair and service establishments and gun shops) having a maximum floor area of 1,000 square feet which sell food, apparel and small specialty shopping goods including antiques, sporting goods, books, stationery, jewelry, cameras, novelty and optical stores and small cafes and restaurants.

(12) Offices, business and professional.

(13) Holiday tree sales.

(d) *Conditional uses.* The following uses are permitted subject to the issuance of a conditional use permit (CUP):

(1) Automobile repair establishments subject to the following conditions:

a. The use is existing as of the date of adoption of the amendment from which this section is derived.

b. The structure and use shall not be expanded without city council approval, based upon finding that the expansion is a furtherance of the public health and safety and will not negatively impact the surrounding neighborhood.

c. Any change in use shall be to the same or another B-1 permitted or conditional use.

d. No more than five cars shall be parked outdoors overnight at any one time, and cars shall be parked in an orderly fashion in a designated area.

e. There shall be no outdoor storage of supplies, materials or trash.

f. Trash containers and parking areas shall be screened from view from residential areas to the maximum degree practicable in consultation with city officials and upon approval by the city council after review by the planning commission.

(2) Adult and child care facilities and nursery schools subject to licensing by the state.

(3) Motor fuel stations as an integral part of a convenience store located at the corner of a minor arterial and collector street as defined by the comprehensive plan.

(4) Secondhand goods stores as defined in this chapter.

(e) *Permitted accessory uses.* The following uses shall be permitted accessory uses:

(1) Off-street parking and loading, signs, fences, and decorative landscape features as regulated herein.

(2) Temporary construction buildings (approved by zoning administrator).

(3) Accessory structures other than private garages as regulated herein. The design, placement, screening and size of the accessory buildings must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.

(4) Essential service structures, provided no building shall be located within 30 feet of an abutting lot in an R district. The placement of the essential service structure must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.

(5) Public telephone booths or drive-up service. The placement of the telephone booth or drive-up service must be approved by the city council as being in harmony with the

surrounding business district and neighborhood after review and recommendation by the planning commission.

(6) Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.

(7) Electric vehicle chargers for public use.

(8) Other as deemed to be normal, customary, and incidental by the zoning administrator.

(f) *Other requirements.* All uses shall in addition to all other requirements comply with the following standards:

(1) No bars on doors or windows during business hours.

(2) No automatic interior or exterior security lock doors or doors that require request for entry or exit during business hours.

(3) No exterior storage of merchandise except for nursery stock associated with a florist.

(4) No exterior sales of merchandise except for a three-day period twice a year as a sidewalk sale or for merchandise associated with a florist.

(g) *Lot area, height, lot width and yard requirements.*

(1) Minimum lot area 10,000 square feet.

(2) Maximum principal building height two stories or 25 feet, except as provided by section 113-243 of this chapter. Accessory buildings are subject to section 113-240.

(3) Minimum lot width 90 feet.

(4) Maximum building/use size 5,000 square feet, except where otherwise noted.

(5) Minimum building yard requirements:

a. Front, 30 feet.

b. Side, ten feet, but 30 feet if abutting a street or R district.

c. Rear, 20 feet.

(6) Maximum lot coverage, including the total area of roofs, driveways, parking lots, sidewalks and similar impermeable surfaces, 75 percent.

(Code 1993, § 9-8.01; Ord. No. 0-93-07, § 1, 7-28-1993; Ord. No. 0-94-05, § 2, 3-23-1994; Ord. No. 0-95-01, § 2, 5-10-1995; Ord. No. 0-99-09, § 4, 12-15-1999; Ord. No. 00-02, §§ 2, 3, 7-26-2000; Ord. No. 19-01, § 1, 1-9-2019; Ord. No. 20-07, § 3, 12-09-2020)

Sec. 113-178 - B-2 limited business district

(a) *Scope.* The provisions of this section apply to the B-2 limited business district.

(b) *Purpose and intent.* The primary purpose of the limited business district is to provide for office and limited service, employment and institutional uses which are freestanding in nature, require larger sites and are or can be made to be compatible with adjacent land uses. It is also intended to accommodate certain existing businesses for the purpose of maintaining them as conforming uses. Except where current retail or wholesale businesses are specifically listed, the limited business district is not intended to accommodate retail or

wholesale businesses. The district is designed to minimize the blighting influence on the surrounding residential neighborhoods by limiting and controlling the uses that are permitted.

(c) *Permitted uses.* No structure or land shall be used except for the following uses:

(1) Financial institutions with hours open to the public no earlier than 8:00 a.m. and no later than 6:00 p.m. An automatic teller machine may operate for 24 hours a day.

(2) Health care, offices and clinics.

(3) Offices, business and professional.

(4) City-owned community facilities provided there shall be no unscreened outdoor storage of materials, supplies or equipment, or trucks and trailers exceeding a capacity of 1½ tons.

(5) Holiday tree sales.

(d) *Conditional uses.* The following uses are permitted subject to the issuance of a conditional use permit (CUP):

(1) Drive-through facilities as an accessory use to a financial institution.

(2) Churches.

(3) Adult and child care facilities and nursery schools subject to licensing by the state.

(4) Dance studios, schools and halls.

(5) Florist, garden supply and garden wholesale stores.

(6) Funeral homes and mortuaries.

(7) Limited fabricating and processing of a product in conjunction with any permitted use when such products are wholly processed within a building and such use is deemed appropriate and consistent with the character of the district and environs. Where such uses consist of more than one principal building, plans for such development shall be submitted as a planned unit development (PUD).

(8) Historical buildings, museums, art institutes and galleries.

(9) Photographic studios, portrait.

(10) Radio broadcasting stations, television broadcasting stations, and cable and other pay television service stations, excluding external antenna systems.

(11) Studios.

(12) Research centers and laboratories excluding medical waste processing facilities.

(13) Schools or studio for music, art or interior design.

(14) Veterinary clinics with no animal boarding.

(e) *Permitted accessory uses*. Any accessory use permitted in section 113-177(e). The requirements of section 113-178(f)(3) and (4) shall not apply.

(f) *Other requirements.* All uses shall in addition to all other requirements apply the following standards:

(1) No bars on doors or windows during business hours.

(2) No automatic interior or exterior security lock doors or doors that require request for entry or exit during business hours.

(3) No exterior storage of merchandise except for nursery stock associated with a garden supply store or florist.

(4) No exterior sales of merchandise except for nursery stock associated with a garden supply store or florist.

(g) *Lot area, height, width and yard requirements.* Subject to exception under article V of this chapter.

(1) Minimum lot area 12,500 square feet.

(2) Maximum principal building height two stories or 25 feet, except as provided by section 113-243 of this chapter, three stories or 35 feet maximum allowed by CUP or PUD. Accessory buildings are subject to section 113-240(f).

(3) Minimum lot width 90 feet.

(4) Minimum building yard requirements:

a. Front, 30 feet.

b. Side, ten feet, but 30 feet if abutting a street or R district.

c. Rear, 20 feet.

(5) Maximum lot coverage, including the total area of roofs, driveways, parking lots, sidewalks and similar impermeable surfaces, 75 percent.

(h) *Interim uses.* The following uses are allowed subject to the issuance of an interim use permit: farmer's markets that meet the following criteria:

(1) Operate no more than one day per week.

(2) Site includes not less than 284 parking spaces for customers of the market.

(3) Market may not operate before 6:30 a.m. or after 8:00 p.m.

(4) Permittee must name a managing agent who is responsible for the conduct of the vendors in compliance with the conditions of the interim use permit.

(Code 1993, § 9-9.01; Ord. No. 0-93-07, § 3, 7-28-1993; Ord. No. 0-94-05, § 3, 3-23-1994; Ord. No. 0-99-09, §§ 5—7, 12-15-1999; Ord. No. 00-02, §§ 4, 5, 7-26-2000; Ord. No. 03-02, § 3, 2-12-2003; Ord. No. 06-03, § 3, 9-13-2006; Ord. No. 19-01, § 2, 1-9-2019)

Sec. 113-179 - B-3 Snelling and Larpenteur community business district

(a) *Scope.* The provisions of this section apply to the B-3 Snelling and Larpenteur community business district.

(b) *Purpose and intent.*

(1) The district applies only to the northeast, northwest, and southwest quadrants of the Larpenteur and Snelling intersection. The district is designed to provide retail sales and services that serve the surrounding neighborhoods' and community's needs. Retail sales and services that serve a larger geographic area are available in larger, nearby business districts in adjacent cities. By limiting and controlling the uses that are permitted, the

district is designed to be accessible to retail customers from the nearby neighborhoods and the community, to be compatible with the character of the neighborhoods and overall community, and to minimize the blighting influence on the surrounding residential neighborhoods.

(2) Furthermore, the district provides for and encourages compact centers for retail sales and services by grouping businesses into patterns of workable relationships that complement each other. The district is designed to be easily accessible to users. It excludes highway oriented and other high traffic volume businesses that would tend to disrupt the cohesiveness of the shopping center or its circulation patterns and shared parking arrangements.

(c) *Permitted uses.* No structure or land shall be used except for the following uses:

(1) Auto parts and accessory stores.

(2) Apparel and accessory stores.

(3) Beauty shops and barbershops.

(4) Bowling alleys.

(5) Coin and philatelic (stamp) stores.

(6) Commercial art services.

(7) Commercial photography services.

(8) Computer programming and data processing services.

(9) Dance studios, schools and halls.

(10) Eating establishments.

(11) Financial institutions and insurance establishments with hours open to the public no earlier than 8:00 a.m. and no later than 6:00 p.m. An automatic teller machine may operate 24 hours a day.

(12) Food stores, excluding the outdoor sales of produce, meat and seafood.

(13) Garment pressing, and agents for laundries and dry cleaners.

(14) Hardware stores.

(15) Health services, offices and clinics.

(16) Home furnishing, appliance and equipment stores.

(17) Laundry and garment services.

(18) Laundromats - self serve.

(19) Mailing services.

(20) Miscellaneous retail establishments, including antique stores but excluding fuel dealers and gun shops.

(21) Motion picture theaters.

(22) Offices, business and professional.

(23) Office supply and art supply stores, retail.

(24) Paint, glass and wallpaper stores, retail.

(25) Personal service establishments as follows: tax return preparation services, diet centers, costume and dress suit rental stores, photograph services.

(26) Photographic studios, portrait.

(27) Physical fitness facilities.

(28) Precious metal dealers with a precious metal dealer license.

(29) Photocopying and duplicating shops, provided not more than six employees are employed on the premises at one time.

(30) Public and essential service uses.

(31) Schools and studios for art, music and interior design.

(32) Secretarial and stenographic services.

(33) Tanning salons.

(34) Therapeutic massage enterprise.

(35) Video rental stores.

(36) Cannabis retail establishment, subject to additional standards as specified in section 113-255.

~~(35)~~(37) Lower-potency hemp edible retail, subject to additional standards as specified in section 113-255.

(d) *Conditional uses*. The following uses are permitted subject to the issuance of a CUP:

(1) Animal grooming and pet stores provided there shall be no boarding of animals on the site.

(2) Basement storage of goods not sold on the premises provided that the space is completely finished and ready for use, is sprinkled, has elevator access, provides two pedestrian accesses, has an existing loading dock or area that does not conflict with adjacent residential areas or entry to businesses and is approved by the city fire marshal.

(3) Car washes which are accessory to the principal use and meet the requirements for service stations, section 113-383.

(4) Adult, child care and nursery school facilities subject to licensing by the state.

(5) Charitable gambling establishments as a principal use in accordance with the city's licensing requirements, section 30-4.

(6) Custom manufacturing of handmade goods that are sold on the premises provided the manufacturing operation is incidental to a retail operation.

(7) Drinking establishments, bars and taverns, subject to the city's licensing requirements, chapter 6, article II of this Code.

(8) Gun shops are a conditional use on the northwest corner of Snelling and Larpenteur as long as the following conditions exist:

a. A minimum of 1,000 feet from any residential zone except for a minimum of 150

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feet from any residential zone when the residential zone is buffered by a separate commercial facility.

b. A minimum of 750 feet from any park.

c. A minimum of 1,000 feet from any public or private preschool, elementary or secondary school or church.

(9) Hotels and motels by PUD.

(10) Motor fuel or service stations subject to the design and performance standards as specified in section 113-383.

(11) Multifamily housing by PUD.

(12) Satellite communications dishes as an accessory use.

(13) Secondhand goods store, as defined in this chapter.

(14) Veterinary clinics with no boarding of animals on the site and no external runs.

(e) *Permitted accessory uses.*

(1) Any accessory use permitted in section 113-177(e).

(2) Limited repair and service operations which are incidental to a principal use.

(3) One pool table per 2,000 square feet of area excluding area devoted to bowling lanes and one video or electronic game per 300 square feet of area excluding area devoted to bowling lanes are permitted accessory uses to a bowling alley.

(4) The limited sale of used merchandise is allowed as an accessory use, but only if the following conditions are met:

a. The sale of used merchandise must be clearly incidental to the sale of new merchandise of the same general type.

b. The used merchandise which is sold on the premises must be acquired by the owner of the principal use only on a "trade-in" basis from customers trading in used merchandise at the time they purchase new merchandise of the same general type.

c. The portion of used merchandise on the premises may not, at any time, occupy more than ten percent of the sales area of the premises.

(f) *Other requirements.* All uses shall, in addition to all other requirements, apply the following standards:

(1) No bars on doors or windows during business hours.

(2) No automatic interior or exterior security lock doors that require request for entry or exit during business hours.

(3) No exterior storage of merchandise.

(4) No exterior sales of merchandise except twice a year for three days at a time as a sidewalk sale.

(g) *Building height and yard requirements.*

(1) Maximum principal building height is three stories or 35 feet, except as provided for in section 113-243. Accessory buildings are subject to section 113-240(f).

(2) Minimum building yard requirements:

a. Front, 30 feet.

b. Side, 20 feet, but 30 feet if abutting a street and 40 feet if abutting an R district. No side yard shall be required for a party wall subject to section 113-241.

c. Rear, 20 feet, but ten feet if abutting an alley.

d. Maximum lot coverage, 75 percent. This requirement shall only apply to sites that abut an R district to provide sufficient land area for buffering, landscaping and screening. Coverage may be increased by the city if a permanent screen or buffer, other than a wooden fence, is constructed which provides 100 percent yearround opacity for adjacent residential areas after approval by the city council and review by the planning commission.

(Code 1993, § 9-10.01; Ord. No. 0-89-2, 1-11-1989; Ord. No. 0-91-8, § 1, 5-22-1991; Ord. No. 0-93-07, § 3, 7-28-1993; Ord. No. 0-94-05, § 4, 3-23-1994; Ord. No. 0-95-01, §§ 3, 4, 5-10-1995; Ord. No. 97-03, § 1, 6-25-1997; Ord. No. 0-99-09, § 8, 12-15-1999; Ord. No. 00-02, §§ 6, 7, 9, 7-26-2000; Ord. No. 06-03, § 4, 9-13-2006; Ord. No. 19-01, § 3, 1-9-2019)

Sec. 113-180 - Public land (P-1)

(a) *Scope.* The provisions of this section apply to public land.

(b) *Generally.* All public (city, state, school district, state fair, University of Minnesota, and other) land owned and operated for public purposes is zoned for what may be the most appropriate private use should the land be sold, leased, or otherwise transferred from public ownership and/or use.

(c) *Allowed uses.* The "public land" overlay district is in addition to and not in lieu of the regular or original zoning district applied on the zoning map with the following uses

(1) *Private use of land.* Designate land areas that, if sold or otherwise made available for private use, the city council shall determine, after public hearing, the permanent zoning. No private building or occupancy permits shall be issued until said determination is made by the city council.

(2) *University of Minnesota.* University of Minnesota uses permitted shall be those indicated on the official campus plan of the university and placed on file with the city. The city shall be given not less than 30 days notice of any construction, change in use, or other land use activity affecting the community environment including impact upon city facilities, services, and road system.

(3) *State fair.* This district also applies to lands utilized for buildings, structures, and activities of the Minnesota state fair or the various states of the United States of America. Permitted uses shall include yearround activities such as recreation and others not directly associated with normal and commonly known "state fair" activities and purposes as approved by the city council; such uses may include tennis courts, play fields, picnic areas, and others intended for local community and/or general public use. All uses shall be in accordance with a state fair development and operations plan on file with the city. The city shall be given not less than 30 days notice of any new development, construction, or change in use on any portion of the state fair property

affecting city services, facilities and road system.

(4) *Official public plans.* School district, city, and other public lands to be developed and used in accordance with official public plans on file with the city.

(5) *Signs.* All signs visible from a public right-of-way (road, street, highway) and located or proposed for location on public land shall be considered as a structure to be included on plans by the university, fairgrounds, and school districts subject to review by the city.

(Code 1993, § 9-11.01)

Sec. 113-181 - R-4 high density multiple-family residential district-apartment buildings

(a) *Scope.* The provisions of this section apply to the R-4 high density multiple-family residential district.

(b) *Permitted uses.* All permitted uses in the R-2 district.

(c) *Conditional uses.* No structure or land shall be used for the following uses except by conditional use permit:

(1) Any conditional use permitted in the R-1 and R-2 districts.

(2) Conversion or enlargement of existing homes to accommodate one-, two-, three- or four-dwelling units.

(3) Large group homes as defined in this chapter.

(4) Townhouses. See performance standards as permitted in article VI, division 3 of this chapter.

(5) Buildings containing three or more dwelling units not exceeding 28 dwelling units per acre. A maximum of 40 dwelling units per acre are allowed if:

a. At least 80 percent of the required parking spaces are below grade and integrated into the apartment building; and

b. The property abuts Larpenteur or Snelling Avenue; and

c. The property does not abut property zoned R-1.

(d) *Permitted accessory uses.* The following uses shall be permitted accessory uses:

(1) All accessory uses as permitted in the R-1, R-2 districts.

(2) Conversion or enlargement as required by terms of a conditional use permit.

(3) All accessory uses as permitted in the R-1 and R-2 districts except that the keeping of chickens and bees, as regulated by the Code, is only allowed as accessory to a single-family or two-family home.

(e) *Lot area, height, lot width and yard requirements.*

(1) See performance standards as permitted in article VI, division 3 of this chapter (or as required by conditional use permit).

(2) No structure or building shall exceed three stories, or 30 feet, whichever is lesser in height, except as provided in section 113-243.

(3) A side yard abutting on a street shall not be less than 30 feet in width, and when a side yard of a multifamily structure abuts a single-family residence, the side yard shall not be less than 20 feet.

(4) The following minimum requirements shall be observed subject to additional requirements except as a modification set forth in this section and section 113-241:

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
12,500 sq. ft.	90 feet	30 feet	10 feet or ½ the height of the building, whichever is greater	30 feet

*Lot area for single-family residence may be reduced to 10,000 square feet.

(Ord. No. 10-06, § 4, 9-8-2010; Ord. No. 13-04, § 3, 7-24-2013; Ord. No. 20-05, § 3, 10-14-2020)

Sec. 113-182 - R-5M mixed use high density residential district

(a) *Scope.* The provisions of this section apply to the R-5M mixed use high density residential district.

(b) *Purpose and intent.* The purpose of the mixed use high density residential district is to provide high density, primarily apartment style, rental and condominium housing with limited commercial uses within the same structure. The intent of the district is to meet or exceed the city's comprehensive plan density goal of 28 residential units per acre.

(c) *Permitted uses.*

(1) Apartment buildings with a maximum of 40 dwelling units per acre.

(2) Permitted uses in the B-2 zoning district.

(3) State licensed residential facilities serving from seven through 16 persons.

(4) State licensed day care facilities serving from 13 to 16 persons.

(d) *Conditional uses.*

(1) Conditional uses in the B-2 zoning district.

(2) Public parks and playgrounds.

(3) Municipal buildings and structures.

(4) Essential service structures.

(e) *Interim uses.* Farmers' markets that meet the following criteria: Operate no more than one day per week; site includes not less than 284 parking spaces for customers of the market;

market may not operate before 6:30 a.m. or after 8:00 p.m.; a managing agent must be named who is responsible for the conduct of the vendors in compliance with the conditions of the interim use permit.

(f) *Permitted accessory uses.*

(1) Off-street parking and loading, signs, fences, and decorative landscape features as regulated herein.

(2) Temporary construction buildings.

(3) Accessory uses in the B-2 zoning district.

(g) *Lot area, height, lot width, and yard requirements.*

(1) The following minimum requirements shall be observed subject to additional requirements except as modified in this section and in section 113-241:

Lot Area	Lot Width	Front Yard	Side Yard	Rear Yard
2.5 acres	200 feet	30 feet	10 feet or ½ the height of the building, whichever is greater	30 feet

(2) The required setback from a lot line abutting property zoned R-1 is 50 feet.

(3) If there is a commercial use on the first floor, the required setback from a lot line abutting Larpenteur Avenue or Snelling Avenue is 15 feet.

(4) Except as provided in section 113-243, the maximum height is four stories or 40 feet, whichever is less.

(Ord. No. 10-06, § 5, 9-8-2010)

Secs. 113-183 – 113-198 - Reserved

ARTICLE V - PLANNED UNIT DEVELOPMENT (PUD)

Sec. 113-199 - Purpose

The planned unit development district is intended to permit flexibility of site design, the conservation of land and open space through clustering of buildings and activities, and an incentive to developers to plan creatively by providing density bonuses. This flexibility can be achieved by allowing deviations from standards including setbacks, heights and similar regulations. PUDs are characterized by central management, integrated planning and architecture, joint or common use of parking, open space and other facilities, and a harmonious selection and efficient distribution of uses.

(Code 1993, § 9-16.01)

Sec. 113-200 - Required use

PUD zoning is required for all developments having two or more principal uses or structures on a single parcel of land and may include townhouses, apartment projects involving more than one building, residential subdivisions, multi-use structures such as an apartment building with retail at ground floor level, commercial developments, mixed residential and commercial developments, and similar projects.

(Code 1993, § 9-16.02)

Sec. 113-201 - General requirements and standards

(a) *Comprehensive plan/Code consistency.* A PUD must be consistent with the city comprehensive plan and the intent and purpose of the city Code provisions relative to land use, subdivision and development.

(b) *Operating and maintenance requirements for PUD common open space/facilities.* Whenever joint common open space or service facilities for individual owners or users are provided within the PUD, the PUD plan shall provide reasonable assurance of adequate operation and maintenance of such open space and service facilities.

(c) *Staging of public and common open space.* When a PUD provides for common or public open space, the total area of common or public open space or security in any stage of development, shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

(d) *Development stages.* Whenever any PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds 125 percent of the proposed residential density of the entire PUD.

(e) *Urban development and availability of public services*. All development shall be carefully phased so as to ensure that it will not cause an unreasonable burden upon the city in providing services and utilities or cause a deleterious impact upon the natural environment.

(Code 1993, § 9-16.03)

Sec. 113-202 - Permitted uses and standards

The permitted uses, standards, and development plan shall be set forth in the ordinance rezoning the property to PUD.

(Code 1993, § 9-16.04)

Sec. 113-203 - Procedure for processing a planned unit development

(a) *Approval process.* Planned unit developments may be permitted in the legislative discretion of the city council. The application and hearing process for planned unit developments will be as required for other zoning chapter amendments.

(b) *Preapplication conference.* Before filing an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the city administrator. 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 his or her proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.

(c) *Application information.* An applicant shall submit a completed application form furnished by the city, together with the following information:

(1) Drawings in schematic form containing the following:

a. The location, size of site and the proposed uses of the land to be developed.

b. The density of land use to be allocated to the several parts of the site to be developed.

c. The location and size of all useable open space and the form of organization to own and maintain such space.

d. The use, height, bulk and approximate location of buildings and other structures.

e. The plans for the distribution of sanitary wastes, stormwater, and the provisions of other utilities.

f. The plans for parking of vehicles and the location and width of proposed streets, curbs, gutter and landscaping.

g. A schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.

(2) A written statement must include the following:

a. A narrative explanation of the general character of the planned unit development, its integration with the surrounding land uses and justification of any requested density bonuses.

b. A statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures and useable open space.

c. The total anticipated population of the planned unit development, with breakdowns as to the estimated number of school age children, adults and families.

(3) The following exhibits:

a. Abstractor's certified property certificate showing the names and addresses of property owners within 350 feet of the outer boundaries of the property.

b. Location map showing property in relation to the city as a whole and to the city's primary elements such as thoroughfares, schools, parks and shopping areas.

c. A legal description of the property including approximate total acreage.

d. Boundary survey prepared by a registered surveyor of the property and 100 feet beyond showing:

1. Existing property lines and dimensions.

2. Ownership of all parcels.
3. Platting and easements.
4. Street and railroad rights-of-way.
5. Buildings.
6. Utility lines and facilities.

e. A topographic map prepared by a registered civil engineer or registered land surveyor covering the entire tract proposed for development which contains the following information:
   1. Contour lines at no more than foot intervals.
   2. Hydrologic information including drainage patterns, wetlands, and land subject to periodic flooding.
   3. Soil and subsoil conditions.
   4. Vegetation including classification of tree cover by species.

f. Any other material requested by the city council, planning commission or city staff.

(Code 1993, § 9-16.05)

Sec. 113-204 - Coordination with subdivision approval

If development of the PUD requires subdivision approval, the PUD and subdivision shall be processed concurrently.

(Code 1993, § 9-16.06)

Sec. 113-205 - Development contract

The city and the developer shall enter into a development contract setting forth any improvements required to be undertaken by the developer. This contract may be combined with the development contract required for subdivision approval.

(Code 1993, § 9-16.07)

Sec. 113-206 - Rezoning

If approved by the city council, the property shall be rezoned PUD in accordance with the terms of approval. If a concurrent plat application is being processed, PUD rezoning shall be concurrent with final plat approval.

(Code 1993, § 9-16.08)

Sec. 113-207 - Control of planned unit development following completion

(a) *Modification of structures.* After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within

the planned development shall be governed by the final development plan.

(b) *Changes in final development plan.* After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:

(1) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the planning commission if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the volume of any building or structure by more than ten percent.

(2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved.

(3) Changes in the use of common open space or any other substantial changes in the final development plan may be authorized by an amendment to the final development plan.

(Code 1993, § 9-16.09)

Sec. 113-208 - Amendment of plan

Any substantial changes in the final development plan, including but not limited to changes in land use, increases in development density or intensity or changes in the provisions for common open spaces shall require a PUD amendment. The amendment process for planned unit developments shall be the same as that for all other amendments to this chapter. (See section 113-35.)

(Code 1993, § 9-16.10)

Sec. 113-209 - Urban farm planned unit development district

(a) *Legal description.* The legal description of this PUD is lots 1 and 2, block 1, Urban Farm Project Addition.

(b) *Purpose.* The purpose of the urban farm PUD district is to provide for the mixed uses of an urban farm and an apartment building.

(c) *Scope.* The provisions of this section apply to the urban farm planned unit development.

(d) *Permitted uses.* The following uses are permitted subject to the development plan for the PUD, subsection 113-209(f), and the standards and requirements of the R-5M zoning district, except as modified herein:

(1) On lot 1, block 1, an urban farm. At least 21 paved parking spaces must be maintained next to the main building adjacent to Larpenteur Avenue, as well as at least 24 overflow parking stalls. The urban farm may have up to:

976 square feet of retail space;

2,201 square feet of office/training/kitchen space;

8,580 square feet of distribution/warehouse space;

849 square feet of greenhouse space; and

576 square feet of yard storage building space.

(2) On lot 2, block 1, a 68-unit apartment building with at least 68 parking spaces. At least 54 of the required parking spaces must be below grade and integrated into the apartment building. The site may have up to:

60,537 square feet of residential living space;

Four stories with underground parking; and

Private access easement between lot 1 and lot 2 to be recorded into the property record of both parcels.

(e) *Permitted accessory uses.*

(1) On lots 1 and 2, block 1, the accessory uses in the R-5M zoning district;

(2) On lot 1, block 1, seasonal hoop houses for growing vegetables.

(f) *Development plan.* The PUD must be maintained in accordance with the following development plan which is on file with the city and which is incorporated herein by reference:

(1) Urban farm project addition plat;

(2) Topographic survey and grading, drainage and utility plan prepared by Jacobson Engineers & Surveyors dated July 28, 2014;

(3) The following prepared by LHB for lot 1, block 1:

Architectural site plan w/landscape layout dated August 18, 2014;

First floor plan dated August 18, 2014;

Yard storage building - Color option 1 dated July 28, 2014 or yard storage building - Color option 2 dated August 18, 2014;

Exterior elevations - Color option 1 dated August 18, 2014 or exterior elevations - Color option 2 dated July 28, 2014.

(4) The following plans prepared by Kelly Brothers, Ltd and their contractors/partners for lot 2, block 1 with up to a five percent variance as approved by the city administrator:

a. Development plans, dated October 31, 2018 including;

- Grading plan
- Drainage plan
- Utility plan
- Floor plans
- Elevations
- Operations and maintenance plan

b. Development plans, dated September 3, 2020 including:

- Site plan
- Landscape plan

(Ord. No. 13-02, § 2, 5-22-2013; Ord. No. 14-02, § 1, 9-10-2014; Ord. No. 17-01, § 1, 6-14-2017; Ord. No. 18-10, § 1, 11-14-2018; Ord. No. 20-06, § 1, 10-14-2022)

Sec. 113-210 - South 215.125 feet of lot 1, block 1, Lindig Addition planned unit development

(a) *Legal description.* The South 215.125 feet of Lot 1, Block 1, Lindig Addition, Ramsey County Minnesota.

(b) Zoning Regulations. The R-4, Medium Density Multiple-family Residential District regulations shall apply to the Property subject to the following modifications:

(1) The only permitted use is one residential building with three dwelling units.

(2) No conditional uses.

(3) The building may not exceed two stories or 32 feet in height.

(4) Site plan, survey, parking, and landscape plan prepared by Lot Surveys Company Inc. dated June 11, 2009 on file with the City Clerk.

(5) Setbacks as depicted on the Site Plan.

(6) Design Development plan and elevations prepared by Gaetz Architects dated August 31, 2009 on file with the City Clerk.

(7) The Site Plan, survey, parking, and landscape plan together with the Design Development Plan and elevations are the Final Development Plan.

(Ord. No. 19-03, 3-27-2019)

Sec. 113-211 - Amber Union planned unit development

(a) *Legal description.* The legal description of this PUD is the North Half of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter, in section 21, township 29, range 23, Ramsey County, Minnesota, except that part taken for Snelling and Larpenteur Avenues.

(b) *Purpose.* The purpose of the Amber Union planned unit development is to provide for the mixed uses of multi-family apartments and a retail space.

(c) *Permitted uses and zoning regulations.* The R5-M mixed use high density residential district regulations shall apply to the property subject to the following modifications:

(1) Permitted uses: One principal structure consisting of 111,640 square feet and 89 apartment units and one principal structure consisting of 59,195 square feet, 39 apartment units, and one retail space.

(2) No conditional uses.

(3) No interim uses.

(4) Setbacks as depicted in the site plan dated September 23, 2019 prepared by Kimley Horn and Mohagen Hansen.

(d) Parking. Vehicle parking shall be as follows:

(1) 108 parking stalls as depicted on the Site Plan dated September 23, 2019 prepared by Kimley Horn.

(2) 41 parking stalls as depicted on Exhibit A (Parking Easement) dated [inset date] prepared by Buhl GTA, recorded at Ramsey County as document number [insert number].

(3) 10 parking stalls as depicted on Exhibit B dated (Encroachment Agreement) [insert date] prepared by the City of Falcon Heights, recorded at Ramsey County as document number [insert number].

(4) At no time shall there be less than 149 parking stalls dedicated to the permitted uses of the Amber Union Planned Unit Development. A different arrangement of parking is subject to approval by the city administrator.

(e) *Development plan.* The PUD must be maintained in accordance with the following development plan, which is on file with the city and which is incorporated herein by reference.

(1) The following plans prepared by Buhl GTA, LP and their contractors/partners with up to five percent variance as approved by the city administrator:

a. Site development plans, dated September 23, 2019 prepared by Kimley Horn and Mohagen Hansen including:

1. Demo plan.
2. Erosion and sediment control plan.
3. Site plan.
4. Grading plan.
5. Storm sewer plan.
6. Utility plan.
7. Security plan.

b. Security Plan, dated May 6, 2019 prepared by Kimley Horn and Mohagen Hansen

c. Landscaping plans, dated July 15, 2019 prepared by Damon Farber.

1. Tree protection plan.
2. Landscape plan.

d. Floor plans, dated September 23, 2019 prepared by Mohagen Hansen.

(Ord. No. 19-05, § 1, 6-12-2019; Ord. No. 19-07, § 1, 10-23-2019)

Sec. 113-212 – Amber Flats planned unit development

(a) *Legal description.* The legal description of this PUD is as follows:

PID 212923110029: The East 250 feet of the North 500 feet except the West 150 feet of the East 160 feet of the North 283 feet of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 21, Township 29, Range 23, West of the Fourth Principal Meridian;

PID 212923110038: The West 150 feet of the East 160 feet of the North 283 feet of the Northwest quarter of the Northeast quarter of the Northeast quarter of Section 21, Township 29, Range 23, West of the Fourth Principal Meridian.

("Subject Property")

(b) *Purpose.* The purpose of the Amber Flats Planned Unit Development is to provide for multi-family apartments.

(c) *Permitted uses and zoning regulations*. The R-5M mixed use high density residential district regulations shall apply to the property subject to the following modifications:

a. Permitted uses:

1. One principal structure consisting of 117,000 square feet and 96 apartment units.
2. No conditional uses.
3. No interim uses.
4. Setbacks as depicted in the Architectural Site Plan dated October 16, 2023 prepared by UrbanWorks Architecture, LLC.

b. Parking. Vehicle parking shall be as follows:

1. 55 surface parking stalls as depicted in the Architectural Site Plan dated October 16, 2023 prepared by UrbanWorks Architecture, LLC.
2. 66 sublevel parking stalls as depicted in the Sublevel 1 - Overall Plan dated October 16, 2023 prepared by UrbanWorks Architecture, LLC.

(d) *Development plan.* The PUD must be maintained in accordance with the following development plan, which is on file with the city and which is incorporated herein by reference.

(1) The following plans prepared by UrbanWorks Architecture, LLC with up to five percent variance to not increase nonconformities from City Code, as approved by the city administrator:

a. Site development plans, dated October 16, 2023, prepared by UrbanWorks Architecture, LLC including:

1. Site demolition plan.
2. Erosion and sediment control plan.
3. Site dimension plan.
4. Grading and drainage plan.
5. Utility plan.
6. Architectural site plan, including overall, sublevel 1, level 1, level 2.
7. Building elevations.

(e) *Additional conditions*. The PUD must be maintained in accordance with the following additional conditions.

(1) Trees shall be planted and/or maintained along Larpenteur Avenue and Underwood Street as shown in plans submitted by UrbanWorks Architecture,

LLC, dated October 16, 2023.

(2) Snow storage may not be stored in any parking area for more than 48 hours.

(3) Open space as shown on plans submitted by UrbanWorks Architecture, LLC, dated October 16, 2023, may not be converted into additional parking.

(4) Charging stations for not less than four electric vehicles must be provided on site.

Secs. 113-213 – 113-239 - Reserved

ARTICLE VI - SUPPLEMENTAL DISTRICT REGULATIONS

DIVISION 1 - GENERALLY

Sec. 113-240 - Accessory buildings and structures

(a) *Time of construction.* No accessory building shall be constructed on a lot prior to the time of construction of the principal building or land use to which it is accessory.

(b) *Proximity to principal building.* An accessory building shall be considered as an integral part of the principal building if it is located less than 12 feet from the principal building with respect to firewall and other requirements of the building code.

(c) *Garage restrictions.* Garages in a residential district must be set back at least five feet from an interior side or rear lot line unless:

(1) The garage meets all of the following:

a. Is located on an alley, and is accessed from the alley or from a public street abutting an alley on a corner lot;

b. Is located in the rear 28 feet of the lot; and

c. Is oriented such that the vehicular access door is perpendicular to the alley; or

(2) The garage meets all of the following:

a. Is detached from the principal structure;

b. Is accessed from a driveway off of a public street, not an alley;

c. Is replacing an existing garage that is located less than five feet from the side lot line; and

d. Is located a minimum of five feet to the rear of the principal structure on the nearest adjoining property that is closed to the garage; or is located at least ten feet from any portion of the principal structure on the nearest adjoining property; or

(3) The garage meets all of the following:

a. Is detached from the principal structure;

b. Is accessed off an alley;

c. Is replacing an existing garage that is located less than five feet from the side lot line; and

d. Is located in the rear 30 feet of the lot.

(d) *Garage locations; conditional.*

(1) If all the conditions of subsection (c)(1) of this section are met, the garage can be located not less than one foot from an interior side or rear lot line.

(2) If all of the conditions of subsection (c)(2) of this section are met, the garage can be located at the same side yard setback as the existing garage that is being replaced, except that the new garage shall not be located less than two feet from the side lot line. The replacement garage does not have to be in the same location as the existing garage.

(3) If all of the conditions of subsection (c)(3) of this section are met, the replacement garage can be located at the same side yard setback as the existing garage, except the garage shall not be located less than two feet from the side lot line.

(e) *Yard setbacks; building locations.* The corner side yard setback for accessory buildings, including garages and accessory dwelling units, shall adhere to the setback requirement for principal buildings as described in section 113-174(e)(2) (20 percent of the lot width). The rear yard and interior side yard setbacks shall be those required for garages and accessory buildings on interior lots. Lots smaller than 75 feet wide shall have a minimum corner side yard setback requirement of not less than fifteen feet. Garages on these lots may be located closer than 15 feet from the corner side lot line if the vehicular access door does not face the side street. In no case shall a garage or other accessory building be located within the corner side yard.

(f) *Height limitations.* No accessory building in a residential district shall exceed the height of the principal building. No detached garage in a residential district shall exceed 15 feet in height, unless it contains an accessory dwelling unit. A detached garage containing an accessory dwelling unit may not exceed two stories or 25 feet in height, whichever is lesser in height.

(g) *Building location in certain districts.* Accessory buildings in the business and industry districts shall be located any place to the rear of the principal building, subject to the building code, and the fire zone regulations.

(h) *Prohibited location.* No detached garages or other accessory buildings shall be located nearer to the front lot line than the principal building on that lot with the exception of an attached garage in an R-1 zone.

(i) *Height limitation in certain districts.* No accessory building in a business or industrial district shall exceed the height of the principal building except by conditional use permit.

(j) *Yard setbacks and building location in certain districts.* An accessory building in the business or industrial districts may be located within the rear yard setback, provided that the lot is not a through lot and said accessory building does not occupy more than 25 percent of the required rear yard. An accessory building shall be a part of the principal building if it is located less than 12 feet from the principal building. No accessory building shall be located less than ten feet from a rear lot line.

(k) *Standards for utility structures.* Utility structures and other similar buildings shall conform to the following standards in residential districts:

(1) All structures 120 square feet or larger shall require a building permit.

(2) All such structures shall be secure from wind displacement.

(3) The area of such buildings shall not be less than 35 square feet. Only one such

building shall be permitted per lot and permitted only within the single-family districts.

(4) The height of detached utility structures shall not exceed 12 feet. If attached, the structure shall not exceed the height of the principal building.

(5) Exterior colors or materials matching the principal structure or earthen tones shall be utilized. No door or other access opening in a utility structure shall exceed 28 square feet in area.

(l) *Compost structure requirements.* One accessory structure for compost not to cover more than 25 square feet in area and five feet in height in the rear yard. A compost structure must meet the setback requirements in section 113-240(e).

(m) *Garage conversion requirements.* When an attached garage is converted to dwelling space, a replacement garage of the same or greater size must be constructed on the property. Furthermore, the existing driveway leading to the converted garage must be replaced with grass or approved landscaping materials unless the driveway provides access to the new garage. The curb cut provided to such a driveway may be removed by the city in the event the street curbs and gutters are rebuilt.

(n) *Street access for alley property.* No property located on an alley shall be permitted a new curb cut for street access.

(o) *Prohibited use.* No accessory building or structure shall be used for living purposes or as a dwelling unit, unless it is an authorized accessory dwelling unit under this chapter.

(p) *Detached accessory building conditions.* Detached accessory buildings shall not occupy more than 40 percent of the area of a required rear yard, and shall not exceed a total of 1,000 square feet.

(q) *Minimum distance between buildings.* The minimum distance between the principal building and an unattached accessory building shall be five feet.

(r) *Minimum setback.* The minimum setback from the rear lot line of a through lot shall be 30 feet.

(s) *Tents.* A tent is not an approved accessory building and may not be used as a dwelling unit on any lot.

(t) *Detached garage condition.* Detached garages in a residential district must be located entirely within the rear 30 feet of the lot if there is an adjacent alley.

(u) *Accessory dwelling units*. Accessory dwelling units shall conform to the following standards where allowed as a permitted accessory use:

(1) An accessory dwelling unit shall be located on a lot occupied by a single-family dwelling.

(2) No more than one accessory dwelling unit shall be allowed on a lot.

(3) Either the principal dwelling unit or the accessory dwelling unit shall be owner-occupied and both dwelling units shall be under unified ownership. The accessory dwelling unit may not be sold independently of the principal dwelling unit and may not be a separate tax parcel.

(4) An accessory dwelling unit may be attached to, detached from, or internal to a single-family dwelling unit building. Accessory dwelling units attached or internal to a single-family dwelling unit building must be fully separated from

the principal dwelling unit by means of a wall or floor and have a separate entrance than the principal dwelling unit. The separating wall may have a door connecting the accessory dwelling unit to the principal dwelling unit.

(5) Only one unit, either the accessory dwelling unit or principal dwelling unit, may be rented at one time. For the purposes of this provision, a "rented" accessory dwelling unit is one that is being occupied by a person or persons other than the family occupying the principal dwelling unit. Rented accessory dwelling units must comply with all provisions outlined in chapter 105, article iv.

(6) The accessory dwelling unit must comply with all Minnesota State Building Code provisions as they apply to single-family dwelling unit buildings.

(7) An accessory dwelling unit shall be assigned a unique address identifier to differentiate it from the principal dwelling. All accessory dwelling units shall be identified by "Unit A" following the primary property address. It shall be the responsibility of the property owner to inform the United States Postal Service (USPS) of the new address.

(8) A detached accessory dwelling unit may be located above a detached garage or within a separate, existing or newly constructed, accessory building meeting the standards for accessory buildings established in this section.

(9) Home occupations meeting the definitions and requirements of section 113-391 are permitted in accessory dwelling units.

(10) Dimensional standards for all accessory dwelling units shall conform to the following guidelines:

a. The maximum height of an accessory dwelling unit shall meet the requirements as set forth in section 113-240(f).

b. An accessory dwelling unit shall include at least 250 square feet of living area, up to a maximum of 1000 square feet of living area, but in no case shall an accessory dwelling unit exceed 75% of the principal dwelling's four-season living area (exclusive of the accessory dwelling unit). For the purposes of this provision, "living area" shall include kitchen areas, bathrooms, living rooms, bedrooms (including the closet which defines the bedroom), and other rooms, and shall exclude utility rooms, hallways, entryways, storage areas, and garages.

c. An accessory dwelling unit shall not occupy more than 40% of the area of a required rear yard.

d. An accessory dwelling unit must meet all setback standards as outlined in section 113-174.

e. An accessory dwelling unit shall include a maximum of two bedrooms.

f. All accessory dwelling units shall meet the standards for principal buildings; notwithstanding this requirement, detached accessory dwelling units shall not be located closer to the front property line than the principal building.

(11) The entryway to a detached accessory dwelling unit shall be connected to a street or alley frontage with an improved walkway.

(12) An accessory dwelling unit shall be constructed so as to be compatible with the

existing principal dwelling, as well as the surrounding neighborhood in terms of design, form, height, materials, and landscaping.

(Code 1993, § 9-2.04; Ord. No. 0-89-12, 7-26-1989; Ord. No. 0-89-16, 11-8-1989; Ord. No. 0-90-1, 1-10-1990; Ord. No. 0-90-8, 8-22-1990; Ord. No. 0-91-13, § 1, 11-27-1991; Ord. No. 0-95-07, §§ 1—3, 10-11-1995; Ord. No. 0-96-01, § 1, 2-28-1996; Ord. No. 98-04, § 1, 6-24-1998; Ord. No. 0-99-10, § 1, 12-15-1999; Ord. No. 01-02, § 1, 10-10-2001; Ord. No. 19-04, § 3, 5-8-2019)

Sec. 113-241 - Required yards and open spaces

(a) *Existing yards.* No yards, now or hereafter provided for a building existing on the effective date of the ordinance from which this chapter is derived shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this chapter for equivalent new construction in any zone.

(b) *Permitted encroachments on required yards.* The following shall be permitted encroachments into setback and height requirements except as restricted by other sections of this chapter:

(1) In any yards:

a. Posts, off-street parking, flues, sills, pilasters, lintels, cornices, eaves (up to three feet), gutters, awnings, open terraces, steps, sidewalks, essential services, stoops, or similar features provided that they do not extend five feet above the height of the principal structure or to a distance less than three feet from any lot line;

b. Yard lights and nameplate signs, trees, shrubs, plants;

c. Floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yard for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property;

d. No deck, uncovered porch, or air conditioner shall be less than five feet from a side or rear yard line and if in the required front yard area, a variance shall be required;

e. An exposed ramp is a permitted encroachment, provided that a setback of at least five feet in the side and rear yard is met and the design and materials are approved by the zoning administrator as being in harmony with the surrounding residential neighborhood and the documented medical needs of the user;

f. Chimneys, flagpoles and open fire escapes may not extend more than five feet above the principal structure or three feet from any lot line. Basement egress window wells may not extend closer than three feet to any lot line.

(2) In side and rear yards:

a. Fences that meet all other provisions of this chapter;

b. Walls and hedges six feet in height or less;

c. Bays not to exceed a depth of three feet or containing an area of more than 30 square feet, fire escapes and basement egress window wells not to exceed a width of three feet.

(3) On a corner lot, nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting streets within a triangular area 30 feet from the intersecting street right-of-way lines.

(4) In no event shall off-street parking, structures of any type, buildings, or any impervious surfaces cover more than 75 percent of the lot areas, except for R-1 zoned land which is regulated by the schedule below:

Lot Area (sq. ft.)	Maximum Impervious Lot Coverage
7,370 or less	45%
Over 7,370 to 15,800	3,320 sq. ft. or 30%, whichever is greater
Over 15,800 to 34,000	4,940 sq. ft. or 20%, whichever is greater
Over 34,000	6,800 sq. ft. or 15%, whichever is greater

(5) Porches with open railings which do not have walls, doors, windows or screens and which do not extend above the roof line of the building to which they are attached may encroach into the required front yard six feet if they are a minimum 24 feet from any front lot line. The encroachment into the front yard may not exceed 50 square feet.

(c) *Street frontage.* All buildable lots must have frontage on and direct access to an improved public street except for planned unit development in which private streets have been approved by the city.

(Code 1993, § 9-2.05; Ord. No. 0-96-01, § 2, 2-28-1996; Ord. No. 0-96-05, § 1, 8-14-1996; Ord. No. 99-05, § 2, 8-25-1999; Ord. No. 03-01, § 1, 1-22-2003; Ord. No. 12-03, § 2, 5-9-2012)

Sec. 113-242 - Fences

Fences may be allowed in any zone and are subject to the following:

(1) All fences shall require a zoning permit in addition to any other required permits.

(2) If a fence is less than seven feet tall, a building permit is not required. If it is over seven feet, a building permit is required.

(3) Fences in residential districts shall be comprised of chain-link, wood, plastic, or metal, but shall not be electric, barbed, weaved, or welded wire, except as allowed as a security arm.

(4) All fences shall be kept in good repair, painted, trimmed and well maintained.

(5) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.

(6) In the event a fence is adjacent to and parallel with the front lot line, side lot line on the street side of a corner lot, or rear lot line adjacent to and parallel with an alley, such

fence shall be set back at least one foot from the street and alley right-of-way or property line.

(7) Fences are not allowed in a 30-foot visibility triangle on street corners. This area is measured beginning at the intersection of the projected property lines of two intersecting streets, thence 30 feet along one property line, thence diagonally to a point thirty 30 feet from the point of beginning.

(8) Fences may be permitted along property lines subject to the following:

a. Fences may be placed along property lines provided no physical damage of any kind results to abutting property.

b. Fences in commercial and industrial districts may be erected on the lot line to a height of six feet above grade plus two feet for a security arm. The security arm may be barbed, weaved, or welded wire.

c. Where the property line is not clearly defined, a certificate of survey may be required by the zoning administrator to establish the property line.

d. Fences located within the side and rear yard nonbuildable setback areas beginning at the front building line and fences located within the buildable area of a lot shall not exceed six feet in height from finished grade. Fence posts may extend an additional six inches.

e. In residential districts, fences along or within the front nonbuildable setback area shall not exceed 36 inches in height from finished grade. Fence posts may extend an additional six inches.

(Code 1993, § 9-2.06; Ord. No. 19-02, § 1, 3-13-2019)

Sec. 113-243 - Height limitations

(a) *Conditional use permit.* Any structural height that exceeds this chapter must have a conditional use permit.

(b) *Exemptions.*

(1) Height limitations shall not apply to belfries, cupolas and domes, monuments, public and public utility facilities, silos, barns, church spires, chimneys, smokestacks, flagpoles, and parapet walls extending not more than four feet above the limiting height of the building.

(2) Height limitations shall not apply to rooftop structures such as mechanical equipment, elevator shaft and equipment enclosures and similar structures, provided said exceptions do not exceed ten feet in height above the roofline and the area does not exceed 15 percent of the roof area.

(3) Height limitations shall not apply to private T.V. or radio reception antennae extending more than ten feet above the limiting height of the building except if any portion of the structure exceeds four feet in diameter and is more than 20 percent opaque, a conditional use permit shall be required. Any T.V. or radio transmission or reception device or structure not attached to the principal building shall require a conditional use permit.

(c) *Airport.* In all cases, however, no structure shall violate the limits and provisions of the airport plan of the Metropolitan Development Guide.

(Code 1993, § 9-2.07(1); Ord. No. 0-93-07, § 5, 7-28-1993)

Sec. 113-244 - Telecommunication towers and antennas

(a) *Purpose.* In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the council finds that these regulations are necessary to:

(1) Maximize the use of existing and approved towers and buildings to accommodate new personal wireless service antennas in order to reduce the number of new towers necessary to serve the community;

(2) Ensure antennas and towers are designed, located, and constructed in accordance with all applicable Code requirements to avoid potential damage to adjacent properties from failure of the antenna and tower through structural standards and setback requirements;

(3) Require antennas and tower sites to be secured in order to discourage trespassing and vandalism; and

(4) Require tower equipment to be screened from the view of persons located on properties contiguous to the site and/or to be camouflaged in a manner to compliment existing structures to minimize adverse visual effects of antennas and towers.

(b) *Permits.*

(1) It shall be unlawful for any person, firm, or corporation to erect, construct, place or re-erect, replace, or make structural repairs to any tower without first making application for and securing a building permit as provided in this chapter, except as provided in subsection (b)(3) of this section.

(2) The applicant shall provide a report from a qualified and licensed professional engineer that demonstrates the tower's compliance with all applicable structural and electrical standards, including but not limited to the Minnesota State Building Code, and includes the engineer's certification.

(3) Permits are not required for:

a. Adjustment, repair, or replacement of existing antennas or the elements of an antenna array affixed to a tower or antenna, provided that adjustment or replacement does not reduce the safety factor.

b. Routine maintenance (e.g., painting) and other nonstructural-related repairs of towers.

c. Antennas and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations, provided that all requirements of subsection (b)(5) of this section are met, with the exception of subsection (b)(5)(i) of this section (regarding corrosive material) which is waived. Temporary antennas shall be removed within 72 hours following installation, unless additional time is approved by the building official. Temporary towers erected for emergency purposes may be exempt from setback requirements of this article as determined by the building official.

(4) The fee to be paid is that prescribed under building permit fees.

(5) All antennas and towers erected, constructed, or located within the city, including all necessary wiring, shall comply with the following requirements:

a. All applicable provisions of this chapter.

b. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Minnesota State Building Code and the electronics industry association and all other applicable reviewing agencies.

c. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any antenna or tower nor any lines, cable, equipment, or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.

d. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.

e. Antennas which are directly mounted to the ground, or which are mounted in any other way which would allow an individual to easily make contact with the active element, shall be shielded or fenced to reduce its shock hazard.

f. All towers shall be constructed to conform to the requirements of the occupational safety and health administration.

g. All towers shall be reasonably protected against unauthorized climbing.

h. Antennas and towers may only be erected in accordance with applicable zoning restrictions.

i. Towers shall be constructed of corrosive resistant metal material.

j. Persons responsible for all communication towers and their antennas shall maintain a general liability insurance policy that provides coverage for any damage to property or injuries to persons caused by collapse of the tower. Said insurance policy shall provide coverage on an occurrence basis in an amount no less than $1,000,000.00.

(c) *Inspections; notice of violations.* All towers may be inspected at least once each year by an official of the city to determine compliance with original construction standards. Deviations from original design for which a permit is obtained constitutes a violation of this section. Notice of violations shall be sent by registered mail to the owner of the property and the owner shall have 30 days from the date the notification is issued to make repairs. The owner shall notify the city that the repairs have been made, and as soon as possible thereafter, another inspection shall be made and the owner notified of the results.

(d) *Height and zoning district restrictions.*

(1) *Tower height determination.* The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure, the tower, the antenna, and all attachments must meet the height restrictions of this section.

(2) *Antenna height determination.* Antenna height includes the height of the antenna from

the base of the antenna to the peak and all other attachments.

(3) *Height restrictions per zone.* Zoning district restrictions and maximum heights for towers and antennas are as follows:

a. Rooftop antennas ten feet or less in height are a permitted use in all zoning districts except that commercial antennas are not permitted in an R-1 zone.

b. Towers or antennas no more than 110 feet in height are a permitted use in a P-1/R-1 zone except on the elementary school property located at 1393 Garden Avenue.

c. Towers or antennas over ten feet in height but no more than 110 feet in height are a conditional use in P-1 and B-2 zones if the property does not abut R-1 zoned property.

d. Nonfreestanding towers and nonfreestanding antennas over ten feet in height, which are attached to a structure over 45 feet in height are a conditional use in all zoning districts under the following conditions:

1. The tower and antennas are located upon structures allowed as principal or conditional uses in the underlying zoning district or upon public structures.

2. The tower and antennas are limited to a height of 15 feet projecting above the structure. The city may permit antenna heights of up to 25 feet above the structure if the applicant can demonstrate that, by a combination of tower or antenna design, positioning of the structure or by screening erected or already in place on the structure, off-site views of the antenna are minimized.

(4) *Amateur radio antennas.* In accordance with the preemption ruling PRB1 of the Federal Communications Commission, towers supporting amateur radio antennas that comply with all other requirements of this section are exempted from the height limitations of this section, provided that such height is technically necessary to receive and broadcast amateur radio signals, and does not exceed 70 feet total height.

(e) *Site location and setbacks.* In residential and business districts towers and antennas must be located in the rear yard. In all districts, towers and antennas shall conform to each of the minimum setback requirements:

(1) Towers shall meet the principal structure setbacks of the underlying zoning district except that towers and antennas must be set back one foot from all property lines for each foot of tower and/or antenna.

(2) Towers shall not be located between a principal structure and a public street.

(3) A tower or antenna setback may be reduced through a conditional use permit, at the sole discretion of the city council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, public communications tower, power line support device, or similar structure. The term "integration" may include replacement of an existing structure to include a personal wireless service provider, but does not include replication of a structure.

(4) Only one tower shall exist at any one time on any one parcel, unless additional towers or antennas could be incorporated into existing structures such as a church steeple, light pole, power line support device, public communications building or other similar structure.

(f) *Lighting.* Towers shall not be illuminated by artificial means and shall not display strobe

lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower for camouflage purposes, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.

(g) *Signs and advertising.* No signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.

(h) *Accessory utility buildings.* All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements for accessory structures of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

(i) *Design standards.* Proposed or modified towers and antennas shall meet the following requirements:

(1) Towers and antennas (including antenna cables) shall be designed to blend into the surrounding environment to the maximum extent possible as determined by the city through the use of building materials, colors, texture, screening, landscaping, and other camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration;

(2) Personal wireless service towers shall be of a monopole design unless the city council determines that an alternative design would better blend in to the surrounding environment.

(j) *Collocation requirement.* All personal wireless service towers erected, constructed, or located within the city shall comply with the following requirements:

(1) A proposal for a new personal wireless service tower shall not be approved unless the city council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building that is greater than 60 feet in height, within a one-quarter mile search radius for towers less than 110 feet in height or a one-half mile search radius for towers equal to or greater than 110 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. 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 radio frequency engineer.

c. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.

(2) The applicant must demonstrate that a good faith effort to collocate on existing towers and structures was made, but an agreement could not be reached.

(3) Any proposed personal wireless 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 90 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.

(k) *Antennas mounted on roofs, walls, and existing towers.* The placement of commercial antennas on roofs, walls, and existing towers may be approved by the city, with a conditional use permit, provided the antennas meet the requirements of this chapter. In addition to the submittal requirements required elsewhere in this chapter, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:

(1) A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this chapter;

(2) A building plan showing the construction of the antennas and the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this chapter;

(3) Certification by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antennas.

(l) *Nonconforming existing antennas and towers.* Antennas and towers in residential districts and in existence as of the effective date of the ordinance from which this chapter is derived that do not conform or comply with this section are subject to the following provisions:

(1) Towers may continue in use for the purpose used and existing as of the effective date of the ordinance from which this chapter is derived, but may not be replaced or structurally altered without complying in all respects with this section.

(2) If such towers are subsequently damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit for the repair or restoration, but without otherwise complying with this chapter, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be 50 percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this section.

(m) *Abandoned or unused towers or portions of towers.* All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property. After the facilities are removed, the site shall be restored to its original or an improved state.

(n) *Interference with public safety telecommunications.* No new or existing telecommunications service shall interfere with public safety telecommunications.

(o) *Additional submittal requirements.*

(1) In addition to the information required elsewhere in this chapter for an application for a building permit for towers and their antennas, applications for conditional use permits for such towers shall include the following supplemental information:

a. A report from a qualified and licensed professional engineer which does the following:

1. Describes the tower height and design including a cross section and elevation;

2. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;

3. Describes the tower's capacity, including the number and type of antennas that it can accommodate; and

b. For all personal wireless service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, so long as there is no negative structural impact upon the tower and there is no disruption to the service provided.

(2) Before the issuance of a building permit, the following supplemental information shall be submitted:

a. Confirmation that the proposed tower complies with the requirements of the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority or that the tower is exempt from those regulations; and

b. A report from a qualified and licensed professional engineer that demonstrates the tower's compliance with the applicable structural and electrical, but not radio frequency, standards.

(p) *Exemptions.* The following antennas are exempt from the requirements under this section except as otherwise provided in this subsection:

(1) Satellite earth station antennas no more than ten feet in height that are two meters or less in diameter and located or proposed to be located in a business district;

(2) Antennas designed to receive signals as follows:

a. Antennas that are one meter or less in diameter and that are designed to receive direct broadcast satellite service, including direct-to-home satellite services;

b. Antennas that are one meter or less in diameter and that are designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or

c. Antennas designed to receive television broadcast signals;

(3) Antennas exempted under this section are subject to the following requirements:

a. Antennas (including antenna cables) shall be designed to blend into the surrounding environment through the use of appropriate colors, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration;

b. No lighting, signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities;

c. Antennas and any guy wires or guy wire anchors shall not be erected within a public or private utility and drainage easements, and shall be set back a minimum of five feet from all lot lines;

d. Antennas shall meet the setback requirements specified under this section and, to the extent feasible, placed in a position that is not visible from the street, unless placement in accordance with these requirements would impair reception of an acceptable signal;

e. Ground-mounted antennas shall not exceed ten feet in height and all other antennas must meet the height limitations in this section, unless the applicable height limitation would impair reception of an acceptable signal; in which case, antennas shall be limited to the minimum height necessary to obtain an acceptable signal;

f. Antennas shall not be constructed, installed, or maintained so as to create a safety hazard or cause damage to the property of other persons;

g. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any antenna nor any lines, cable, equipment, or wires or braces in connection with the antenna shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line;

h. Antennas, masts, and supporting cables shall conform to the latest structural standards and wind loading requirements of the Minnesota State Building Code and the electronics industry association and any other applicable reviewing agencies;

(4) Satellite earth station antennas no more than ten feet in height, and satellite earth station antennas in excess of one meter in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one meter in diameter may be allowed as a conditional use within the residential zoning districts of the city and, in addition to the requirements of this section, shall comply with the following standards:

a. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained within the limits of the property ownership;

b. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the receive window;

c. The antenna is not greater than three meters in diameter; and

d. The conditional use permit provisions of this chapter are considered and determined to be satisfied;

(5) Satellite earth station antennas in excess of two meters in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one meter in diameter are allowed as a conditional use within the B-1, B-2, B-3, P-1, P-1/R-1, and P-1/B-2 districts of the city and, in addition to the requirements of this section, shall comply with the following standards:

a. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free transmit-receive window or windows can be maintained within the limits of the property ownership;

b. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window; and

c. The conditional use permit provisions of this chapter are considered and determined to be satisfied.

(q) *Violations.* Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

(Code 1993, § 9-2.07(2); Ord. No. 0-97-01, § 1, 2-12-1997; Ord. No. 97-07, § 3, 9-24-1997)

Sec. 113-245 - Essential services

Essential services as defined herein shall be permitted as authorized and regulated by state law and Code of the city, except as further regulated herein.

(Code 1993, § 9-2.08)

Sec. 113-246 - Land reclamation

Land reclamation as defined herein shall be permitted only by conditional use permit in all districts.

(Code 1993, § 9-2.10)

Sec. 113-247 - Mining

Mining shall be permitted only by conditional use permit.

(Code 1993, § 9-2.11)

Sec. 113-248 - Firewood storage

(a) *Scope.* This section applies to the storage of wood on residential properties within the city. The section shall apply to any wood or wood product usually used or intended to be used as firewood.

(b) *Conditions of storage.* To protect the public health and safety, woodpiles must be erected, located, and maintained in a safe and orderly fashion:

(1) In neat and secure stacks;

(2) The maximum height allowed for the woodpile is six feet;

(3) No wood shall be stored within the required minimum area of setback from the street right-of-way;

(4) No wood shall be stored in any yard which is commonly considered the front yard.

(c) *Exemptions.* Wood stored or kept in a covered structure impervious to the elements is exempt from the conditions outlined in subsection (b) of this section.

(d) *Existing woodpiles.* Any woodpile in existence as of the date of the passage of the

ordinance from which this chapter is derived which does not comply with the provisions of this section must be moved or placed in compliance within 90 days after written notice to comply has been given to the occupant of the residence by the zoning administrator. Such notice shall be in writing and shall be served upon the property owner either in person or by mail.

(Code 1993, § 9-2.13)

Sec. 113-249 - Manufactured homes

Manufactured or mobile homes as defined in this chapter and per Minn. Stats. § 327.31, subd. 6, shall be permitted on any legal lot in the R-1 and R-2 residential districts under the following conditions that apply also to any other type of principal residential building permitted:

(1) No principal residential building shall be less than 50 feet by 20 feet in outside dimensions (20 feet one side and 50 feet the other).

(2) All one- and two-family residential buildings shall have a basement as defined and regulated in the city building code.

(3) All residential buildings shall meet all structural and other requirements of the city building code.

(Code 1993, § 9-11.02)

Sec. 113-250 - Private automobile repair and reconditioning

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Major repair means rebuilding, overhauling, or reconditioning of engines, motor vehicles or trailers including body, frame or fender straightening or repair, painting, and vehicle cleaning by steam or automatic car washing devices.

Minor repair means common maintenance including oil and filter change; battery or tire change; mounting of tires on rims; auto tune-up; replacing car lights, antifreeze, hoses, thermostats, manifolds and pipes.

(b) *Requirements.* Private automobile repair may be conducted in residential zones subject to the following conditions:

(1) *Vehicle registration.* Automobiles on which repair work is done must be registered to the owner or occupant of the property.

(2) *Location of repair work.* In R-1, R-2, and R-4 residential districts minor repair work may be done in a private garage, a garage attached to a dwelling unit, or on an improved driveway surface; and major repair work may be done in a private garage, a garage attached to the dwelling unit, or, if a permit is obtained from the city zoning administrator, on an improved driveway surface. In an R-4 zone, the location of major and minor repair work shall also be governed by regulations of the property owner.

(3) *Hours.* Except as herein provided, major and minor repair work may be conducted between the hours of 8:00 a.m. and 8:00 p.m.

(4) *Permit.* Where an automobile repair permit is required, an application shall be made on forms provided by the city zoning administrator. An automobile repair permit shall expire ten days after issuance unless extended for five additional days by the city zoning administrator. Further extensions shall require approval of the city council.

(5) *Nuisance.* In no event shall major or minor repair work be conducted in a manner that creates an unreasonable disturbance for the owners of adjacent or nearby property.

(Code 1993, § 9-13.07)

Sec. 113-251 - Vehicle sales

(a) *Residential district.* Motor vehicles and recreational vehicles which are permitted within the respective residential district may be advertised for sale and sold provided the vehicle is owned by the resident where the vehicle is parked and the vehicle is currently licensed and operable. Vehicles that are displayed for sale shall not be parked or stored on public property or the public rights-of-way on Snelling Avenue and its frontage roads, Hamline Avenue, Fairview Avenue, Roselawn Avenue and Cleveland Avenue. At no time shall any commercial vehicle be parked within a residential district and advertised for sale.

(b) *Nonresidential district.* Motor, commercial, and recreational vehicles shall not be displayed for sale or sold within nonresidential districts unless as part of an approved licensed sales dealership or for short-term parking (12 hours or less) if the vehicle is owned by an employee of said business where the vehicle is parked with the consent of the business owner.

(Code 1993, § 9-13.08; Ord. No. 2004-01, § 1(9-13.08), 5-5-2004)

Sec. 113-252 - Drive-through facilities

Drive-through facilities are prohibited except when specifically allowed by a conditional use permit in a zoning district. When allowed, all drive-through facilities must comply with the following requirements:

(1) The drive-through facility, service window and speakers must be located at least 100 feet from a residential zoned or used property and must be visually screened from adjoining residential property.

(2) The entrance and exit drive lanes to the drive-through facility must be at least 75 feet from a street intersection.

(3) The lot on which the drive-through facility is located must be at least 35,000 square feet in area.

(4) The minimum on-site stacking distance available for the drive-through must be 180 feet in length.

(5) Drive-through facilities may only be operated between the hours of 7:00 a.m. and 8:00 p.m.

(6) No speaker noise may be audible from adjacent residential property.

(7) A traffic study must be completed documenting that the drive-through facility will not create traffic problems.

(Ord. No. 06-03, § 2, 9-13-2006)

Sec. 113-253 - Mobile storage structures

Mobile storage structures may be located as a temporary structure on property within the city upon issuance of a permit by the city clerk. They are allowed for a period not exceeding 72 hours in duration on a public street and not exceeding four weeks on private property, from time of delivery to time of removal. No more than one mobile storage structure may be located on a specific piece of property within the city at one time. Such temporary structure may not be located on a specific property more than two times in any 90 calendar-day period. Such temporary structure shall be located no closer than ten feet to the property line unless on a driveway and must be placed on an impervious surface. Such structure may not be placed in a fire lane, or sidewalk. Such structure may not exceed eight feet six inches in height, ten feet in width or 20 feet in length. It shall be the obligation of the owner or user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure.

(Ord. No. 07-03, § 2, 1-10-2007)

Sec. 113-254 - Solar energy systems

(a) *Purpose and scope.* The City of Falcon Heights has adopted this section to meet the comprehensive plan goal of becoming a sustainable, energy efficient community and to preserve the health, safety and welfare of the community's citizens by promoting the safe, effective and efficient use of solar energy systems to reduce consumption of fossil fuels. This section applies to all solar energy installations in the City of Falcon Heights.

(b) *Permitted accessory use.* Active solar energy systems are an accessory use in all zoning districts, subject to the following requirements:

(1) *Height.* Active solar energy systems must meet the following height requirements:

a. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.

b. Ground- or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.

(2) *Setback.* Active solar energy systems must meet the accessory structure setback for the zoning district in which the system is located.

a. *Roof-mounted solar energy systems.* In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.

b. *Ground-mounted solar energy systems.* Ground-mounted solar energy systems may not extend into the side yard or rear setback when oriented at minimum design tilt.

(3) *Visibility.* Active solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from public rights-of-way other than alleys. The color of the solar collector is not required to be consistent with other roofing materials.

a. *Building integrated photovoltaic systems.* Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setbacks and regulations for the district in which the building is located.

b. *Solar energy systems with mounting devices.* Solar energy systems using roof-mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley. Roof-mount systems that are visible from the nearest edge of the street frontage right-of-way shall not have a highest finished pitch steeper than the roof pitch on which the system is mounted, and shall be no higher than 12 inches above the roof.

c. *Coverage.* Roof- or building-mounted solar energy systems, excluding building-integrated systems, shall not cover more than 80 percent of the south-facing or flat roof upon which the panels are mounted. The surface area of pole- or ground-mount systems shall not exceed half the building footprint of the principal structure.

d. *Lot coverage.* The surface area of pole- of ground-mount systems shall be treated as impervious coverage as regulated for each zoning classification. Allowed impervious coverage may be increased by up to ten percent above maximum lot coverage for the zone provided 100 percent of the excess is accounted for by an approved solar ground- or pole-mounted solar energy system.

(4) *Approved solar components.* Electric solar energy system components must have a UL listing and solar hot water systems must have an SRCC rating.

(c) *Plan approval required.* All solar energy systems shall require administrative approval by the zoning and planning administrator.

(1) *Plan applications.* Plan applications for solar energy systems shall be accompanied by a site plan and by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.

(2) *Pitched roof-mounted solar energy systems.* For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.

(3) *Flat roof-mounted solar energy systems.* For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

(4) *Compliance with building code.* All active solar energy systems shall require a building permit.

(5) *Compliance with state electric code.* All photovoltaic systems shall comply with the Minnesota State Electric Code.

(6) *Compliance with state plumbing code.* Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.

(7) *Utility notification.* No grid-intertie photovoltaic system shall be installed until evidence has been given to the planning and zoning department that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

(8) *Plan approvals.* Applications that meet the design requirements of this section shall be granted administrative approval by the zoning and planning administrator. Plan approval does not include building, electric, or plumbing code approval. If applicable, such approvals must also be obtained.

(Ord. No. 13-05, § 2, 11-13-2013)

Sec. 113-255 – Cannabis retail establishments.

A cannabis business with a license or endorsement authorizing the retail sale of cannabis flower plants, cannabis products, and lower-potency hemp products must meet the following requirements and all requirements as outlined in Chapter 14, Article X:

(1) No individual or entity may operate a state-licensed cannabis retail business within the City of Falcon heights without first registering with the City of Falcon Heights. See Chapter 14, Article X for requirements.
(2) Only one cannabis business with a retail license or a cannabis retail endorsement shall be permitted in the City of Falcon Heights at a time. This does not apply to businesses licensed with the state only as lower-potency hemp edible retailers.
(3) Cannabis businesses with a retail license or a cannabis retail endorsement shall be located a minimum distance of 1000 feet from any primary and secondary school, measured from the property line of the school to the principal structure of the cannabis retail business.
(4) Cannabis businesses with a retail license or a cannabis retail endorsement shall be located a minimum distance of 500 feet from any day care, residential treatment facility, or attraction within a public park that is regularly used by minors, including a playground or athletic field.
(5) Sales of approved products at a registered cannabis retail business are only allowed between the hours of 10 a.m. and 9 p.m. seven days per week.
(6) No registered retail establishment may allow on-site consumption of cannabis edible products or lower-potency hemp edible products on the premises.
(7) Smoking is prohibited within the indoor area of any registered retail establishment.
(8) A cannabis retail establishment is prohibited from sharing a common entrance with a business licensed as a tobacco products shop.
(9) All operations of the business shall take place within an enclosed building.

Secs. 113-25~~5~~6 – 113-280 - Reserved

DIVISION 2. - OFF-STREET PARKING AND LOADING

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Subdivision I - In General

Secs. 113-281 – 113-308 - Reserved

Subdivision II - Off-Street Parking

Sec. 113-309 - Scope and purpose

(a) The provisions of this subdivision shall apply to all buildings, structures and uses of land herein governed by this chapter.

(b) Regulation of off-street parking and loading spaces in this chapter is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking, loading and unloading from motor vehicles in accordance with the utilization of the various parcels of land and structures.

(c) Structures or uses for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived, but for which work has not been completed shall be exempt from the hereinafter stated parking requirements if the structure is completed within six months after the effective date of the ordinance from which this chapter is derived.

(Code 1993, § 9-13.04)

Sec. 113-310 - Residential districts

Off-street parking and loading shall be as required and regulated in specific sections of this chapter and by the applicable general provisions of this section herein.

(1) The following provisions apply to the R-1 and R-2 districts:

a. Parking shall be permitted on hard-surfaced areas designed for that purpose and for providing access to garage, carport or open parking area and provided that no driveway or off-street open parking area shall be located closer than five feet from the property line on that side. The five feet of property known as the side yard shall be landscaped as shall the remainder of the front yard applying to the residential portion of the house and continuing to the far lot line removed from the access and/or parking driveway. Parking shall not be permitted in any part of landscaped yards, boulevards, grass portion of street right-of-way or other such areas (except as allowed for boats and unoccupied trailers under "exterior storage" provisions of this chapter). And provided further that from November 15 to April 1, the unsurfaced portion of the front yard of any property in a residential district may be used for parking one passenger vehicle registered in the name of a resident, if there is a single driveway, and the vehicle is parked parallel to the driveway and on one uniform side of the driveway, and the width of the parking area does not exceed eight feet. For purposes of this chapter a "passenger vehicle" shall mean a two- or four-door sedan or van used primarily for transporting passengers, and shall not include pickups, trucks, campers, recreational vehicles or buses.

b. At least two parking spaces are required for each dwelling unit. At least one of the parking spaces must be enclosed.

c. No motor vehicle over one ton capacity bearing a commercial license and no commercially-licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering service. No campers, boats, trailers, or snowmobiles shall be parked or stored in any front or side yard; boats and unoccupied trailers meeting criteria for "exterior storage" under this chapter may be stored in the rear yard.

d. One-family homes may utilize the public street for the loading and unloading of furniture, moving trucks and other common and customary activities associated with residential use, excluding service and repair of vehicles except for the changing of tires, provided such activities do not block street traffic, cause traffic congestion or hazards, or otherwise constitute a public nuisance.

(2) The following provisions apply to the R-3 and R-4 districts:

a. All accessory off-street parking facilities required herein shall be located as follows:

1. Spaces accessory to multiple-family dwellings on the same lot as the principal use served and within 200 feet of the main entrance to the principal building served. Parking as required by the building code for the handicapped shall be provided.

2. Off-street parking spaces shall not be located on or project into a street or alley right-of-way.

3. No driveway or off-street open parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes.

4. Off-street parking spaces shall not be located within any required front or side yard setback.

b. Reserved.

c. Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 7,000 pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants, or customers of nearby business or manufacturing establishments.

d. The number of off-street parking spaces required for various land uses as specified herein shall be considered as absolute minimum requirements. Additional off-street parking spaces may be required by the zoning administrator or planning commission. It is public policy that all public streets in the city are intended primarily for the movement of traffic; on-street curb parking shall be considered a privilege that may or may not be granted on a street-by-street basis.

e. Off-street parking spaces required (one space equals 350 square feet) shall be as follows for:

Multiple-family dwellings. At least one parking space per dwelling unit except that one and one-quarter parking spaces per dwelling unit are required for multiple units of ten or less that abut no parking (on street curb) zones. Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements. In the event the final calculation of parking spaces includes a portion

of a parking space, the total number of parking spaces should be rounded up.

(3) The following provisions apply to the R-5M district: The requirements of the R-4 district shall apply except that at least 80 percent of the required parking spaces for apartment buildings shall be below grade and integrated into the apartment building.

(Code 1993, §§ 9-4.01(5), 9-5.01(5), 9-6.01(5), 9-7.01(5), 9-13.04(1); Ord. No. 0-96-01, § 4, 2-28-1996; Ord. No. 09-01, § 1, 4-8-2009; Ord. No. 10-06, §§ 6, 7, 9-8-2010; Ord. No. 12-07, § 1, 7-11-2012)

Sec. 113-311 - Surfacing and drainage

Off-street parking areas shall be improved with a durable and dustless surface. Parking areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.) Commercially zoned properties and R-4 properties shall utilize asphalt, concrete or a reasonable substitute surface as approved by the city engineer and capable of carrying a wheel load of 4,000 pounds. All surfacing must be completed prior to occupancy unless other arrangements have been made with the zoning administrator.

(Code 1993, § 9-13.04(2); Ord. No. 0-96-01, § 4, 2-28-1996)

Sec. 113-312 - Location

All required accessory off-street parking facilities required herein shall be located as follows:

(1) Spaces accessory to one- and two-family dwellings as regulated in sections 113-174 and 113-175.

(2) Spaces accessory to multiple-family dwellings as regulated in sections 113-175 and 113-176.

(3) Spaces accessory to uses located in a business district shall be within 500 feet of a main entrance to the principal building served. Parking as required by the building code for the handicapped shall be provided.

(4) There shall be no off-street open parking space within ten feet of any street right-of-way.

(5) No driveway or off-street open parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes, except when adjoining an existing parking area on the adjacent lot.

(Code 1993, § 9-13.04(3))

Sec. 113-313 - Reserved

Sec. 113-314 - Miscellaneous provisions

(a) *Existing off-street parking spaces.* Existing off-street parking spaces and loading spaces upon the effective date of the ordinance from which this chapter is derived shall not be reduced in number unless the result exceeds the requirements set forth herein.

(b) *Parking for seating facilities.* In stadiums, sport arenas, churches and other places of public assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each 24 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this chapter.

(c) *Parking space.* Required parking spaces shall be at least nine feet wide and 18 feet long. Up to 50 percent of the required spaces may be designated compact spaces. Compact parking spaces shall be at least eight feet wide and 16 feet long. Compact spaces shall be identified through appropriate signage. Unless alternative requirements are designated by the city engineer, parking spaces shall be served by access drives with minimum dimensions provided as follows:

Stall Angle (degrees)	Curb Length (feet)	Vehicle Projection (feet)	Aisle (feet)	Traffic Flow
45	9	22	14	One way
60	9	21	16	One way
75	9	21	18	One way
90	9	18	24	Two way
90 compact	8	16	24	Two way
Parallel	23	8.5	22	

Electric vehicle charging stations may be counted toward satisfying minimum off-street parking space requirements.

All electric vehicle charging stations must include signage designating the space for only electric vehicle charging, unless no other spaces available. Signage must meet all guidelines as required by Article VII of this chapter.

For commercial or multifamily dwelling parking areas with ten to twenty parking stalls utilizing electric vehicle charging stations, at least one electric vehicle charging station must comply with all relevant American with Disabilities (ADA) requirements. For commercial or multifamily dwelling parking areas with more than twenty parking stalls utilizing electric vehicle charging stations, at least two electric vehicle charging stations must comply with all relevant American with Disabilities (ADA) requirements.

Handicapped parking spaces. Spaces for the handicapped shall be at least 12 feet wide and 18 feet in length. The size, number, and location of stalls reserved for handicapped parking shall be provided and identified as required by applicable regulations. These spaces are included in the computation for the minimum parking space requirement.

(d) *Use of parking facilities.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 7,000

pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.

(e) *Joint parking facilities.* Off-street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in any district (except residential districts) in which separate parking facilities for each separate building, structure or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period and a copy of the private joint parking agreement is approved by the zoning administrator and placed on file with the city along with a certificate of occupancy for all land area involved.

(f) *Control of off-street facilities.* When required, accessory off-street parking facilities that are provided elsewhere than on the lot in which the principal use served is located shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the zoning administrator requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.

(g) *Use of parking area.* Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent or other nonparking purposes except by the granting of a variance.

(h) *Lot coverage.* In residential districts, no more than 32 percent of the required front yard area shall be surfaced or utilized for driveway or vehicle storage space, but in no case shall a driveway in a required front yard exceed 24 feet in width as measured at the property line.

(i) *Minimum spaces required.* The number of off-street parking spaces required for various land uses as specified herein shall be considered as absolute minimum requirements. Additional off-street parking spaces may be required by the zoning administrator or planning commission.

(j) *Parking restrictions.* Parking shall be permitted on hard-surfaced areas designed for such use only; parking shall not be permitted in landscaped yards, boulevards, grass portion of street right-of-way or other such areas, except as provided in section 113-310(1)(a).

(Code 1993, § 9-13.04(5); Ord. No. 0-91-10, § 1, 6-19-1991; Ord. No. 0-96-01, § 4, 2-28-1996; Ord. No. 12-07, § 2, 7-11-2012)

Sec. 113-315 - Design and maintenance of off-street parking areas

(a) *Design.* Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access widths shall be in accordance with the state highway department standards, but in no case shall they exceed 32 feet in width unless a conditional use permit has been obtained approving the larger width. Driveway access shall be so located as to cause the least interference with traffic movement. There shall be only one driveway access for each one-family residential lot.

(b) *Calculating space.* When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.

(c) *Signs.* No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and/or electric vehicle charging, and such signs shall not

be a part of permitted advertising space. Signs shall conform to zoning district regulations.

(d) *Surfacing.* All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.)

(e) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged so it is not directly visible from the adjoining property and in a downward vertical direction. However, in no case shall such lighting exceed two footcandles in a business or industrial zone nor 0.5 footcandle in a residential zone measured at the lot line.

(f) *Curbs and landscaping.* A six-inch-high, poured-in-place concrete curb shall be provided around the periphery of all parking lots and internal access roads, except where the city engineer determines that a curb would impede the drainage plan. When the parking lot is for six spaces or more, a curb or screening not over four feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or screening. Wheel guards as approved by the zoning administrator may be used.

(g) *Planting islands*. Within any parking lot containing more than 20 parking stalls, the city may require landscaped planting islands of a type, size and location as approved by the city council.

(h) *Parking space for six or more cars.* When a required off-street parking space for six or more cars is located adjacent to a residential district, a fence or screen not less than four feet in height shall be erected along the residential district property line, plus additional screening as may be required by the zoning administrator.

(i) *Maintenance of off-street parking space.* It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space, accessways, landscaping and required fencing.

(j) *Access.* All off-street parking spaces shall have access from driveways and not directly from the public street.

(k) *Determination of areas.* The parking space per vehicle shall not be less than 350 square feet of parking and maneuvering area or an area equal to the width of the parking space multiplied by the length of the parking space plus 15 feet.

(l) *Proximity to buildings.* No parking space shall be closer than ten feet to any building.

(m) *Fire access lanes.* Fire access lanes shall be provided as required by the building or fire code or the zoning administrator.

(n) *Calculation of floor space for parking requirements.* Floor area or gross floor area of a building for purposes of calculating required parking space for retail uses shall include only that floor space devoted to retail sales as defined herein; it shall not include storage space, restrooms, interior pedestrian mall space unless retail activities are located on floor area of said mall, hallways, enclosed walkways, utility rooms, window displays, office of building management or maintenance, lobbies or similar floor space not generating a demand or need for parking space. Due consideration shall, however, be given to floor area which may and could reasonably be expected to be converted to retail or other commercial activity and thereby increase the need for parking space.

(o) *Shopping centers and large retail outlets.* Shopping centers or individual retail outlets with over 5,000 square feet of floor area shall provide parking on the basis of 5.5 spaces per 1,000 square feet of gross leasable area.

(p) *Setbacks (yards).* Except as specifically authorized and permitted by zoning district provisions, off-street parking shall not be located in required yards.

(q) *Number of spaces.* Off-street parking spaces shall not be reduced in number unless said number exceeds the requirements set forth herein.

(r) *Off-street parking requirements.* Off-street parking spaces required (one space equals 350 square feet) shall be as follows unless the city determines, based upon a professional analysis of parking for any specific use, that a reasonable parking ratio for such use should be otherwise:

(1) One- and two-family residences. At least two spaces per dwelling unit. Accessory dwelling units used in conjunction with a single-family residence are not required to have additional parking added to the standards single-family residence parking requirement.

(2) Multiple-family dwellings. At least one parking space per dwelling unit except that one and one-quarter parking spaces per dwelling unit are required for multiple units of ten or less that abut no parking (on street curb) zones. In the event the final calculation of parking spaces includes a portion of a parking space, the total number of parking spaces should be rounded up.

(3) Churches, theaters, auditoriums, mortuaries, and other places of assembly. One space for each five seats or for each ten feet of pew length. Based upon maximum design capacity.

(4) Offices. One space for each 200 square feet of gross floor space.

(5) Hotel, motel. One space per unit, plus one space per employee, plus one space for each three persons who may be accommodated in a bar, restaurant, meeting room, swimming pool, convention facility or similar place of public assembly based upon maximum design capacity.

(6) Schools, elementary and junior high. Three spaces for each classroom.

(7) High school through college. One space for each four students based on design capacity plus three additional spaces for each classroom.

(8) Hospitals. One space for each three hospital beds, plus one space for each three employees other than doctors, plus one space for each resident and regular staff doctor. Bassinets shall not be counted as beds.

(9) Sanitarium, convalescent home, rest home, nursing home, or institution. One space for each six beds for which accommodations are offered, plus one space for each two employees on maximum shift.

(10) Additional parking. Additional parking shall be provided for all schools with theaters, auditoriums, swimming pools, gyms, football stadiums or other places of public assembly or participation in the amount of one space for each three persons based upon maximum design capacity.

(11) Drive-in food or fast food establishments. One space for each 15 square feet of gross floor space in the building allocated to drive-in operation, plus additional space as may

be determined by the zoning administrator based upon advice from the planning commission. Drive-through lanes for food pick-up must be able to stack eight cars on site without interfering with the site parking.

(12) Bowling alley. Six spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.

(13) Motor fuel station. Two spaces plus three spaces for each service stall.

(14) Retail, including cannabis retail establishments and lower-potency edible hemp retailers. One space for each 150 square feet of gross floor area.

(15) Medical or dental clinic. Six spaces per doctor or dentist or one space for each 200 square feet of gross floor area, whichever is greater.

(16) Restaurant and/or cafeteria. One space per 2.5 seats, plus one space per 20 square feet of the combined area of bar, lounge and public space, minus the first 250 square feet plus one space per 50 square feet of banquet dining area, plus one space per five seats outdoor dining.

(17) Furniture store, wholesale, auto sales, repair shops. Three spaces for each 1,000 square feet of gross floor area. Open sales lots shall provide two spaces for each 5,000 square feet of lot area, but not less than three spaces.

(18) Industrial, warehouse, storage, handling of bulk goods. One space for each two employees on maximum shift or one for each 2,000 square feet of gross floor area, whichever is the larger.

(19) Uses not specifically noted. As determined by the planning commission.

(20) Planned unit developments and conditional uses. Spaces to be provided in amounts and locations as per approved site development plans and permit conditions imposed by the planning commission.

(21) Auto repair, bus terminal, taxi terminal, boats and marine sales and repair, bottling company, shop for a trade employing six or fewer people, garden supply store, building material sales in structure. Eight off-street parking spaces, plus one additional space for each 800 square feet of floor area over 1,000 square feet.

(22) Skating rink, dance hall, or public auction house. Twenty off-street parking spaces plus one additional off-street parking space for each 200 square feet of floor space over 2,000 square feet.

(23) Golf driving range, miniature golf, archery range. Ten off-street parking spaces plus one for each 100 square feet of floor area.

(24) Baseball fields, stadiums. At least one parking space for each eight seats of design capacity.

(25) Community centers, physical culture studios, libraries, private clubs, lodges, art galleries. Ten spaces plus one for each 150 square feet in excess of 2,000 square feet of floor area in the principal structure.

(26) Animal hospitals and professional offices. Three spaces plus at least one space for each 200 square feet of floor area.

(27) Business service establishment. At least one off-street parking space for each 200 square feet of floor area.

(28) Food delivery restaurants. Parking requirements are one stall per employee on duty, one stall per seat should be provided, one stall per two delivery vehicles when owned, operated, and stored by employees, one stall per delivery vehicle when owned and operated by restaurant. One loading bay per store is required.

(29) Parking ratio. Based on a professional analysis of parking for any specific use, the city council may determine a reasonable parking ratio for such use.

(Code 1993, § 9-13.04(6); Ord. No. 0-91-10, § 2, 6-19-1991; Ord. No. 12-07, § 3, 7-11-2012)

Secs. 113-316 – 113-333 - Reserved

Subdivision III - Off-Street Loading

Sec. 113-334 – Location

All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district, unless within a building. Loading berths shall not occupy the required front yard space.

(Code 1993, § 9-13.05(1))

Sec. 113-335 - Size

Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width, 50 feet in length, and 14 feet in height, exclusive of aisle and maneuvering space.

(Code 1993, § 9-13.05(2))

Sec. 113-336 - Street access

Each required loading berth shall be located with appropriate means of vehicle access to a street or public alley in a manner which will least interfere with traffic.

(Code 1993, § 9-13.05(3))

Sec. 113-337 - Accessory use

Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles, or be included as a part of the space requirements necessary to meet the off-street parking area.

(Code 1993, § 9-13.05(4))

Sec. 113-338 - Alterations

Any structure erected or substantially altered for a use which requires the receipt of distribution of materials or merchandise by trucks or similar vehicles, shall provide off-street loading space as required for a new structure.

(Code 1993, § 9-13.05(5))

Sec. 113-339 - Schools

No public or private schools shall load or unload buses from public streets but shall provide off-street loading and unloading facilities.

(Code 1993, § 9-13.05(6))

Sec. 113-340 - Repair and service

No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential district.

(Code 1993, § 9-13.05(7))

Sec. 113-341 - Utilization

Space allocated to any off-street loading shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(Code 1993, § 9-13.05(8))

Sec. 113-342 - Central loading

Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:

(1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.

(2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Area of types of uses may be totaled before computing number of loading berths.)

(3) No zoning lot served shall be more than 300 feet removed from the central loading area.

(Code 1993, § 9-13.05(10))

Sec. 113-343 - Minimum facilities

Uses for which off-street loading facilities are required herein, but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities, accessible by motor vehicle off any adjacent alley, service drive, or open space on the same zoning lot as approved by the zoning administrator.

(Code 1993, § 9-13.05(11))

Sec. 113-344 - Business districts

Off-street loading spaces accessory to uses allowed in the several business districts shall be provided in accordance with the following minimum requirements:

(1) Any use listed in a residential district that is also permitted in any of the several business districts shall provide loading spaces as established for that use in the preceding section for residence districts.

(2) Business or office establishments containing less than 10,000 square feet of gross floor area shall be provided with adequate facilities, accessible by motor vehicle off any adjacent alley, street service drive, or open space on the same zoning lot.

(3) For all other uses, loading berth facilities shall be provided in accordance with the number and location determined necessary by the zoning administrator.

(Code 1993, § 9-13.05(12))

Sec. 113-345 - Other zoning districts

Off-street loading spaces (number, type, location) shall be provided by the nature of the specific use as determined and approved by the zoning administrator.

(Code 1993, § 9-13.05(13))

Sec. 113-346 - Temporary use permit

Loading or unloading from any street or other public right-of-way may be permitted for nonresidential uses in any zoning district only upon issuance of a "temporary use" permit by the zoning administrator.

(Code 1993, § 9-13.05(14))

Sec. 113-347 - Use by taxi, bus

Taxi or public transit bus as approved by the city council may use areas designated for loading.

(Code 1993, § 9-13.05(15))

Secs. 113-348 – 113-367 - Reserved

DIVISION 3 - DESIGN AND PERFORMANCE STANDARDS

Sec. 113-368 - Minimum standards

All uses, buildings, and structures permitted pursuant to this chapter shall conform to the performance and design standards set forth in this division; said standards are determined to be the minimum standards necessary to comply with the intent and purposes of this chapter as set forth in this division.

(Code 1993, § 9-14.01(1))

Sec. 113-369 - The principal building

(a) Except as provided by a conditional use permit issued pursuant to this chapter, there shall be no more than one principal building on any one lot or parcel of land.

(b) No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior above or accessory building shall be used at any time as a dwelling unit, unless authorized as an accessory dwelling unit under this chapter.

(c) Principal buildings with more than one use, in which one of those uses is a dwelling unit, shall require a conditional use permit.

(d) All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.

(e) The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.

(Code 1993, § 9-14.01(2))

Sec. 113-370 - Exterior storage

(a) All existing uses shall comply with this standard by January 1, 1987.

(b) In all districts, all personal property shall be stored within a building or be fully screened so as not to be visible from adjoining properties and public streets, except for the following:

(1) Laundry drying and playground equipment.

(2) Construction and landscaping materials and equipment currently (for a period not greater than 12 months) being used on the premises.

(3) Garden equipment and materials if these are used or intended for use on the premises.

(4) Off-street parking of licensed passenger automobiles and pickup trucks.

(5) Boats and unoccupied trailers, less than 25 feet in length, are permissible if stored in the rear yard more than ten feet from any property line.

(6) In single-family residential districts (R-1), closed refuse or garbage containers, so long as they are stored in a side yard, adjacent to the residence, and shall not be placed in the front yard of the residence.

(c) In nonresidential districts, exterior storage of personal property may be permitted by variance provided any such property is so stored for purposes related to a use of the property permitted by this chapter and will not be contrary to the intent and purpose of this chapter.

(d) In all districts, all waste, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds. Existing uses shall comply with this provision within 90 days following the effective date of the ordinance from which this chapter is derived.

(e) All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a variance, or otherwise permitted by provisions of this chapter, shall be considered as refuse.

(Code 1993, § 9-14.01(3))

Sec. 113-371 - Environmental pollution

(a) Regardless of the source, the city council may take such action as is necessary to abate foul odors.

(b) No use shall be permitted which will cause or result in the pollution of any tributary to any lake, stream or other body of water.

(Code 1993, § 9-14.01(4))

Sec. 113-372 - Screening

(a) Screening shall be required in residential zones where:

(1) Any off-street parking area contains more than four parking spaces and is within 30 feet of a residential zone; and

(2) Where the driveway to a parking area of more than six parking spaces is within five feet of an adjoining residential use or zone.

(b) Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on the side of a business or industry considered to be the front.

(c) All exterior storage shall be screened. The exceptions are:

(1) Merchandise being displayed for sale;

(2) Materials and equipment currently used for construction on the premises;

(3) Merchandise located on service station pump islands.

(d) The screening required in this section shall consist of earth mounds, berms, or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.

(e) Required screening shall be as approved by the city council. Existing land uses may be required to install screening if so ordered by the city council following public hearing.

(Code 1993, § 9-14.01(5))

Sec. 113-373 - Landscaping

(a) Landscaping on a lot shall consist of a finished grade and vegetation as described in section 54-38, or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property.

(Code 1993, § 9-14.01(6); Ord. No. 20-02, § 6, 2-12-2020)

Sec. 113-374 - Reasonable maintenance and repairs required

In all districts, all structures, landscaping and fences shall be reasonably maintained and kept

in a good state of repair so as to avoid health or safety hazards and prevent a degradation in the value of adjacent property.

(Code 1993, § 9-14.01(7))

Sec. 113-375 - Lighting, lighting fixtures and glare

(a) All existing uses shall comply by January 1, 1989.

(b) In all districts, any lighting used to illuminate an off-street parking area, or other structure or area, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall be hooded or controlled so as not to light adjacent property. Bare lightbulbs shall not be permitted in view of adjacent property or public right-of-way. No light or combination of lights which cast light on a public street shall exceed two footcandle meter reading as measured from the centerline of said street nor shall any light or combination of lights which cast light on residential property exceed 0.5 footcandle.

(c) Lighting standards shall not exceed 25 feet or the height of the principal building on a lot, without a conditional use permit.

(Code 1993, § 9-14.01(8))

Sec. 113-376 - Traffic control

(a) The traffic generated by any use shall be controlled so as to prevent:

(1) Congestion of the public streets;

(2) Traffic hazards; and

(3) Excessive traffic through residential areas, particularly truck traffic.

(b) Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward-moving with no backing into streets.

(c) On any corner lot, nothing shall be placed or allowed to grow in such manner as to impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting streets within 15 feet of the intersecting street right-of-way lines. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within 15 feet of any intersecting street right-of-way lines.

(d) Minimum distance for access drives from corners shall be no closer than 20 feet from intersecting street right-of-way lines.

(Code 1993, § 9-14.01(9))

Sec. 113-377 - Storage of hazardous materials and explosives

(a) All existing uses shall comply with this standard by January 1, 1989.

(b) All uses associated with the bulk storage of over 2,000 gallons of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that

the zoning administrator may have assurance that fire, explosion, water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All existing, aboveground liquid storage tanks having a capacity in excess of 2,000 gallons shall secure a conditional use permit within 12 months following enactment of the ordinance from which this chapter is derived; the zoning administrator shall require the development of diking around said tanks, suitably sealed to hold a leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the planning commission, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of the ordinance from which this chapter is derived.

(c) No activities involving the commercial storage, use or manufacture of materials or products which could decompose by detonation shall be permitted except such as are specifically permitted by the city council. Such materials shall include but not be confined to all primary explosives such as lead azide and mercury fulminate, all high explosives and boosters such as TNT, tetryl and nitrates, propellants and components thereof such as nitrocellulose, black powder and nitroglycerine, blasting explosives such as dynamite, and nuclear fuel and reactor elements such as uranium 235 and plutonium. Explosives shall include grain storage and other dust sources.

(Code 1993, § 9-14.01(10))

Sec. 113-378 – 113-379 – Reserved

Sec. 113-380 - Dwelling units in commercial districts

(a) Dwelling units for watchman and family shall be considered as accessory uses and shall conform to all applicable regulations for the district in which located, except as herein modified.

(b) A dwelling unit in the commercial district located in a commercial structure shall not occupy the basement or the front half of the ground floor.

(c) A dwelling unit in a commercial or industrial building shall not contain more than one bedroom unless said building is part of a planned unit development.

(d) No dwelling unit shall be permitted in a business district except as part of a planned unit development.

(e) A dwelling unit which is a part of the principal building shall be provided with two exits.

(f) All buildings shall conform to the building code and applicable fire codes.

(g) Residential use shall not be permitted on the ground floor of any building in the B-2 district.

(Code 1993, § 9-14.01(13))

Sec. 113-381 - Coin-operated machines

Coin-operated automatic machines dispensing food, soft drinks and other food and materials shall not be permitted outside of a building.

(Code 1993, § 9-14.01(14))

Sec. 113-382 - Swimming pools

(a) *Private swimming pools; general requirements.* Private swimming pools as regulated by this section are defined as any enclosure designed, intended or used for the containment of water, whether constructed above ground level or below ground level and in excess of 18 inches in depth or 100 square feet of surface area which is designed, intended or used for swimming, wading or other recreational use by the owner, family, guest of the property owner without payment of a fee.

(b) *Permit required; application; inspection.*

(1) *Building permit.* No swimming pool shall be constructed, excavated or established in the city without first obtaining a building permit.

(2) *Application.* An application for permit shall be submitted to the building inspector which includes the type and size of the pool, together with a site plan containing the following information:

a. Complete plans and specifications for the construction of the pool.

b. A site plan showing the location of all existing structures on the lot including house, garage, fences; location of existing underground or overhead wiring, utility easements, trees and similar other significant improvements or natural features; and location of structures on adjacent lots.

c. The proposed location of pumps, filters, wiring, electrical sources, protective fencing, back flush and drainage outlets, grading plans and finish elevation around the pool.

(3) *Inspection.* All wiring, installation of heating units, grading, installation of pipe, or other construction shall be subject to inspection and shall conform to the state building code.

(c) *Minimum setback requirements.*

(1) *Utility lines.* No pool shall be located within ten feet (measured horizontally) of underground or overhead utility lines of all types.

(2) *Easements.* No pool shall be located within any private or public utility, drainage, walkway or other easement.

(3) *Special rules; single-family districts.* Special rules for pools in single-family residential districts:

a. *Rear yard setback.* No pool shall be located within eight feet of any rear lot line.

b. *Side yard setback.* No pool shall be located within five feet of any side lot line.

c. *Front yard setback.* No pool shall be located within five feet of any required front yard.

d. *Setback to existing structures.* No pool shall be located within six feet of any principal structure or footing.

e. *Setback requirements for pool equipment.* No pool filter unit, pump, heating unit and/or any other noisemaking mechanical equipment shall be located within 25 feet of any residential structure on adjacent property and not closer than eight feet to any lot line.

(4) *Special rules; two-family or multiple-family.* This paragraph applies to pools in two-family residential districts or multiple-family residential districts. Private swimming pools intended for and used by occupants and guests of occupants of multiple-family dwellings shall adhere to the following regulations:

a. No part of the water surface of the swimming pool shall be closer than 50 feet to any lot line.

b. No pumps, filter, or other apparatus used in connection with the pool shall be located closer than 50 feet to any lot line.

(d) *Miscellaneous requirements.*

(1) *Liability.* All pools shall be so constructed as to avoid hazard, damage or considerable inconvenience to adjacent property owners or property. The property owner shall be liable for damages to any business or private property caused during pool construction.

(2) *Drainage.* All back flushing or pool drainage water shall be directed onto the owner's property or onto approved public drainageways, and shall not drain onto adjacent private land. Drainage onto public streets or other public drainageways shall require a conditional use permit.

(3) *Lighting.* Any pool lighting aboveground shall be directed toward the pool and not toward adjacent property.

(4) *Filling of the pool.* Filling of pools from fire hydrants or other public facilities shall require the permission of the appropriate city officials.

(e) *Protective fencing.*

(1) *Height.* Pools shall be completely enclosed with four-foot fencing which shall effectively prevent the entrance of children and be without external hand or foot holds that would enable a child to climb over it. Chainlink fence may be used. Fencing of aboveground pools shall not be required if the poolsides meet the fence stipulations above and it is provided with a removable ladder.

(2) *Gates and latches.* The fence openings shall be equipped with self-closing gates and self-latching devices. All the openings shall be inaccessible to small children and at least four feet from ground level. In the alternative, the perimeter of the yard, including driveway entrance, may be fenced and enclosed. The opening between the bottom of the fence and gates and the ground shall be no more than four inches.

(3) *Posts.* All fence posts shall be placed no further than eight feet apart and be of decay- or corrosion-resistant materials and shall be set in concrete bases or other suitable method.

(4) *Construction fence*. No person shall fill or cause to be filled a newly constructed pool or a pool under construction with water to a depth of more than 18 inches until the building inspector authorizes the filling of the pool with water. Such authorization shall be withheld until, as a minimum, the permittee has completely enclosed the swimming pool with a construction fence. This requirement does not apply to aboveground pools if the walls are at least four feet abovegrade. Said construction shall be:

a. Snow fence or similar design and securely anchored in place.

b. Constructed with its base flush to the ground.

c. At least four feet in height and have supportive posts placed no more than eight feet apart.

d. In place until a permanent fence completely enclosing the pool is installed to the specifications identified above and said fence is approved by the building inspector. Said installation and approval shall be achieved no later than ten days after the building inspector authorized the filling of the pool.

(f) *Additional permits.*

(1) *Separate permit for certain structures.* Unless included within the swimming pool permit, a separate building permit shall be required for any pump house, filter house, pool enclosure or any other structure erected in conjunction with a swimming pool. Such structures shall conform to all provisions of the building code. Such structures shall also conform to the setback requirements set forth in subsection (c) of this section.

(2) *Permit required for changes.* All changes, alterations or improvements made to swimming pools or accessory structures other than routine maintenance shall require a permit.

(Code 1993, § 9-14.01(15))

Sec. 113-383 - Service stations

(a) *Conformance with minimum requirements.* Before a permit for a service station is granted, the minimum requirements of the zoning district in which the service station is to be located shall be met.

(b) *Regulations.* A drainage system, subject to approval by the city engineer, shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the zoning administrator. Pump islands shall not be placed in the required yards. A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than 50 feet from the intersection of two street right-of-way lines. Each service station shall have at least two driveways with a minimum distance of 170 feet between centerlines when located on the street.

(c) *Parking regulations.* No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days.

(d) *Exterior storage; items for sale.* Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three months of the effective date of the ordinance from which this chapter is derived.

(e) *Screening; maintenance.* All areas utilized for the storage, disposal of debris, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner. Existing service stations shall comply with this requirement within nine months of the effective date of the ordinance from which this chapter is derived.

(f) *Business activities not permitted.* Business activities not listed in this section are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following:

(1) Automobile and truck wash;

(2) Rental of vehicles, equipment, or trailers; and

(3) General automobile retail sales.

(Code 1993, § 9-14.01(16))

Sec. 113-384 - Drainage

(a) No land shall be developed or altered and no use shall be permitted that results in surface water runoff causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or water bodies. Such runoff shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility.

(b) The zoning administrator, upon inspection of any site which has created drainage problems or could create drainage problems with proposed new development, may require the owner of said site or contractor to complete a grading plan and apply for a grading permit.

(c) The owner or contractor of any natural drainage improvement or alteration may be required by the zoning administrator to obtain recommendations from the state department of natural

resources, the soil conservation agent, the affected watershed district, and/or the community engineer, as well as obtaining a local grading permit.

(d) On any slope in excess of 13 percent where, in the opinion of the zoning administrator, the natural drainage pattern may be disturbed or altered, the zoning administrator may require the applicant to submit both a grading plan and a soil conservation plan prior to applying for a building permit.

(Code 1993, § 9-14.01(17))

Sec. 113-385 - Access drives; construction standards

(a) *Limit of access drives.* The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

(b) *Restrictions.* Access drives may not be placed closer than five feet to any side or rear lot line. No access drive shall be closer than three feet to any single- or two-family residence, no closer than five feet to any multiple-family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.

(c) *Access permit.* Access drives onto major roads or any alley shall require an access permit from the zoning administrator. This permit shall be acquired prior to the issuance of any building permits. The zoning administrator shall determine the appropriate location, size and design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. The zoning administrator may refer the request for an access drive permit onto a road to the planning commission for their comments.

(d) *Design/construction standards.* Driveway/accessway design and construction standards are as follows:

(1) For all driveways (resurfaced, reconfigured, reconstructed, relocated, new):

a. All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.)

b. The minimum pavement thickness for asphalt driveways shall be two inches of bituminous surfacing on four inches of aggregate base. The minimum pavement thickness for concrete driveways shall be 3½ inches of concrete for R-1 and R-2 structures and six inches of concrete for multiple-family and commercial buildings. Two inches of aggregate base is required for all concrete driveways.

c. The minimum driveway slope as measured from the edge of the street to the right-of-way line, shall be one percent and the maximum driveway slope shall be ten percent.

d. In areas where sidewalks currently exist, all new or reconstructed driveways shall require six inches deep concrete sidewalk to be constructed to match the existing sidewalk width, when the existing sidewalk is affected by the permanent change.

(2) For new, reconfigured and relocated driveways:

a. All new driveways connecting to existing concrete curb and gutter section shall be

constructed with a five-foot radius. The existing concrete curb and gutter at the driveway opening shall be removed from the nearest joints to the driveway location. Saw cutting of the existing curb will not be allowed. Concrete gutter shall be placed through the driveway opening to properly drain the street. Expansion joint material shall be placed at the curb, sidewalk (if applicable) and right-of-way line as part of the driveway construction.

b. The minimum driveway angle to the street, at the driveway opening, shall be 60 degrees.

c. Setbacks:

1. Driveways must be at least five feet from any rear or side lot line.

2. Driveways must meet the corner side yard setback requirements for garages in section 113-240(e).

3. Driveways shall not be closer than three feet to any single- or two-family residence or five feet to any multiple-family building or commercial building.

d. Openings:

1. Driveway openings shall be a minimum of five feet from the side yard property line.

2. The minimum distance between driveway openings on the same lot shall be 25 feet where two openings are allowed in this chapter.

(e) *Emergency vehicle access.* All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the planning commission.

(f) *Proximity to corner.* Access drives shall not be closer than 20 feet to a corner.

(g) *Permit to public roads.* A driveway access permit to a public road shall be secured from the public agency with jurisdiction and maintenance responsibilities over the road, prior to the issuance of a building permit.

(Code 1993, § 9-14.01(18); Ord. No. 0-91-10, § 3, 6-19-1991)

Sec. 113-386 - Tennis courts

(a) In all districts, the following standards shall apply:

(1) A conditional use permit shall be required for all public, semi-public and commercial tennis courts.

(2) An application for a conditional use permit shall include a site plan showing:

a. The size, shape and pavement and subpavement materials;

b. The location of the court, the location of the house, garage, fencing, septic systems and any other structural improvements on the lot;

c. The locations of structures on all adjacent lots;

d. A grading plan showing all revised drainage patterns and finished elevations at the four corners of the court;

e. Landscaping and turf protection around the court;

f. Location of existing and proposed wiring and lighting facilities.

(b) Tennis courts shall not be located closer than ten feet on any side or rear lot line. Tennis courts shall not be located within any required front yard.

(c) Tennis courts shall not be located over underground utility lines of any type, nor shall any court be located within any private or public utility, walkway, drainage or other easement.

(d) Solid tennis court practice walls shall not exceed ten feet in height. A building permit shall be required for said walls. Said walls shall be set back a minimum of 30 feet from any lot line.

(e) Chainlink fencing surrounding the tennis court may extend up to ten feet in height above the tennis court surface elevation.

(Code 1993, § 9-14.01(19))

Sec. 113-387 - Vegetation cutting

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Clear cutting means the removal of all live vegetation in excess of six inches in diameter at four feet of height on any area of 20,000 square feet or more in size.

Selective cutting means the removal of single scattered live trees or shrubs in excess of six inches in diameter at four feet of height.

(b) *Clear cutting prohibited.* Clear cutting of vegetation shall not be permitted within any required yard of any lot or parcel within any zoning use district except as may be approved by the zoning administrator.

(c) *Selective cutting conditional.* Selective tree cutting may occur on any lot provided any cutting on slopes of greater than 18 percent shall require a soil conservation district revegetation plan prior to issuance of a building permit.

(Code 1993, § 9-14.01(20))

Sec. 113-388 - Building permits and visual standards

(a) *Appearance of city.* It is hereby affirmed as essential public policy that the appearance of the city is a proper matter for public concern, and that all open spaces, buildings, signs, plantings and surfaces which may be seen from the public ways are subject to regulation and the provisions of this chapter.

(b) *Information submitted to zoning administrator.* Before construction may begin and before a permit is issued for any building, structure or land use other than a one-family, detached dwelling home, a complete set of plans shall be submitted to the zoning administrator including lot size, building location, drives, parking, loading areas, storage, utilities, fences, sidewalks, screening, landscaping, exterior elevation of the proposed building, and such other information as may be required or requested.

(c) *Refusal of construction permit.* The zoning administrator may, in any case, submit said plans for review by the planning commission and may refuse to issue construction permits if the development design is deemed incompatible with adjacent and nearby land uses and development and/or not meeting the general standards for appearance established by existing development throughout the city.

(Code 1993, § 9-14.01(21))

Sec. 113-389 - Quasi-public structures

No quasi-public structure shall be located within the public right-of-way except by conditional use permit. Such structures shall include trash containers, bicycle racks, benches, planting boxes, awnings, flagpoles, light standards, stairs, light wells, loading well, church directional signs, bus stop shelters and similar uses including vehicle parking.

(Code 1993, § 9-14.01(22))

Sec. 113-390 - Relocation of structures

No building, accessory building, or other major structure shall be relocated to a site within or from without the city without a permit. In the case of buildings, advice may be requested from the planning commission as to appearance, use conformity, and other considerations. (See section 113-5(f).)

(Code 1993, § 9-14.01(23))

Sec. 113-391 - Home occupations

(a) *Purpose.* The purpose of this section is to define and regulate home occupations so as to permit only those home occupations that are compatible with other permitted uses and with the residential character of neighborhoods. An additional purpose of this section is to protect the health, safety, and general welfare of the surrounding neighborhood. No home occupation shall be permitted which does not conform to the definition, procedures and requirements which follow in this section.

(b) *Definition.* A home occupation is a gainful occupation carried on in a dwelling unit, and not in any accessory building, within a residential district. The occupation shall clearly be secondary to the use of the dwelling for residential purposes, and shall not change its character.

(c) *License required.* No person shall conduct a home occupation without first having obtained a license from the zoning administrator and the approval of the council. Application for licenses, accompanied by the appropriate fee, shall state facts that constitute the basis for compliance with the requirements set forth in subsection (d) of this section. Home occupations for disabled persons that do not meet these conditions may apply for a conditional use permit.

(d) *Requirements.* The following requirements shall apply to home occupations within the city:

(1) No home occupations shall be permitted which may be detrimental to adjacent or nearby residential amenities.

(2) No home occupation shall be permitted which may increase the risk of fire or use of rescue squads at a greater level than would normally be expected in a residential district.

(3) Exterior storage shall not be permitted.

(4) Adequate off-street parking space for the home occupation must be available as approved by the zoning administrator; however, no home occupation shall be granted that creates the need for more than two parking spaces in addition to those already used by the occupants of the dwelling.

(5) No accessory uses in conjunction with a home occupation shall be permitted.

(6) No home occupation shall be permitted within an accessory building, unless the accessory building is permitted as an accessory dwelling unit (as defined in this chapter).

(7) No signs other than those normally utilized in a residential district shall be permitted.

(8) No over-the-counter retail or wholesale sales shall be permitted.

(9) Entrance to the home occupation shall be gained from within the structure with no separate exterior entrance.

(10) No stock in trade shall be stored on the premises.

(11) Only occupants of the dwelling unit may engage in the home occupation.

(12) No more than 20 two-way additional vehicle trips per day shall be generated by a home occupation.

(13) No home occupation shall be permitted which requires the use of commercial vehicle more often than would normally be expected in a residential district. For the purpose of this section, commercial vehicle shall be defined as a nonpassenger vehicle (as passenger vehicle is defined in section 113-310(1)(d)).

(14) No home occupation shall produce light, glare, noise, odor or vibration that has an objectionable effect on a nearby property.

(15) No equipment shall be used in a home occupation that creates electrical interference to surrounding property owners' radio or television signals.

(16) No home occupation shall be conducted between the hours of 9:00 p.m. and 9:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 10:00 a.m. on weekends and holidays.

(17) No home occupation shall cause an increase in sewer or water usage that exceeds the normal range for residents in the city.

(18) Not more than 20 percent of the gross area of the dwelling unit shall be used to conduct a home occupation. The appearance of a residential dwelling shall in no way be changed or altered in a manner which would cause the premises to differ from its residential character.

(Code 1993, § 9-14.01(24); Ord. No. 0-93-09, §§ 1-3, 11-24-1993)

Sec. 113-392 - Prohibited dwelling units

No cellar, garage, tent, trailer, basement, or unfinished home or accessory building, shall be used as a dwelling unit, unless it is an authorized accessory dwelling unit under this chapter.

(Code 1993, § 9-14.01(25))

Sec. 113-393 - Solar systems

Access to sunlight for active and passive solar systems shall be protected in accordance with the City Code and all applicable state statutes and regulations.

(Code 1993, § 9-14.01(27); Ord. No. 13-05, § 3, 11-13-2013)

Secs. 113-394 – 113-399 - Reserved

DIVISION 4 - SPECIAL EVENTS

Sec. 113-400 - Purpose and intent

The purpose of this division is to promote the orderly, compatible and safe use of property for special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-401 - Permit required

No person on or after the effective date of this division shall conduct or allow to be conducted any special event as defined in this division without first obtaining a special event permit. No special event may be scheduled during the Minnesota State Fair or for one week prior and one week following the Minnesota State Fair.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-402 - Permit standards

The following standards shall apply to all special events:

(1) *Maximum number of people.* The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.

(2) *Sound equipment.* Sound producing equipment, including, but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of Falcon Heights.

(3) *Sanitary facilities.* In accordance with Minnesota State Board of Health regulations and standards, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of persons expected to attend the event.

(4) *Security.* The permittee shall employ at his or her own expense such security personnel as are necessary and sufficient, including off-duty police officers, to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless the city's police chief is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.

(5) *Food service.* If food service is available on the premises, it shall be offered only by a holder of a retail food handler's license issued by Ramsey County Health Department.

~~(5)~~(6) *Cannabis consumption*. The on-site consumption of cannabis or cannabis products, including lower-potency hemp edibles or beverages, is prohibited at all special events.

~~(6)~~(7) *Fire protection.* The permittee shall, at his or her own expense, take adequate steps to insure fire protection as determined by the fire chief.

~~(7)~~(8) *Duration of special event.* Special events are allowed only on the days and hours specified on the permit. Special events must end by 9:00 p.m. and may not commence before 7:00 a.m. All structures, equipment, displays and refuse must be removed within 24 hours of the end time and date specified on the permit. Setting up for the event may commence not more than 24 hours before the time and date specified on the permit. No set up or removal activities shall occur between 10:00 p.m. and 7:00 a.m. An event may not exceed two consecutive calendar days and not more than one special event is allowed on a property at a time. There shall be no more than three special events per calendar year per property. However, each tenant in a multi-tenant building shall be permitted one special event per year. Multi-tenant buildings with less than five lease spaces shall be considered as a single property for purposes of this provision.

~~(8)~~(9) *Cleanup plan.* The special event applicant is responsible for cleanup. Any cleanup required by the city may be charged to the applicant. Any city service that requires overtime will be at the expense of the applicant.

~~(9)~~(10) *Accessory use.* The special event must be accessory to or promoting the established permitted or conditional use of the site.

~~(10)~~(11) *Structures.* Tents, stands, and other similar temporary structures may be used, provided they are clearly identified on the submitted plan and provided that it is determined by the city administrator that they will not impair the parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site. Temporary structures must be in compliance with applicable statutory and ordinance requirements.

~~(11)~~(12) *Parking.* The submitted plan shall clearly demonstrate that adequate parking for the proposed event can and will be provided for the duration of the event. Determination of compliance with this requirement shall be made by the city administrator, who shall consider the nature of the event and the applicable parking requirements of article VI, division 2 of this chapter. Consideration shall be given to the parking needs and requirements of other occupants in the case of multi-tenant buildings. Parking on local streets is allowed provided that the petitioner arranges for traffic control by off-duty police officers, as approved in writing by the police chief, at the petitioner's expense. If off-street parking on private property not owned by the applicant is to be used for the event, written approval from that property's owner must be submitted with the permit application.

~~(12)~~(13) *Signage.* Signage related to the special event shall be in compliance with the temporary sign standards of article VII of this chapter and shall be allowed for the duration of the event. The city administrator may authorize special signage for purposes of traffic direction and control; the erection and removal of such signage shall be the responsibility of the applicant.

~~(13)~~(14) *Display of permit.* The approved permit shall be displayed on the premises for the duration of the event.

~~(14)~~(15) *Waiver.* The city administrator may grant a waiver from any of the requirements of this division in any particular case where the applicant can show that strict compliance with this division would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this division unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.

~~(15)~~(16) *Insurance.* Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the city administrator. Limits for bodily injury and death shall be not less than $1,00,000.00 for one person and $1,000,000.00 for each occurrence; limits for property damage shall be not less than $200,000.00 for each occurrence; or a combination single limit policy of
$2,000,000.00 or more. The city shall be named as an additional insured on the policy on a primary and noncontributory basis. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the city clerk in writing at least ten days before the expiration or cancellation of the insurance.

~~(16)~~(17) *Miscellaneous.* Prior to the issuance of a permit, the city administrator may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons attendant or of the citizens of the City of Falcon Heights.

(Ord. No. 13-01, § 2, 4-10-2013; Ord. No. 21-01, § 5, 01-13-2021)

Sec. 113-403 - Application procedures

A written application for a special event permit shall be filed on forms provided by the city with the city clerk not less than 30 days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or parties conducting the event and shall be accompanied by the fee payable hereunder. Upon submission of an application for a special event permit, city staff will review the request and advise the applicant of the need for additional information, if any.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-404 - Fees

The fee for a special event license shall be as established by the city council.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-405 - Granting a permit

Permits may be issued by the city administrator if the administrator determines the requirements of this division have been met. If the city administrator determines the activity does not meet these criteria, such application shall be denied.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-406 - Denial of permit

If the city administrator denies the permit, the permit applicant may appeal the decision to the city council by filing a notice of appeal with the city clerk within ten days.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-407 - Transferability

No permit granted under this division shall be transferred to any other person or place without consent of the city administrator, upon written application made therefore.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-408 - Enforcement and penalties

(a) The police department and other such officers, employees, or agents as the city council or city administrator may designate, shall enforce the provisions of this division.

(b) The holding of a special event in violation of any provision of this division shall be deemed a public nuisance and may be abated as such.

(c) Any person violating any provision of this division is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(Ord. No. 13-01, § 2, 4-10-2013)

Sec. 113-409 - Revocation of permit

The permit for a special event may be revoked by the city administrator for failure to comply with the provisions of this division and conditions of the permit. The revocation may be appealed to the city council by filing a written notice of appeal within ten days of the revocation with the city clerk.

(Ord. No. 13-01, § 2, 4-10-2013)

Secs. 113-410 – 113-414 - Reserved

ARTICLE VII - SIGNS

DIVISION 1 - GENERALLY

Sec. 113-415 - Noncommercial speech

The owner of any sign that is otherwise allowed by this article may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this section is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial speech over any other noncommercial speech. This section prevails over any more specific provision to the contrary. All noncommercial signs of any size may be posted in any number from 46 days before the state primary in a state general election year until ten days following the state general election subject to the applicable provisions of M.S. 211B.045.

(Ord. No. 10-04, § 1, 6-9-2010)

Sec. 113-416 - Permits

(a) *Permit required.* Except as otherwise provided in this section, no sign or structure shall be erected, constructed, altered, replaced with a dynamic display sign, rebuilt or relocated except as provided in this article and until a permit for the same has been issued by the zoning administrator upon application and to include such information as is required for a complete understanding of the proposed work.

(b) *Exceptions.* No permit will be required for the following:

(1) A change of copy on any advertising sign.

(2) A nameplate (identification) sign not exceeding two square feet of display surface on residence property stating only the name, address and profession of an occupant.

(3) A ground sign advertising either the sale or rental of the premises upon which it is maintained when such sign does not exceed ten square feet of display surface.

(4) Street, warning and other official or nonadvertising signs erected by a governmental body or by others where required pursuant to a legal authority.

(5) Election signs except those to be displayed on new, permanent structures or supporting elements. The only exemptions permitted by this paragraph shall apply only construed as relieving the owner of the sign from responsibility for its erection and maintenance in a good and safe condition.

(6) Noncommercial signs not exceeding ten square feet.

(c) *Permit fee and issuance.*

(1) An application for a permit shall be accompanied by a fee as per the approved permit fee schedule of the city.

(2) It shall be the duty of the zoning administrator, upon the filing of an application to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure or display. If it shall appear that the proposed structure is in compliance with the requirements of this chapter, the zoning

administrator shall then issue the erection permit.

(d) *Expiration of permit.* If the work authorized under an erection permit has not been completed within six months after the date of issuance, the permit shall become null and void.

(Code 1993, § 9-13.01(1)-(4); Ord. No. 08-03, § 2, 8-27-2008)

Sec. 113-417 - Periodic inspection

The zoning administrator shall inspect every three years or at such other times as deemed necessary each sign, except residential, regulated by this article, to ascertain whether the same is secure or insecure and whether it is in need of removal or repair. To meet the expenses of such inspection, the permittee thereof shall pay to the city a fee as established and required by the city council. No inspection fee other than the original permit fee shall be charged during the calendar year in which the sign or other advertising structure is erected. The zoning administrator may maintain on file a photograph of any or all signs in place in the city; a new photograph may be taken at the time of each inspection.

(Code 1993, § 9-13.01(5))

Sec. 113-418 - Height abovegrade level

Except for necessary poles, uprights, pedestals, and other supporting structural elements, no portion of any sign shall be less than eight feet abovegrade level except for ground signs that are designed such that they present no hazard to pedestrians or vehicles. Signs that are erected near public streets or other vehicular drives shall be erected at sufficient height to avoid contact with said vehicles.

(Code 1993, § 9-13.01(6))

Sec. 113-419 - General setback requirements

Except as provided by conditional use permit, in any district, any portion of any sign exceeding 1½ square feet shall be set back ten feet from any street right-of-way line and five feet from any residentially zoned property line.

(Code 1993, § 9-13.01(7))

Sec. 113-420 - Painting requirement

The owner of any sign as defined and regulated by this article shall be required to have such sign properly painted at least once every two years, or as needed, including all parts and supports of the sign, and structures and backs of signs shall be painted a neutral color, unless such parts and supports are galvanized or treated otherwise to prevent rust. The need for painting shall be as determined by the zoning administrator.

(Code 1993, § 9-13.01(8))

Sec. 113-421 - Required marking on sign

Every sign or other advertising structure, when erected, shall have painted in a conspicuous place thereon, in letters not less than one inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(Code 1993, § 9-13.01(9))

Sec. 113-422 - Removal of obsolete and nonconforming signs

Any sign which does not conform to the regulations provided by this article shall be taken down and removed by the owner, agent or person having the beneficial use of the property, building or structure upon which the sign may be found within five years after the effective date of the ordinance from which this section is derived. After the expiration of the said five years and upon written notification from the zoning administrator, to the landowner and/or sign owner, said sign shall be removed within ten days and upon failure to comply with such notice within the time specified in such order, the zoning administrator is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the sign or the owner of the property or of the building or structure to which such sign is attached.

(Code 1993, § 9-13.01(10))

Sec. 113-423 - Unsafe and unlawful signs

(a) If the zoning administrator shall find that any sign or other advertising structure regulated by this article is unsafe or insecure, or is a menace to the public or no longer advertises a bona fide business conducted or products sold, or has been constructed or erected or is being maintained in violation of the provisions of this article, he or she shall give written notice to the permittee thereof. If an unsafe or unlawful sign has not been removed within 60 days following written notice to landowner and/or sign owner, said sign may be removed with approval by the city council at the direction of the zoning administrator with the costs of such removal assessed to the owner of the sign.

(b) If the permittee fails to remove or alter the structure so as to comply with the standards set forth in this article within ten days after such notice, such sign or other advertising structure may be removed or altered to comply with this article by the zoning administrator at the expense of the permittee or owner of the property upon which it is located. The zoning administrator may cause any sign or other advertising structure which is in immediate peril to persons or property to be removed summarily and without notice.

(Code 1993, § 9-13.01(11))

Sec. 113-424 - Obstruction of fire escapes

No sign shall be erected, constructed or maintained so as to obstruct any fire escape, or any window or door or opening used as a means of egress or for firefighting purposes, or so as to prevent free passage from one part of a roof to another part thereof. No sign shall be attached in any form, shape or manner to a fire escape nor be so placed as to interfere with an opening required for legal ventilation.

(Code 1993, § 9-13.01(12))

Sec. 113-425 - Conformity with zoning and building codes

Except as allowed under the provisions of this article relating to projecting signs, every sign for which a permit is required shall rigidly conform to the requirements of rear yards, side yards, and setback restrictions of the zoning area district, of the lot upon which such sign is to be or is located and of any lot contiguous thereto as fully as if such sign were a part of the building wall or roof, except that the lighting reflectors may project beyond the top of such sign. All signs shall be in accordance with applicable provisions of the city building code.

(Code 1993, § 9-13.01(13))

Sec. 113-426 - Nonconforming signs-Compliance

It is recognized that signs exist within zoning districts that were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

(1) No sign shall be enlarged or altered in a way which increases its nonconformity.

(2) Should such sign or sign structure be destroyed by any means to an extent greater than 50 percent of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this section.

(3) Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.

(4) No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which is it located.

(5) When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

(Ord. No. 08-03, § 3, 8-27-2008)

Secs. 113-427 – 113-448 - Reserved

DIVISION 2 - RESTRICTIONS BY ZONING DISTRICTS

Sec. 113-449 - Signs permitted in residential districts

Signs are permitted in the R-1, R-2, R-3, R-4 and, R-5M districts only as follows:

(1) For the purpose of selling, renting or leasing property, a sign not in excess of ten

square feet in gross surface area may be placed within the front yard, not less than 15 feet from a property line.

(2) Temporary poster signs for political advertising may be posted but must be removed by those responsible for their being posted within ten days following the election for which the sign was posted.

(3) Signs containing noncommercial speech.

(4) One nameplate sign for each dwelling unit that shall not exceed two square feet in area per surface, and no sign shall have more than two display surfaces.

(5) No sign shall be located within three feet of the property line.

(6) Churches, schools and other institutional users, allowed by virtue of pre-existing or conditional use, may have an illuminated sign not exceeding 50 square feet in gross surface area. Temporary signs advertising a special event may be posted after receiving a permit from the zoning administrator, and such sign shall not be greater than 70 square feet in gross surface area, not less than 30 feet from a property line and shall not be displayed longer than 30 days.

(7) Address numbers four inches on the house and alley side of garage.

(8) Signs other than those listed above require a conditional use permit.

(9) In the R-5M district signs allowed in the B-2 district are allowed for B-2 uses.

(Code 1993, §§ 9-4.01(6), 9-5.01(6), 9-7.01(6), 9-13.02(1); Ord. No. 10-06, § 8, 9-8-2010)

Sec. 113-450 - Business districts

(a) *Business district B-2.*

(1) Types of signs allowed. Business, dynamic display signs, nameplate, identification, illuminated, ground, pedestal, political, real estate sales, temporary, wall and courtesy bench signs.

(2) Number of each type of sign allowed per lot frontage. One real estate sales sign, two temporary signs, one nameplate sign, and one political sign. Courtesy bench signs are permitted on licensed courtesy benches.

(3) Size:

a. Except as provided herein, the total square footage of permanent sign area for each business shall not exceed one square foot of sign area for each lineal foot of unsigned building frontage, except where a location is a corner lot, the amount may be increased by one-half square foot of sign area per front foot of building.

b. No individual sign shall exceed 50 square feet in area.

c. Each real estate sales sign, temporary sign, and political sign shall not exceed 20 square feet in area.

d. Each nameplate sign shall not exceed 40 square feet in area.

(4) Height. The top of the display shall not exceed ten feet above the average grade for pedestal and ground signs, and not higher than the outside wall or parapet for wall signs.

(5) Setback. Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 20 square feet shall be set back at least 50 feet from any residential district.

(6) Corner lots. In the case of corner lots, the longer of the two walls may be used to compute all usable sign area.

(7) Alleys shall not be considered a public street.

(8) Signs on nonconforming uses shall be considered as if zoned B-1.

(9) The owner or lessee of any sign, or the owner of the land on which the sign is located shall keep the grass, weeds, or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the ends of said sign.

(b) *Business districts B-1 and B-3.*

(1) *Types of signs allowed.* Business, nameplate, identification, illuminated, ground, pedestal, political, real estate sales, temporary, wall and courtesy bench signs. Dynamic display signs are permitted in B-3 districts only.

(2) *Number of each type of sign allowed per lot frontage.* One real estate sales sign, two temporary signs, one nameplate sign, one political sign for each candidate, and one business sign or one shopping center sign. If a shopping center sign is used, each business establishment located in the shopping center shall also be permitted one business or nameplate sign. Courtesy bench signs are permitted on licensed courtesy benches.

(3) *Size:*

a. Except as provided herein, the total square footage of permanent sign area for each business shall not exceed two square feet of sign area for each lineal foot of unsigned building frontage, except where a location is a corner lot, the amount may be increased by one square foot of sign area per front foot of building along a side lot line.

b. No individual sign shall exceed 150 square feet in area.

c. Each real estate sales sign, temporary sign, and political sign shall not exceed 20 square feet in area.

d. Each nameplate or business sign shall not exceed 75 square feet in area.

(4) *Height.* The top of the display shall not exceed 35 feet in height above grade except that roof signs shall not be permitted.

(5) *Setback.* Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 50 square feet shall be set back at least 50 feet from any residential or agricultural district.

(Code 1993, § 9-13.02(2), (3); Ord. No. 0-93-07, §§ 8, 9, 7-28-1993; Ord. No. 0-96-01, § 5, 2-28-1996; Ord. No. 05-01, §§ 3, 4, 1-12-2005; Ord. No. 08-03, §§ 4, 5, 8-27-2008)

Secs. 113-451 – 113-468 - Reserved

DIVISION 3 - RESTRICTIONS ON SPECIFIC TYPES OF SIGNS

Sec. 113-469 - Signs as traffic hazards

No sign may be erected that by reason of position, shape, flashing light, movement, color, or in any other manner constitutes a traffic hazard as determined by the zoning administrator. In particular, signs which may be confused with emergency or snow plow vehicle lights are prohibited.

(Code 1993, § 9-13.03(1))

Sec. 113-470 - Certain signs prohibited

No sign will be permitted that provides refuge from police surveillance, tends to accumulate debris as a fire hazard, or in any other way is a hazard to the public health, safety, convenience or general welfare. Private signs are not permitted within streets or other public rights-of-way, except on courtesy benches as regulated herein.

(Code 1993, § 9-13.03(2); Ord. No. 05-01, § 5, 1-12-2005)

Sec. 113-471 - Illuminated sign restrictions

(a) Any sign illuminated and located within 50 feet of a residential district lot line shall be diffused or indirect so as not to reflect direct rays of light into adjacent residences. All illuminated signs in business and industrial districts in close proximity to residential districts shall be designed so as to illuminate the sign and not residential property to the extent practicable.

(b) Illuminated signs lighted by any means as an integral part of the sign, by floodlights, or any other means which cast light away from the sign shall be governed as follows:

(1) Any combination of signs or light sources which cast light on a public street shall not exceed one footcandle meter reading as measured from the centerline of said street.

(2) Any combination of signs or lights which cast light on property zoned for residential use shall not exceed 0.4 footcandle meter reading as measured from any part of said residential area.

(3) In no instance shall exposed light bulbs be utilized to light signs, property, or merchandise for sale or rent. Said lights shall be hooded or controlled in some manner so as to direct light away from public streets or adjacent to nearby property.

(c) No sign may be brighter than is necessary for clear and adequate visibility.

(d) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

(e) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

(Code 1993, § 9-13.03(3); Ord. No. 08-03, § 6, 8-27-2008)

Sec. 113-472 - Signs in public right-of-way

Signs shall not be permitted within the public right-of-way or easements except as follows:

(1) Public traffic control signs are permitted in any right-of-way.

(2) Signs erected by the city or the jurisdiction controlling the right of way.

(3) Courtesy bench signs are permitted on courtesy benches in the zoning districts specified herein.

(Code 1993, § 9-13.03(4); Ord. No. 05-01, § 6, 1-12-2005)

Sec. 113-473 - Flashing signs

Devices giving off an intermittent or rotating beam of rays of light shall be prohibited, except dynamic display signs, symbols or numerals indicating time and temperature as long as the display does not change more frequently than every 30 seconds. In no event, however, shall any light be permitted which may be confused with lights from a snowplow, police car, ambulance, or other emergency vehicle.

(Code 1993, § 9-13.03(5); Ord. No. 08-03, § 7, 8-27-2008)

Sec. 113-474 - Temporary and election signs

Temporary signs shall be permitted in any district in any yard area provided there shall be no more than three such signs on any lot and the total area of such signs shall not exceed 32 square feet. Temporary signs shall include election signs on residential property, commercial special sale signs, special occasion signs, garage sales, and similar signs. Election signs are permitted in any district on private property. Such signs must be removed within ten days following the election date.

(Code 1993, § 9-13.03(6))

Sec. 113-475 - Service station signs

Service stations may erect on pylon or pedestal a sign not to exceed 25 feet in height anywhere in setback area but no part of any such sign shall be closer to side lot lines than the required side yard setback nor within five feet of the rear lot line or ten feet of street right-of-way.

(Code 1993, § 9-13.03(7))

Sec. 113-476 - Real estate signs

Real estate (for rent, sale, or lease) signs may be placed in any yard of a lot containing the affected structure or land involved, provided such signs are not closer than ten feet to any property line and do not exceed a total of six square feet per lot frontage in residential areas and 32 square feet on any other lot. However, real estate signs over six square feet may be constructed in any residential area providing that:

(1) The sign area allowance for a combination of lots in aggregate shall not exceed 50

square feet;

(2) The signs are located at least 130 feet from any home;

(3) The signs are removed within one year unless an extension is given from the zoning administrator;

(4) A use permit is granted by the zoning administrator. Real estate signs over 32 square feet per lot frontage and exceeding other sign area limits in business and industrial areas shall require a variance.

(Code 1993, § 9-13.03(8))

Sec. 113-477 - Private traffic signs

Private traffic circulation signs in parking lots and pedestrian circulation signs in alleys or other hazardous situations may be permitted provided such individual signs do not exceed three square feet, the minimum number necessary for purposes intended is utilized, and such signs are utilized exclusively for purposes intended and permitted.

(Code 1993, § 9-13.03(9))

Sec. 113-478 - Vacant lots

Signs on vacant lots shall be permitted in accordance with this article except where governed by building frontage; in such cases, front footage of public right-of-way shall be utilized.

(Code 1993, § 9-13.03(10))

Sec. 113-479 - Rooftop displays and aerial searchlights

Rooftop balloons and rooftop displays are not permitted except in a commercial zone for a maximum of five days for a business grand opening or a special civic event sponsored or endorsed by the city council. A temporary sign permit is required for the balloon. Aerial searchlights are not permitted.

(Code 1993, § 9-13.03(11); Ord. No. 0-93-05, § 1, 5-26-1993)

Sec. 113-480 - Signs on windows and doors

This chapter does not apply to interior signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portion of doors except that such signs shall not be permitted in the B-1 district.

(Code 1993, § 9-13.03(12))

Sec. 113-481 - Ground signs

(a) No ground sign shall be erected, constructed, altered, rebuilt, or relocated to a height exceeding 20 feet above ground.

(b) The bottom of the facing of every ground sign shall be at least 30 inches above the ground, which space may be filled with platform or decorative trim of light wood, metal construction, brick, planters or plantings, etc.

(c) No private sign shall be erected, constructed, or maintained within the boundary of any street, avenue, highway, alley or public ground of the city, county or state.

(d) Portable signs supported by frames or posts rigidly attached to bases shall be so proportioned that the weight and size of the bases are adequate to resist the wind pressure specified in the building code. Such signs shall not exceed five feet in height or 15 square feet in area.

(e) The owner of a lot upon which there is a ground sign or the person occupying such lot or both are hereby required to keep such lot and such ground sign clean, sanitary, inoffensive and free and clear of all obnoxious substances and unsightly conditions.

(Code 1993, § 9-13.03(13))

Sec. 113-482 - Moving or revolving signs (motion signs)

Moving or revolving signs shall not be permitted except by the granting of a variance.

(Code 1993, § 9-13.03(14))

Sec. 113-483 - Wall signs

Wall signs attached to exterior walls of solid masonry or concrete shall be safely and securely attached.

(Code 1993, § 9-13.03(15))

Sec. 113-484 - Signs painted on walls

Signs shall not be painted directly on the outside wall of a building. Signs shall not be painted on a fence, tree, stone, or other similar objects or structures in any district.

(Code 1993, § 9-13.03(16))

Sec. 113-485 - Projecting signs

Signs shall in no case project from a building or structure more than one foot from the base of building. No projecting sign shall at the lowest point be less than eight feet above the sidewalk or the grade level. All projecting signs for which a permit is required shall be constructed entirely of fire-resistive materials approved by the zoning administrator for this purpose. All metal supports and braces for projecting signs shall be galvanized or of corrosive-resistant material or painted at least once annually.

(Code 1993, § 9-13.03(17))

Sec. 113-486 - Electric signs

All signs and displays using electric power shall have a cutoff switch on the outside of the premises and on the outside of the sign. All electrical work shall conform to this article and be subject to city inspection.

(Code 1993, § 9-13.03(18))

Sec. 113-487 - Construction signs

These signs are not to exceed 32 square feet in area and shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is substantially completed.

(Code 1993, § 9-13.03(19))

Sec. 113-488 - Roof signs

Roof signs are prohibited in all districts.

(Code 1993, § 9-13.03(20))

Sec. 113-489 - Advertising signs

Advertising signs are prohibited. By October 1, 1985, all advertising signs shall be considered to be fully amortized and shall be removed by the owners.

(Code 1993, § 9-13.03(22))

Sec. 113-490 - Multifaced signs

Multifaced signs shall not exceed two times the allowed square footage of single-faced signs.

(Code 1993, § 9-13.03(23))

Sec. 113-491 - Large signs

Except for more restrictive subsections of this sign section, no sign that exceeds 100 square feet in area shall be erected or maintained that would:

(1) Prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street for a distance of 500 feet.

(2) Be closer than 1,350 feet to a national, state, or local park, historic site, picnic or rest area, church or school.

(3) Be closer than 100 feet to residential structures.

(Code 1993, § 9-13.03(24))

Sec. 113-492 - Dynamic display signs

Dynamic displays on signs are permitted subject to the following conditions:

(1) No dynamic display sign shall be located within 150 feet of a residential district lot line.

(2) Dynamic display signs are subordinate to ground and pedestal signs and must not be the predominant feature of the sign area. A dynamic display shall not occupy more than 25 percent of the sign area. Only one dynamic display is allowed per sign face.

(3) The images and messages displayed must be static, and a dynamic display shall display no more than one static image and/or message per 24-hour period, except when changes are necessary to correct the time and temperature information. Time and temperature information is considered a dynamic display and may not be included as a component of any other dynamic display. Except for time and temperature, change shall take place between 9:00 a.m. and noon.

(4) No dynamic display sign shall use more than one color of lighting. That is, it shall render images with one constant hue and brightness on an unlighted background.

(5) The transition from one static display to another must be without any special effects.

(6) The images and messages displayed must be complete in themselves without continuation in content to the next image or message or to any other sign.

(7) Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that the display is not complying with the standards of this section.

(8) All dynamic displays shall meet the following brightness standards in addition to those in section 113-471(c), (d), and (e):

a. Sunrise to sunset: no greater than 2,000 nits,

b. Sunset to sunrise: no greater than 500 nits.

(Ord. No. 08-03, § 8, 8-27-2008)

Secs. 113-493 – 113-499 - Reserved

ARTICLE VIII - FLOODPLAIN REGULATIONS[3]

Sec. 113-500 - Statutory authorization and purpose

(a) *Statutory authorization.* The legislature of the state has, in Minn. Stats. ch. 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.

(b) *Statement of purpose.*

(1) The city wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 44 CFR Part 60.3(a)

(2) The city wishes to minimize potential losses due to periodic flooding including loss of

life, loss of 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, all of which adversely affect the public health, safety and general welfare.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-501 - Warning and disclaimer of liability

This article does not imply that areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages which result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-502 - Permit requirements

(a) No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the zoning administrator.

(b) No manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the zoning administrator for each change.

(c) No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the zoning administrator.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-503 - Permit application

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the zoning administrator before the issuance of a permit will be considered.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-504 - Duties of the zoning administrator

(a) The zoning administrator is appointed as the person responsible for receiving applications and examining the plans and specifications for the proposed construction or development.

(b) After reviewing the application, the zoning administrator may require any additional measures which are necessary to meet the minimum requirements of this article.

(c) The zoning administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-505 - Review of permit application

The zoning administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall be:

(1) 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;

(2) Constructed with materials and utility equipment resistant to flood damage;

(3) Constructed by methods and practices that minimize flood damage; and

(4) 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.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-506 - Subdivisions

The zoning administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

(1) All such proposals are consistent with the need to minimize flood damage within the flood prone area;

(2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and

(3) Adequate drainage is provided to reduce exposure of flood hazard.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-507 - Water supply system

The zoning administrator shall require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-508 - Sanitary sewage and water disposal systems

The zoning administrator shall require within flood prone areas:

(1) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and

(2) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-509 - Annexations and extraterritorial jurisdiction

The city shall not approve any development located in a special flood hazard area (SFHA) outside the corporate limits unless such development or plat is in the accordance with the floodplain ordinance that meets the minimum federal (44 CFR 60.3), state (Minnesota Regulation Parts 6120.5000 through 6120.6200), and local requirements for development within a special flood hazard area.

(Ord. No. 09-02, § 2, 8-12-2009)

Sec. 113-510 - Greater restriction

Where this article and other regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 09-02, § 2, 8-12-2009)

Footnotes:

[1] **State Law reference –** Zoning generally, Minn. Stats. § 462.357.

[2] **State Law reference –** Conditional use permits, Minn. Stats. § 462.3595; conditional uses, Minn. Stats. § 462.357, subds. 1b, 8.

[3] **Editor's note –** Ord. No. 09-03, adopted Sept. 9, 2009 is a summary of Ord. 09-02 for publication purposes. It states: "This ordinance amends Chapter 13 of the Falcon Heights City Code, the zoning ordinance, concerning floodplain regulations. This ordinance adopts a model floodplain ordinance provided by the Minnesota Department of Natural Resources. The ordinance provides the general regulations for development in areas located in the floodplain, addresses potential conflicts with other City ordinances, delineates permitted uses, provides provisions for variances, regulates non-conformities and outlines penalties for violations."