DRAFT

ORDINANCE NO. 1709

AN ORDINANCE AMENDING CHAPTER 9 – LAND USE OF THE CITY CODE OF 2005 TO AMEND 9.104 ADMINISTRATION AND ENFORCEMENT, 9.106 GENERAL DEVELOPMENT STANDARDS, 9.107 SPECIFIC DEVELOPMENT STANDARDS, 9.110 COMMERCIAL DISTRICTS, AND 9.111 INDUSTRIAL DISTRICTS.

The City of Columbia Heights does ordain:

Section 1

The following administrative processes are amended or deleted as provided in Section 9.104 of the City Code of 2005, is hereby established to read as follows:

(A) General provisions.

(1) Purpose. This article sets forth the procedures required for the administration of this article, outlines the powers and duties of the officials and bodies charged with such administration, establishes standards for required approvals, and provides enforcement in a manner which protects the public health, safety and general welfare.

(2) Concurrent review. In order to provide for the efficient: administration of this article, all applications for a single project or proposal that require multiple actions shall be processed concurrently.

(3) Substantially similar uses. Whenever an application contains a use not specifically included in this article, the Zoning Administrator shall issue a statement of clarification, finding that the use is either substantially similar in character and impact to a use regulated in this article or that the use is not substantially similar to any other use regulated in this article. If the use is not substantially similar to any other use regulated in this article, the use shall be prohibited.

(B) Authority and duties for administration.

(1) Authority. The following city officials and bodies, without limitation upon such authority as each may possess by law, have responsibility for implementing and administering this article:

(a) Zoning Administrator;

(b) Development Review Committee;

(c) Planning Commission;

(d) City Council.

(2) Zoning Administrator.

(a) Authority. The Zoning Administrator shall be appointed by the City Manager to administer and enforce the provisions of this article.

(b) Duties. The Zoning Administrator shall have the following responsibilities:

1. Conduct inspections of buildings and uses of land to determine compliance with the provisions of this article.

2. Maintain permanent and current records of this article, including, but not limited to, all associated maps, amendments, conditional uses, variances, and appeals.

3. Receive, file and forward all applications for appeals, variances, conditional use permits, interim use permits, zoning ordinance amendments, vacations, minor subdivisions, preliminary plats, final plats or other matters to the appropriate decision-making body.

4. Make a determination of compliance with this article on all applications for building permits and certificates of occupancy.

5. Provide zoning information to residents and others upon request.

6. Interpret the provisions of this article.

(3) Development Review Committee.

(a) Authority. The membership of the Development Review Committee shall be city staff members as appointed by the City Manager.

(b) Duties. The Development Review Committee shall have the following responsibilities:

1. Review plans and plats for conformance with the technical requirements of this article.

2. Make recommendation to the Planning Commission and City Council regarding applications for development or land use approvals.

(4) Planning Commission.

(a) Authority. The Planning Commission shall be appointed by the City Council.

(b) Duties. The Planning Commission shall have the following responsibilities:

1. Hear and make recommendations to the City Council regarding all applications for a conditional use permit or an amendment to a conditional use permit.

2. Hear and make the final decisions on all applications for an interim use as defined in this article.

3. Hear and make recommendations to the City Council regarding all applications for an amendment to this article, both text amendments and amendments to the district boundaries on the official zoning map.

4. Hear and make recommendations to the City Council regarding all applications for minor subdivisions, preliminary plats and final plats.

5. Review, hold public hearings, and prepare recommendations on any changes to the City's Comprehensive Plan.

6. Review this article from time to time and make recommendations to the City Council that changes be initiated.

7. Hear and make recommendations on any other matter referred to it by the City Council.

(c) Board of Appeals and Adjustment duties. In accordance with M.S. § 462.354, as it may be amended from time to time, the City Council has designated the Planning Commission as the Board of Appeals and Adjustments. As such, the Planning Commission shall have the following additional responsibilities:

1. Hear and make decisions on all applications for an appeal of any administrative order, requirement, determination or final decision made by the Zoning Administrator or other official in the administration of this article.

2. Hear and make decisions on all applications for a variance from the literal provisions of this article.

(5) City Council.

(a) Authority. The City Council shall have the authority given to it by state statutes.

(b) Duties. The City Council shall hear and make the final decision on all matters identified as requiring City Council action in this article.

(C) General application procedures.

(1) Applications. All applications for land use or development approval shall be made on the appropriate application, as approved by the city and available from the Community Development Department. The application shall be accompanied by detailed written and graphic materials fully explaining the proposed development or land use change, as required by the Zoning Administrator. The application shall also be accompanied by the appropriate fee, proof of legal interest in the property, and two copies of a list of property owners within 350 feet of the subject property or as otherwise defined in state statutes, in the format required by the Zoning Administrator.

(2) Additional information. The Zoning Administrator may require applicants for land use or development approval to submit additional information as may be necessary to evaluate the application. Such additional information may include, but shall not be limited to, traffic studies, engineering studies and environmental studies. The costs of such studies shall be the responsibility of the applicant, with the person or firm preparing the study approved by the Zoning Administrator.

(3) Pre-application conference. A pre-application conference with the Zoning Administrator shall be required prior to the submission of any application for land use or development approval. The purpose of the conference is to review application procedures and ordinance requirements with the applicant, to exchange information regarding the proposed project, and to identify potential opportunities and constraints for development of the site under consideration.

(4) Completeness of application. No application for land use or development approval shall be deemed complete until all items that are required in support of the application, including any additional studies or information required by the Zoning Administrator, have been submitted.

(5) Application fees. Fees for all applications for development or land use approval shall be a flat rate and established by resolution of the City Council. The city retains the right to require an escrow and additional payment for any out-of-pocket expenses for consultants and professional services and/or to obtain an escrow for cases that are extraordinary in size or complexity. Remaining escrowed funds not spent in reviewing the application shall be returned to the applicant. Payment of all fees is a condition of

application approval. The Community Development Department will keep a record of current fees for all land use applications.

(6) Required action. Pursuant to M.S. § 15.99, as it may be amended from time to time, all applications for land use or development approval shall be approved or denied as per state statute, unless extended pursuant to statute or unless a time waiver has been granted by the applicant.

(7) Reconsideration of applications. No application for land use or development approval that has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six months from the date of City Council action on the application.

(8) Expiration of approval. If substantial development or construction has not taken place within one year of the date of City Council approval of an application for land use or development approval, the approval shall be considered void unless a petition for time extension has been granted by the City Council. Such extension shall be submitted in writing at least 30 days prior to the expiration of the approval and shall state facts showing a good faith effort to complete the work permitted under the original approval. This provision shall not apply to zoning amendments or vacations of streets, alleys or public rights-of-way.

(D) Public hearings.

(1) Notice of public hearing. For all development or land use applications requiring a public hearing, notice of the public hearing shall be as follows:

(a) Official publication. The Zoning Administrator shall publish notice of the time, place and purpose of the public hearing at least once in the official city newspaper, not less than 10 days nor more than 30 days before the hearing.

(b) Notice to affected property owners. The Zoning Administrator shall mail a written notice of the time, place and purpose of the public hearing to all owners of record of property located in whole or in part within 350 feet of the boundaries of the subject property, or as otherwise defined in state statutes, not less than 10 days nor more than 30 days before the hearing. The failure to give mailed notice to individual property owners, or defects in the notice, shall not invalidate the proceedings, provided a bona fide attempt to comply with this requirements has been made.

(c) Notice to Department of Natural Resources. When a land use or development application relates to property within the Floodplain Management or Shoreland Management Overlay District, the Zoning Administrator shall mail a written notice of public hearing to the Commissioner of Natural Resources at least 21 days before the hearing.

(2) Hearing procedure. All hearings shall be open to the public. Any person may appear and testify at a hearing in person or by representative. Upon conclusion of the public testimony, the decision-making body shall announce its decision or recommendation, or shall continue the matter to a subsequent meeting.

(E) Appeals.

(1) Right of appeal. At any time within 30 days after a written order, requirement, determination or final decision has been made by the Zoning Administrator or other official in interpreting or applying this article, except for actions taken in connection with prosecutions for violations thereof, the applicant or any other person affected by such action may appeal the decision.

(2) Application for appeal. An appeal must be made by filing a written notice of appeal addressed to the Zoning Administrator and Planning Commission, and stating the action appealed as well as the specific grounds upon which the appeal is made.

(3) Public hearing. The Planning Commission, sitting as the Board of Appeals and Adjustments, shall hold a public hearing on the appeal in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall render its findings.

(F) Zoning amendments.

(1) Right of application. Amendments to the text of this article or to the district boundaries on the official zoning map may be initiated by the City Council, the Planning Commission, or by application of any person with a legal interest in the affected property.

(2) Application for amendment. An application for an amendment to change the district boundaries on the official zoning map or the text of this article shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a map or plat showing the lands proposed to be changed, a concept development plan and any other information determined by the Zoning Administrator to be necessary.

(3) Public hearing. The Planning Commission shall hold a public hearing on the complete application for a zoning amendment and all amendments initiated by the City Council or Planning Commission in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(4) City Council action. The City Council shall make the final decision regarding an application for a zoning amendment. Amendments of this article or the district boundaries on the official zoning map shall require a four-fifths majority vote of the City Council.

(5) Required findings. The City Council shall make each of the following findings before granting approval of a request to amend this article or to change the district boundaries on the official zoning map:

(a) The amendment is consistent with the comprehensive plan.

(b) The amendment is in the public interest and is not solely for the benefit of a single property owner.

(c) Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.

(d) Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its current zoning classification.

(G) Variances.

(1) Purpose. The purpose of a variance is to provide a means of departure from the literal provisions of this article. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. It is not the intent of this section to allow a variance for a use that is not permitted within a particular zoning district.

(2) Right of application. Any person with a legal interest in the property may file an application for one or more variances.

(3) Application for variance. An application for a variance shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a site plan and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission, sitting as the Board of Appeals and Adjustments, shall hold a public hearing on the complete application for a variance in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a variance from the provisions of this article. Approval of a variance shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before granting a variance from the provisions of this article:

(a) Because of the particular physical surroundings, or the shape, configuration, topography, or other conditions of the specific parcel of land involved, strict adherence to the provisions of this article would cause practical difficulties in conforming to the zoning ordinance. The applicant, however, is proposing to use the property in a reasonable manner not permitted by the zoning ordinance.

(b) The conditions upon which the variance is based are unique to the specific parcel of land involved and are generally not applicable to other properties within the same zoning classification.

(c) The practical difficulties are caused by the provisions of this article and have not been created by any person currently having a legal interest in the property.

(d) The granting of the variance is in harmony with the general purpose and intent of the Comprehensive Plan.

(e) The granting of the variance will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development or value of property or improvements in the vicinity.

(7) Conditions of approval. The City Council may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts directly associated with granting of the variance and to protect neighboring properties.

(H) Conditional use permits.

(1) Purpose. The conditional use permit process is intended as a means of reviewing uses which, because of their unique characteristics, cannot be permitted as a right in a specific zoning district, but may be allowed upon demonstration that such use meets identified standards established in this article. A conditional use permit is granted for a specific use of a specific property, and may be transferred to subsequent owners as long as the conditions agreed upon are observed.

(2) Right of application. Any person with a legal interest in the property may file an application for a conditional use permit, provided said conditional use is identified as a conditional use within the zoning district in which the property is located.

(3) Application for conditional use permit. An application for a conditional use shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a site plan, a detailed written description of the proposed use and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the complete application for a conditional use permit in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a conditional use permit. Approval of a conditional use permit shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before granting a conditional use permit:

(a) The use is one of the conditional uses listed for the zoning district in which the property is located, or is a substantially similar use as determined by the Zoning Administrator.

(b) The use is in harmony with the general purpose and intent of the comprehensive plan.

(c) The use will not impose hazards or disturbing influences on neighboring properties.

(d) The use will not substantially diminish the use of property in the immediate vicinity.

(e) The use will be designed, constructed, operated and maintained in a manner that is compatible with the appearance of the existing or intended character of the surrounding area.

(f) The use and property upon which the use is located are adequately served by essential public facilities and services.

(g) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.

(h) The use will not cause a negative cumulative effect, when considered in conjunction with the cumulative effect of other uses in the immediate vicinity.

(i) The use complies with all other applicable regulations for the district in which it is located.

(7) Conditions of approval. The City Council may establish any reasonable conditions of approval that are deemed necessary to mitigate adverse impacts associated with the conditional use, to protect neighboring properties, and to achieve the objectives of this article.

(8) Revocation. Failure to comply with any condition set forth as part of a conditional use permit shall be a violation of this article and is subject to the enforcement process identified in this section. Continued noncompliance shall be grounds for revocation of the conditional use permit, as determined by the City Council following a public hearing on the issue.

(9) Discontinuance. When a conditional use has been established and is discontinued for any reason for a period of one year or longer, or where a conditional use has been changed to a permitted use or any other conditional use, the conditional use permitted shall be considered abandoned.

(I) Zoning Permit.

(1) Purpose. The zoning permit provides a process for administrative review of uses such as a temporary use of a seasonal sales stands for a specific period of time and more permanent uses. It is intended that the temporary use of land does not run with the land, and would need to be approved upon each subsequent use.

(2) The following items require a zoning permit:

a. Fences over 6 feet in height

b. Accessory structures under 200 sq. ft.,

c. Parking and impervious surface additions

d. Accessory Dwelling Units

i. Owner/occupancy deed restriction

ii. Rental licensing.

(3) Right of application. Any person with a legal interest in the property for the purpose described above may file an application for a zoning permit, provided said use complies with the general zoning regulations and specific district requirements in which the property is located.

(4) Application for zoning permit review. An application for a zoning permit review shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a site plan, a detailed written description of the proposed use and any other information determined by the Zoning Administrator to be necessary for administrative review.

(5) Required findings. The Zoning Administrator shall make each of the following findings before granting a Zoning Permit Review:

(a) The use is allowed for the zoning district in which the property is located and complies with the zoning regulations as determined by the Zoning Administrator.

(b) The use is in harmony with the general purpose and intent of the Comprehensive Plan.

(c) The use will not impose hazards or disturbing influences on neighboring properties.

(d) The use will not substantially diminish the use of property in the immediate vicinity.

(e) Adequate measures have been or will be taken to minimize traffic congestion on the public streets and to provide for appropriate on-site circulation of traffic.

(6) Discontinuance. A zoning permit review application shall be deemed discontinued after the specified time duration has elapsed for temporary seasonal uses. Any permanent uses do not elapse so long as the

project remains consistent with the applicant submission. Upon discontinuation of the temporary use, all subsequent temporary uses shall be required to obtain a new zoning permit review.

(J) Vacations.

(1) Purpose. The vacation process allows for the vacation of public streets, alleys or other public rights-of-way when it is demonstrated that the public reservation of the land no longer serves a clearly identified public purpose.

(2) Right of application. Any person or persons who own property adjoining both sides of the street, alley or other public right-of-way to be vacated may file an application for vacation. In the event that the person or persons making the request do not own all of the adjoining parcels, the application shall be accompanied by affidavits from all such property owners indicating their consent.

(3) Application for vacation. An application for the vacation of a street, alley or other public right-of-way shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a legal description, a survey depicting the area to be vacated, a list of all property owners with land adjacent to the area to be vacated, and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the completed application for the vacation of a street, alley or other public right-of-way in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for the vacation of a street, alley or other public right-of-way. Approval of the vacation shall require a four-fifths majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before vacating a street, alley or other public right-of-way:

(a) No private rights will be injured or endangered as a result of the vacation.

(b) The public will not suffer loss or inconvenience as a result of the vacation.

(K) Minor subdivisions (lot splits).

(1) Purpose. The purpose of this process is to provide for approval of subdivisions that meet specific criteria and for the waiver of standard platting requirements specified elsewhere in this article. It is intended to enable administrative approval of minor subdivisions that facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of an existing lot line by relocation of a common boundary.

(2) Right of application. Any person having a legal interest in the property may file an application for a minor subdivision. For an adjustment of an existing lot line, the application shall be accompanied by affidavits from all affected property owners indicating their consent.

(3) Application for minor subdivision. An application for a minor subdivision shall be filed with the Zoning Administrator on the approved form and shall be accompanied by an accurate boundary survey and

legal description of the original parcel, a survey and legal description of the resulting parcels, and any other information determined by the Zoning Administrator to be necessary.

(4) Required findings. The Zoning Administrator shall make each of the following findings before approving a minor subdivision:

(a) The proposed subdivision of land will not result in more than three lots.

(b) The proposed subdivision of land does not involve the vacation of existing easements.

(c) All lots to be created by the proposed subdivision conform to lot area and width requirements established for the zoning district in which the property is located.

(d) The proposed subdivision does not require the dedication of public rights-of-way for the purpose of gaining access to the property or additional dedication of public right-of-way.

(e) The proposed subdivision does not include a change in existing streets, alleys, water, sanitary or storm sewer or other public improvements.

(f) The property has not previously been divided through the minor subdivision provisions of this article.

(g) The proposed subdivision does not hinder the conveyance of land.

(h) The proposed subdivision does not hinder the making of assessments or the keeping of records related to assessments.

(i) The proposed subdivision meets all of the design standards specified in the § 9.116.

(5) Conditions of approval. The Zoning Administrator may establish any reasonable conditions of approval that are deemed necessary to protect the public interest and ensure compliance with the provisions of this article, including, but not limited to, the following:

(a) The applicant shall provide required utility and drainage easements for all newly created lots and be responsible for the cost of filing and recording written easements with the Anoka County Recorder's Office.

(b) The applicant shall pay parkland dedication fees for each lot created beyond the original number of lots existing prior to subdivision, except when such fees have been applied to the property as part of a previous subdivision.

(6) Recording of minor subdivision. Upon approval of a minor subdivision, the applicant shall be responsible for filing the subdivision survey with the Anoka County Recorder's Office. Any minor subdivision approved under this section shall become invalid if the minor subdivision is not filed with the Anoka County Recorder within one year of the date of the City Council action.

(L) Preliminary plats.

(1) Purpose. A preliminary plat is a drawing intended to illustrate the proposed subdivision of land within the city. Preliminary plat approval is required for all subdivisions of land not specifically exempted in

this article. Approval of a preliminary plat is authorization to proceed with the final plat and does not constitute approval of the subdivision.

(2) Right of application. Any person having a legal interest in the property may file an application for a preliminary plat.

(3) Application for preliminary plat. An application for a preliminary plat shall be filed with the Zoning Administrator on the approved form and shall be accompanied by an accurate boundary survey and legal description of the original parcel, five copies of the preliminary plat, and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the completed application for a preliminary plat in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a preliminary plat. Approval of a preliminary plat shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before approving a preliminary plat:

(a) The proposed preliminary plat conforms with the requirements of § 9.116.

(b) The proposed subdivision is consistent with the comprehensive plan.

(c) The proposed subdivision contains parcel and land subdivision layout that is consistent with good planning and site engineering design principles.

(7) Expiration of preliminary plat. An approved preliminary plat shall be valid for a period of one year from the date of City Council approval. In the event that a final plat is not submitted within this time period, the preliminary plat will become void.

(M) Final plats.

(1) Purpose. A final plat is a drawing representing the proposed subdivision of land within the city and serves as the document for recording purposes, as required by the Anoka County Recorder's Office.

(2) Right of application. Any person having a legal interest in the property may file an application for a final plat. A preliminary plat for the property must have been approved within the past year for a final plat application to be accepted by the city.

(3) Application for final plat. An application for a final plat shall be filed with the Zoning Administrator on the approved form and shall be accompanied by five copies of the final plat and any other information determined by the Zoning Administrator to be necessary.

(4) Public hearing. The Planning Commission shall hold a public hearing on the complete application for a final plat in accordance with the requirements of this section. After the close of the hearing, the Planning Commission shall make findings and submit its recommendation to the City Council.

(5) City Council action. The City Council shall make the final decision regarding an application for a final plat. Approval of a final plat shall require a simple majority vote of the City Council.

(6) Required findings. The City Council shall make each of the following findings before approving a final plat:

(a) The final plat substantially conforms to the approved preliminary plat.

(b) The final plat conforms with the requirements of § 9.116.

(7) Recording of final plats. Upon approval of a final plat, the applicant shall be responsible for filing and recording the final plat with the Anoka County Recorder's Office within one year of the date of City Council action. In the event that a final plat is not recorded within this time period, the final plat will become void.

(N) Site plan review.

(1) Purpose. The purpose of the site plan review process is to promote the efficient use of land and visual enhancement of the community, ensure that newly developed and redeveloped properties are compatible with adjacent development, and that traffic conflicts, public safety and environmental impacts are minimized to the greatest extent possible.

(2) Site plan review required. All site development plans for new development, or additions to existing structures other than one- and two-family residences, shall be reviewed and approved by the Planning and Zoning Commission and Development Review Committee prior to the issuance of a building permit.

(3) Required information. An application for site plan review shall be filed with the Zoning Administrator on the approved form and shall be accompanied by a vicinity map; an accurately scaled site plan showing the location of proposed and existing buildings, existing and proposed topography, vehicular access and parking areas, landscaping, and other site features; elevation views of all proposed buildings and structures; and any other information determined by the Zoning Administrator to be necessary.

(4) Required findings. The Development Review Committee shall conduct the administrative review of all site plan approval requests. All findings and decisions of the Committee shall be forwarded to the Planning and Zoning Commission for final decision, unless the Zoning Administrator determines that Development Review Committee approval of site plan is sufficient. The Planning and Zoning Commission shall make each of the following findings before approving a site plan:

(a) The site plan conforms to all applicable requirements of this article.

(b) The site plan is consistent with the applicable provisions of the city's comprehensive plan.

(c) The site plan is consistent with any applicable area plan.

(d) The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

(5) Conditions of site plan approval. The Development Review Committee and the Planning and Zoning Commission may impose conditions of approval on any site plan and require guarantees deemed necessary to ensure compliance with the requirements of this section.

(6) Changes to approved site plan. An approved site plan may not be changed or modified without the approval of the City Zoning Administrator. If the proposed change is determined by the Zoning Administrator to be minor in nature, a revised site plan may not be required. In all other cases, a revised site plan shall be submitted for review and approval in accordance with this section.

(7) Expiration of site plan approval. The approval of a site plan by the Planning and Zoning Commission shall be valid for a period of one year.

(O) Other development approvals and permits.

(1) Building permits. Building permits are required in accordance with the adopted building code. No building permit shall be issued unless the proposed construction or use is in conformance with the requirements of this article and all necessary zoning approvals have been granted.

(2) Sign permits. All signs displayed within the city are required to obtain a sign permit from the Zoning Administrator in accordance with § 9.106, unless herein excluded.

(3) Site plan approval. All site development plans for development, other than one- and two-family residences, shall be reviewed and approved by the Development Review Committee prior to the issuance of a building permit.

(P) Enforcement.

(1) Complaints. The Zoning Administrator shall have the authority to investigate any complaint alleging a violation of this article or the conditions of any zoning or plat approval, and take such action as is warranted in accordance with the provisions set forth in this article.

(2) Procedure.

(a) Notice of violation. The Zoning Administrator shall provide a written notice to the property owner or to any person responsible for such violation, identifying the property in question, indicating the nature of the violation, and ordering the action necessary to remedy the violation, including a reasonable time period for action. Additional written notices may be provided at the Zoning Administrator's discretion.

(b) Enforcement without notice. Whenever the Zoning Administrator finds that an emergency exists in relation to the enforcement of the provisions of this article, which requires immediate action to protect the health, safety or welfare of the occupants of any structure, or the public, the Zoning Administrator may seek immediate enforcement without prior written notice.

(3) Violation and penalties. Any person, firm or corporation determined to be in violation any of the provisions of this article or any amendments may be subject to penalties such as liens, personal obligations, late fees and charges, administrative citations, abatement, and found guilty of a misdemeanor. Each day that a violation is permitted to exist shall constitute a separate offense.

Section 2

The following language for General Development Standards is added, amended and deleted as provided in Section 9.106 of the City Code of 2005, is hereby established to read as follows:

§ 9.106 GENERAL DEVELOPMENT STANDARDS.

(A) General provisions.

(1) Purpose. The purpose of this section is to establish regulations of general applicability to property throughout the city, to promote the orderly development and use of land, to minimize conflicts between uses of land, and to protect the public health, safety and welfare.

(2) Applicability. The regulations set forth in this section shall; apply to all structures and uses of land, except as otherwise provided in this article.

(B) Lot controls.

(1) Purpose. Lot controls are established to provide for the orderly development and use of land, and to provide for adequate light, air, open space and separation of uses.

(2) Use of lots. All lots shall be used in a manner consistent with the requirements of the zoning district in which the property is located. No part of any existing lot shall be used as a separate lot or for the use of another lot, except as otherwise provided in this article.

(3) Lot divisions. No lot shall be divided into two or more lots unless all lots resulting from such division conform to all applicable regulations of this article.

(4) Lots of record. A lot of record shall be deemed a buildable lot provided it has frontage on a public right-of-way and meets the setback and area requirements for the district in which it is located, or adjusted to conform as follows: a lot or lot of record upon the effective date of this article which is in a residential district and which does not meet the requirements of this article as to area or width, may be utilized for single-family detached dwelling purposes provided the measurements of such lot meets 100% of the front yard, side yard and rear yard setback requirements for the district in which it is located and 60% of the minimum lot area or lot width requirements for the district in which it is located.

(5) Principal buildings in residential districts. There shall be no more than one principal building on a lot in any residential district, unless otherwise provided for through a mixed use planned development.

(6) Principal buildings in non-residential districts. There may be more than one principal building on a lot in non-residential districts, provided each building meets all of the requirements, including setbacks, of the district in which it is located.

(7) Required yards. Yard requirements shall be as specified for the zoning district in which the lot is located. No yard or other open space shall be reduced in area or dimension so as to make such yard or other open space less than the minimum required by this article. If the existing yard or other open space is less than the minimum required, it shall not be further reduced. In addition, no required yard or other open space allocated to a building or dwelling group shall be used to satisfy yard, open space, or minimum lot area requirements for any other structure or lot.

(8) Setback exception in residential districts. In any residential district where the average depth of the front yard for buildings within 200 feet of the lot in question and within the same block front is lesser or greater than that required by article, the required front yard for the lot in question shall be the average plus or minus 10% of the depth; however, the depth of the required front yard shall not be less than 10 feet nor more than 50 feet.

(9) Corner lots. For corner lots, the shorter lot line abutting a public street shall be deemed the front lot line for purposes of this article, and the longer lot line abutting a public street shall be deemed a side lot line.

(10) Through lots. For through lots, both lot lines that abut a public street or other right-of-way shall be deemed front lot lines for purposes of this article, and the required front yard shall be provided along each front lot line.

(11) Yard encroachments. The following uses shall not be considered as encroachments into required yards, provided they are not located closer than one foot to the property line, except for fences:

(a) Cornices, canopies, awnings, eaves, bay windows and other ornamental features, provided they do not extend more than three feet into the required yard.

(b) Chimneys, air conditioning units, fire escapes, uncovered stairs, ramps and necessary landings, provided they do not extend more than four feet into the required yard.

(c) Fences constructed and maintained in accordance with the applicable provisions of this article.

(d) Driveways and parking areas constructed and maintained in accordance with the applicable provisions of this article.

(e) Accessory buildings constructed and maintained in accordance with the applicable provisions of this article.

(f) Mechanical equipment constructed and maintained in accordance with the applicable provisions of this article.

(g) Signs constructed and maintained in accordance with the applicable provisions of this article.

(h) Private swimming pools, tennis courts, basketball courts or other private recreational facilities constructed and maintained in accordance with the applicable provisions of this article.

(12) Traffic visibility. No planting, structure or other obstruction shall be placed or allowed to grow on corner lots in a manner that will impede vision on the intersecting rights-of-way, in accordance with the following sight triangles:

(a) Street intersections. No planting or structure in excess of 30 inches above the abutting curb line shall be permitted within the sight triangle, defined as the area beginning at the intersection of the projected curb line of two intersecting streets, then 30 feet along one curb line, diagonally to a point 30 feet from the point of beginning on the other curb line, then back to a point of beginning.

(b) Street and alley intersections. No planting or structure in excess of 30 inches above the abutting curb line shall be permitted within the sight triangle, defined as the area beginning at the point of intersection of the projected curb line and the alley right-of-way, then 30 feet along the street curb line, diagonally to a point 15 feet from the point of beginning along said alley right-of-way or projection of the alley right-of-way, then back to the point of beginning.

(c) Alley and alley intersections. No planting or structure in excess of 30 inches above the nearest edge of the traveled right-of-way shall be permitted within the sight triangle, defined as the area beginning at the point of intersection of the two alley right-of-way lines, then 15 feet along one alley right-of-way line, then diagonally to a point 15 feet from the point of beginning along the second alley right-of-way line, then back to the point of beginning. Any structures existing within this sight triangle shall be deemed nonconforming structures in accordance with the provisions of § 9.105.

(13) Height limitations. The building and structure height limitations established for each zoning district shall apply to all buildings and structures, except that such height limitations may be increased by 50% when applied to the following:

(a) Church spires, steeples or belfries.

(b) Chimneys or flues.

(c) Cupolas and domes which do not contain usable space.

(d) Towers, poles or other structures for essential services.

(e) Flag poles.

(f) Mechanical or electrical equipment, provided said equipment does not occupy more than 25% of the roof area.

(g) Television and ham radio antennas.

(h) Monuments.

(i) Telecommunication towers constructed in accordance with the provisions of § 9.106(O).

(C) Accessory uses and structures.

(1) Accessory structures, residential uses. The following standards shall regulate the construction and maintenance of residential accessory structures:

(a) Each residentially zoned parcel shall be allowed two detached accessory structures.

(b) No accessory structure shall be constructed or located within any front yard.

(c) Accessory structures for one- and two-family dwellings shall be set back a minimum of three feet from the side lot line, and a minimum of three feet from the rear lot line, a minimum of five feet from any other building or structure on the same lot, and behind the principal structure building line in the front yard.

(d) An accessory structure shall be considered an integral part of the principal structure if it is connected to the principal building by a covered passageway.

(e) An accessory structure, or any combination of accessory structures, storage sheds and attached garages, shall not exceed 1,000 square feet in area.

(f) Unless a height limitation is specifically stated, the height of an accessory structure shall not exceed the lesser of:

1. The height of the principal structure;

2. 12 feet above average finished grade for flat roofs;

3. 18 feet above average finished grade for pitched roofs, mansard roofs, and all other roofs.

(g) Where the natural grade of the lot is 10 feet or more above or below the established curb level at the front building setback and access from an alley is not available, an accessory structure for the storage of not more than two automobiles may be constructed within any yard, provided that at least one-half of the

height is below grade level and the accessory structure is set back a minimum of 20 feet from any right-of-way.

(h) The exterior color and design of an accessory structure shall be similar to the principal structure. Corrugated metal siding and roofs shall be prohibited.

(i) Whenever a garage is so designed that the vehicle entry door(s) are facing a street or alley, the distance between the door(s) and the lot line shall be no less than 20 feet for lots greater than 6,500 square feet, and shall be no less than 15 feet for lots 6,500 square feet or less.

(j) Accessory structures for multiple-family dwellings shall be placed in the rear yard and shall be subject to the same height and exterior finish regulations as the principal structure for the district in which it is located, in addition to the requirements of this section.

(k) Any accessory structure capable of storing one or more motorized vehicle shall be provided with a hard-surfaced access driveway, no less than 12 feet in width, to an adjacent public street or alley, and shall be no less than 20 by 20 in size.

(l) Accessory buildings shall not be located within any utility or drainage easement.

(2) Accessory structures, non-residential uses. The following standards shall regulate the construction and maintenance of non-residential accessory structures:

(a) All accessory structures shall be subject to the sane setback, height and exterior finish regulations as a principal structure for the district in which it is located.

(b) The height of an accessory structure shall not exceed the height of the principal structure.

(c) All multiple story and accessory structures over 200-square feet in area shall require a building permit from the city.

(3) Home occupations. Home occupations are allowed in residential districts, subject to the following standards:

(a) The home occupation shall be clearly incidental and subordinate to the residential use of the property. Exterior alterations or modifications that change the residential character or appearance of the dwelling, any accessory building or the property itself shall not be allowed.

(b) Only persons residing on the premises and no more than one nonresident employee shall be engaged in the conduct of the home occupation on the premises at any given time.

(c) There shall be no outside storage of products, materials or equipment used in conjunction with the home occupation.

(d) The home occupation must be conducted within the principal residential structure and/or up to 30% of the floor area of an accessory building or attached garage.

(e) The required off-street parking for the residential use shall not be reduced or made unusable by the home occupation.

(f) The home occupation shall not generate excessive traffic or parking that is detrimental to the character of the neighborhood.

(g) Shipment and delivery of products, merchandise or supplies shall be by single rear axle straight trucks or similar delivery trucks normally used to serve residential neighborhoods.

(h) There shall be no indications of offensive noise, odor, smoke, heat, glare, vibration, or electrical interference at or beyond the property line of the home occupation.

(i) Signage for the home occupation shall be limited to one non-illuminated sign, not exceeding two square feet in area and attached to the wall of the residential dwelling.

(j) The home occupation shall meet all applicable fire and building codes, as well as any other applicable city, state or federal regulations.

(k) The following home activities shall be prohibited as home occupations:

1. The operation of any wholesale or retail business unless it is conducted entirely by mail and does not involve the sale, shipment or delivery of merchandise on the premises. The sale of products incidental to the delivery of a service is allowed.

2. Any manufacturing, welding, machine shop or similar use.

3. Motor vehicle repair, either major or minor.

4. The sale, lease, trade or transfer of firearms or ammunition.

5. Headquarters or dispatch centers where persons come to the site and are dispatched to other locations.

(l) All home occupations shall be subject to a one-time registration with the city, on a form as required by the Zoning Administrator and with a fee as determined by the City Council.

(4) Private swimming pools and courts. All private swimming pools, tennis courts, ball courts and other private recreational facilities are subject to the following standards:

(a) The facility is not operated as a business or private club.

(b) The facility is not located within any required front or side yard.

(c) The facility is set back at least five feet from any property line, including any walks, paved areas or related structures or equipment.

(d) For swimming pools, the pool itself, the rear yard, or the entire property shall be enclosed by a non-climbable wall, fence or combination thereof at least six feet in height, with a self- closing gate capable of being secured with a lock so as to prevent uncontrolled access by children. If the only access is through a principal or accessory structure, such point of access shall be lockable. In the case of above-ground pools, pool sides that are vertical may contribute to the required fencing, provided all points of access are controlled to prevent access by children, including the removal of all ladders or stairs whenever the pool is not in use.

(e) For in-ground pools, the pool is set back at least six feet from the principal structure.

(f) Hot tubs shall not be located within five feet of any side yard or rear lot line, or within any required front yard. Such pools may be equipped with a child-resistant, lockable cover in lieu of a six-foot tall fence. Hot tubs are permitted on attached or detached decks if it can be proven that the deck is engineered to be structurally sound enough to support the bearing load of the hot tub.

(g) Portable pools shall not be located within five feet of any side or rear lot line, or within any required front yard. Such pools may be equipped with a child resistant cover in lieu of a six-foot tall fence. Any ladder or other means of entry into a portable pool shall be detachable and placed so that no child can gain entry into the pool without the owner's consent. Portable pools shall not be in place longer than six months in a calendar year.

(h) Lighting shall be so oriented so as not to cast light on adjacent properties.

(i) The facility shall not be located within any drainage or utility easement.

(j) Any accessory mechanical apparatus shall be located at least 30 feet from any residential structure on an adjacent lot.

(k) All swimming pools containing more than 3,000 gallons or with a depth in excess of 42 inches (3.5 feet) shall require a building permit from the city.

(5) Trash handling equipment. For all uses other than one- and two-family dwellings, trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.

(6) Mechanical equipment. Mechanical equipment, other than that accessory to one- and two- family dwellings, shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets. Screening may be accomplished through the use of walls or other design features that are architecturally compatible with the principal structure, screening vegetation, integrated parapet walls of sufficient height, or other means as approved by the Zoning Administrator.

(D) Dwellings.

(1) General requirements. The following standards shall apply to all dwelling units within the city:

(a) All single-family dwelling units shall be a minimum of 20 feet wide at the narrowest point.

(b) No recreational vehicle shall be used at any time as a dwelling unit.

(c) No basement dwelling (basements without upper floors) shall be used at any time as a dwelling unit.

(2) Floor area requirements. The following floor area requirements shall apply to all dwelling units within the city:

(a) One-story dwellings shall have a minimum floor area of 1,020 square feet, plus 120 square feet for each additional bedroom over three. The floor area may be reduced to 960 square feet if the lot size is 6,500 square feet or less.

(b) One and one-half and two story dwellings shall have a minimum floor area of 550 square feet on the main floor, with a total above grade minimum finished floor area of 1,020 square feet.

(c) Split-level dwellings shall have a minimum floor area of 1,020 square feet, plus 120 square feet for each additional bedroom over three. The floor area may be reduced to 960 square feet if the lot is 6,500 square feet or less.

(d) Split entry dwellings shall have a minimum floor area of 1,020 square feet, plus 120 square feet for each additional bedroom over three. The floor area may be reduced to 960 square feet if the lot is 6,500 square feet or less.

(e) Two-family dwellings (duplexes) and town homes shall have a minimum floor area of 750 square feet per unit, plus 120 square feet for each additional bedroom over two.

(f) Efficiency apartments shall have a minimum floor area of 400 square feet per unit.

(g) One-bedroom apartments shall have a minimum floor area of 600 square feet per unit.

(h) Two-bedroom apartments shall have a minimum floor area of 720 square feet per unit.

(i) Apartments with more than two bedrooms shall have a minimum floor area of 720 square feet per unit, plus 120 square feet for each additional bedroom over two.

(3) *Accessory Dwelling Units*

(a) An accessory dwelling unit shall only be a permitted accessory use to any lot with a detached single-family dwelling.

(b) No accessory dwelling unit shall be permitted upon a lot on which more than one residential dwelling is located and no more than one accessory dwelling unit shall be permitted per lot.

(c) The accessory dwelling unit shall not be sold or conveyed independently of the principal residential dwelling and may not be on a separate tax parcel or subdivided through any means.

(d) Either the ADU or the principal dwelling shall be occupied by the property owner and a restriction shall be recorded against the property requiring owner occupancy for at least one of the units; a rental license for the non-owner-occupied unit is required.

(e) Both the single-family dwelling and the accessory dwelling unit, together, shall provide adequate off-street parking on the lot; parking spaces may be garage spaces or paved outside parking spaces.

(f) Accessory dwelling units must contain habitable space based on the adopted MN Building Code and be a minimum of 250 square feet and a maximum of 50% of the total floor area of the principal dwelling up to 1,000 square feet.

(g) ADUs in Minnesota must adhere to the Minnesota State Building Code, which includes fire separation for attached units, safe egress and entrances, and proper water and sewer connections.

(h) Accessory dwelling units within or attached to the principal structure shall conform to Zoning Code standards for single family dwellings, including but not limited to setback, height, impervious surface, curb cut and driveway, and accessory structure standards if the unit is detached. The accessory

dwelling unit is subject to current Building, Plumbing, Electrical, Mechanical, and Fire Code provisions including maintaining emergency access to both units.

(E) Fences.

(1) General requirements. The following standards shall apply to all fences:

(a) Fences may be constructed, placed or maintained in any yard or adjacent to a lot line in accordance with the requirements of this section.

(b) The owner of the property upon which the fence is located shall be responsible for locating all property lines prior to constructing said fence.

(c) All fence posts and supporting members shall be placed within the property lines of the property on which they are located.

(d) All fences shall be situated so that they can be maintained from within the property boundaries of the property on which they are located.

(e) All fences shall be constructed so that the finished side or more attractive side of the fence faces the adjacent property or right-of-way.

(f) Fences, freestanding walls, and retaining walls shall be constructed in a substantial and workmanlike manner to withstand conditions of soil, weather and use, and of substantial material reasonably suited for the purpose for which the fence, freestanding wall or retaining wall is proposed to be used. No previously used materials may be used in any fence. All fences shall be constructed of the following approved fencing materials:

1. Galvanized or vinyl coated woven fabric - minimum 11 1/2 gauge, with two-inch minimum mesh, with knuckles up and cut edge down.

2. Approved vinyl fencing materials.

3. Treated wood or wood of natural materials resistant to decay.

(g) Retaining walls or freestanding walls shall be constructed in the following manner:

1. Retaining walls and cribbing shall be used to stabilize steep slopes or prevent erosion.

2. They shall be designed in accordance with sound engineering practice; including, but not limited to, a minimum four-inch concrete footing of appropriate width and drains of appropriate type, size and spacing.

3. Cribbed slopes shall be appropriately planted if open-faced cribbing is used.

4. The retaining wall or freestanding wall shall be constructed in a manner that presents a finished appearance to the adjoining property where applicable.

(h) All fences shall be maintained and kept in good condition.

(i) Fence height shall be measured from the average grade to the top of the fence. In situations where a grade separation exists at the property line, the height of the fence shall be based on the measurement from the average point between the highest and lowest grade.

(j) Barbed wire, razor wire and electric fences shall not be permitted in any zoning district. However, barbed wire may be permitted in industrially zoned districts and property used for public purposes through a Conditional Use Permit process.

(k) Fences exceeding six feet in height shall require a building permit from the city.

(2) Residential fences. The following standards shall apply to all fences constructed in any residential zoning district or directly adjacent to any residential zoning district:

(a) No fence shall exceed seven feet in height. Fences exceeding six feet in height shall be deemed structures and shall require a ~~Conditional Use Permit~~ Zoning Permit Review.

(b) Fences along any rear property line that abut a public alley or street shall be located no closer than three feet from the alley or street right-of-way.

(c) It shall be the responsibility of property owners with fences within recorded city easements to remove such fence at any time when access to the recorded city easement would require the removal of the fence.

(d) A fence extending across or into the required front yard setback shall not exceed 42 inches (3.5 feet) in height; however, fences that are less than 50% opaque may be up to 48 inches (4 feet) in height.

(3) Non-residential fences. The following standards shall apply to all fences constructed in any commercial or industrial zoning district:

(a) No fence shall exceed eight feet in height. Fences exceeding seven feet in height shall be deemed structures and shall require a ~~Conditional Use Permit~~ Zoning Permit Review.

(b) A fence extending across or into the required front yard setback shall not exceed four feet in height.

(c) A fence required to screen a commercial or industrial use from an adjacent residential use shall not exceed eight feet in height or be less six feet in height. In addition, said screening fence shall be no less than 80% opaque on a year round basis.

(4) Fencing of play areas. For parks and playgrounds, either public or private and located adjacent to a public right-of-way or railroad right-of-way, a landscaped yard area no less than 30 feet in width, or a fence no less than 4 feet in height, shall be installed between the facility and the right-of- way.

(F) Essential services.

(1) Purpose. The purpose of this section is to provide for the installation of essential services in a manner that does not adversely affect the public health, safety or welfare.

(2) Essential services allowed by permit. The following essential services, when installed in any location in the city and installed primarily for the use of city residents, shall only require a permit from the City Engineer:

(a) All communication lines.

(b) Underground electrical transmission lines, overhead utility lines and electrical transmission lines intended to serve properties within the city.

(c) Pipelines for distribution to individual properties within the city.

(d) Substations with less than 33 KV.

(e) Radio receivers and transmitters accessory to an essential service, when placed on an existing utility pole, tower or light standard.

(3) Essential services requiring conditional use permit. The following essential services, when installed in any location in the city and not primarily for the use of city residents, shall require a conditional use permit in accordance with the provisions of § 9.104:

(a) All overhead and underground transmission lines not required for the local distribution network.

(b) All transmission pipelines.

(c) Substations in excess of 33 KV.

(d) Any pole or tower used exclusively for the placement of radio receivers or transmitters accessory to an essential service.

(e) Any essential service of which 75% of the service provided or produced is not intended to serve properties within the city.

(f) Any essential service requiring a structure that exceeds the maximum height for the zoning district in which it is located.

(g) Any essential service requiring easements other than easements granted to the public.

(G) Temporary uses and structures. The following temporary uses and structures shall be permitted in all zoning districts unless specified otherwise, provided such use or structure complies with the regulations of the zoning district in which it is located and all other applicable provisions of this article:

(1) Garage sales. Residential garage sales shall be limited to no more than two garage sales per property per calendar year, with the duration of each garage sale not to exceed three consecutive days at any residential location.

(2) Construction sites. Storage of building materials and equipment or temporary building for construction purposes may be located on the site under construction for the duration of the construction.

(3) Amusement events. Temporary amusement events, including the placement of tents for such events, may be allowed as a temporary use for a maximum of 15 days per calendar year. In residential districts, such temporary amusements shall be located on public or semi-public property only.

(4) Promotional activities. Promotional activities involving the outdoor sale or display of merchandise may be allowed as a temporary use in non-residential districts for a maximum of 30 days per calendar year.

(5) Other temporary uses. In addition to the temporary uses and structures listed above, the Zoning Administrator may allow other temporary uses and structures for a maximum of 15 days per calendar year, provided the said use or structure is substantially similar to the uses and structures listed herein.

(H) Performance standards.

(1) Purpose. These performance standards are established to minimize conflict between land uses, to preserve the use and enjoyment of property, and to protect the public health, safety and welfare. These standards shall apply to all uses of land and structures, and are in addition to any requirements applying to specific zoning districts.

(2) In general. No use or structure shall be operated or occupied so as to constitute a dangerous, injurious or noxious condition because of noise, odors, glare, heat, vibration, air emissions, electromagnetic disturbance, fire, explosion or other hazard, water or soil pollution, liquid or solid waste disposal, or any other substance or condition. No use or structure shall unreasonably interfere with the use or enjoyment of property by any person of normal sensitivities. In addition, no use or structure shall be operated or occupied in a manner not in compliance with any performance standard contained in this article or any other applicable regulation.

(3) Noise. All uses shall comply with the standards governing noise as adopted and enforced by the Minnesota Pollution Control Agency.

(4) Odor emissions. All uses shall comply with the standards governing the odor emissions as adopted and enforced by the Minnesota Pollution Control Agency.

(5) Vibration. Uses producing vibration shall be conducted in such a manner as to make the vibration completely imperceptible from any point along the property line. In addition, all uses shall comply with the standards governing vibrations as adopted and enforced by the Minnesota Pollution Control Agency.

(6) Air emissions. All uses shall comply with the standards governing air emissions as adopted and enforced by the Minnesota Pollution Control Agency.

(7) Glare and heat. Uses producing glare or heat shall be conducted within a completely enclosed building in such a manner as to make such glare and heat completely imperceptible from any point along the property line. In addition, all uses shall comply with the standards governing glare and heat as adopted and enforced by the Minnesota Pollution Control Agency.

(8) Radiation and electrical emissions. All uses shall comply with the standards governing radiation and electrical emissions as adopted and enforced by the Minnesota Pollution Control Agency.

(9) Waste material. All uses shall comply with the standards governing waste disposal as adopted and enforced by the Minnesota Pollution Control Agency.

(10) Explosive and flammable materials. All uses involving the manufacture, storage or use of explosive or flammable materials shall comply with all applicable regulations, including, but not limited to, the Minnesota Building Code and the Uniform Fire Code, and shall meet the following requirements:

(a) All uses involving the manufacture, storage or use of explosive or flammable materials shall employ best management practices and the provision of adequate safety devices to guard against the hazards of fire and explosion, and adequate fire-fighting and fire-suppression devices standard in the industry.

(b) The manufacture or storage of any explosive or blasting agent, as defined in the Uniform Fire Code, shall be prohibited in all districts except the I-2, General Industrial District.

(c) The storage of any flammable liquid shall be subject to the requirements established by the Uniform Fire Code and shall be reviewed by the State Fire Marshal.

(11) Hazardous materials. All uses shall comply with the standards governing hazardous waste as adopted and enforced by the Minnesota Pollution Control Agency.

(I) Storm water management.

(1) Purpose. The purpose of this division is to promote, preserve and enhance the natural resources within the city and protect them from adverse effects occasioned by poorly sited development or incompatible activities by regulating land alterations or development activities that would have an adverse and potentially irreversible impact on water quality and unique and fragile environmentally sensitive land; by minimizing conflicts and encouraging compatibility between land alterations and development activities and water quality and environmentally sensitive lands; and by requiring detailed review standards and procedures for land alterations or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas.

(2) Definitions. For the purposes of this section, the following terms, phrases, words, and their derivatives shall have the meaning stated below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The word “shall” is always mandatory and not merely directive.

APPLICANT. Any person who wishes to obtain a building permit, preliminary plat approval or an excavation permit.

CONTROL MEASURE. A practice or combination of practices to control erosion and attendant pollution.

DETENTION FACILITY. A permanent natural or man-made structure, including wetlands, for the temporary storage of runoff which contains a permanent pool of water.

EXCAVATION ACTIVITIES. Any excavation or filling activity as regulated by § 9.106(J).

FLOOD FRINGE. The portion of the floodplain outside of the floodway.

FLOODPLAIN. The areas adjoining a watercourse or water basin that have been or may be covered by a regional flood.

FLOODWAY. The channel of the watercourse, the bed of water basins, and those portions of the adjoining floodplain that are reasonably required to carry and discharge floodwater and provide water storage during a regional flood.

HYDRIC SOILS. Soils that are saturated, flooded, or ponded long enough during the growing season to develop anaerobic conditions in the upper part.

HYDROPHYTIC VEGETATION. Macrophytic plantlife growing in water, soil or on a substrate that is at least periodically deficient in oxygen as a result of excessive water content.

LAND ALTERATION. Any change of the land surface including, but not limited to, removing vegetative cover, excavating, filling, grading, and. the construction of utilities, roadways, parking areas and structures.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

PERSON. Any individual, firm, corporation, partnership, franchisee, association or governmental entity.

PUBLIC WATERS. Waters of the state as defined in M.S. § 1036.005, subd. 15, as it may be amended from time to time.

REGIONAL FLOOD. A flood that is representative of large floods known to have occurred generally in the state and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of a 100-year recurrence interval.

RETENTION FACILITY. A permanent natural or man-made structure that provides for the storage of storm water runoff by means of a permanent pool of water.

SEDIMENT. Solid matter carried by water, sewage, or other liquids.

STRUCTURE. Any manufactured, constructed or erected building including portable structures and earthen structures.

SURFACE WATER MANAGEMENT DESIGN STANDARDS (SWMDS). Document stating the design criteria and specifications for the city's storm water management program.

WETLANDS. Lands transitional between terrestrial and aquatic: systems where the water table is usually at or near the surface or the land is covered by shallow water. For purposes of this definition, wetlands must have the following attributes:

1. Have a predominance of hydric soils;

2. Are inundated or saturated by surface or ground water at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

3. Under normal circumstances support a prevalence of such vegetation.

(3) Scope and effect.

(a) Applicability. This section shall apply to any land alteration requiring any of the following permits or approvals:

1. A building permit for new multiple-family residential (three or more attached dwelling units), commercial, industrial, or institutional development;

2. A preliminary plat;

3. Land alteration permit as regulated by § 9.106 (J);

4. A building permit for a single-family or two-family residential dwelling except that only subdivisions (3) through (7) of this division shall apply; or

5. Public improvement projects.

6. No building permit, preliminary plat, excavation permit or public improvement project shall be approved until approval of a storm water management plan has been obtained in strict conformance with the provisions of this section.

7. All projects disturbing one acre or greater of land will require the submittal of a storm water management plan.

(b) Exemptions. The provisions of this section do not apply to:

1. Construction of a single-family or two-family dwelling or any structure or land alteration accessory thereto except that the provisions of subdivisions (3) through (7) of this division shall apply;

2. Any currently valid building permit, preliminary plat, excavation permit, or public improvement project approved prior to the effective date of this article;

3. Construction of agricultural structures or land alterations associated with agricultural uses unless an excavation permit is required by § 9.106(J);

4. Installation of a fence, sign, telephone, and electric poles and other kinds of posts or poles; or

5. Emergency work to protect life, limb, or property.

(4) Submission requirements–storm water management plan. A storm water management plan shall be submitted with all permit applications identified in § 9.106(I)(3). Storm water management plan submittal requirements are outlined in the city's SWMDS. No building or land disturbing activity will be approved unless it includes a storm water management plan, detailing how runoff and associated water quality impacts resulting from development will be controlled or managed.

(5) Plan review procedure.

(a) Process. Storm water management plans meeting the requirements of § 9.106(I) and the city's SWMDS shall be reviewed by the Engineering Division in accordance with the standards of § 9.106(I)(6) and the city's SWMDS. The Director of Public Works, or designee, shall approve, approve with conditions, or deny the storm water management plan.

(b) Duration. A storm water plan approved in accordance with this section shall become void if the corresponding building permit, excavation permit, preliminary plat, or public improvement project expires or becomes invalid.

(c) Conditions. A storm water management plan may be approved, subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this article are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance, for storm water management purposes, to the city or other public entity of certain lands or interests therein.

(d) Letter of credit. Prior to approval of any storm water management plan, the applicant shall submit a letter of credit or cash escrow to cover the estimated cost of site restoration. The letter of credit or cash escrow amount shall be in the amount specified by the current city SWMDS.

(e) Amendment. A storm water management plan may be revised in the same manner as originally approved.

(6) Approval standards. No storm water management plan which fails to meet the standards contained in this section shall be approved by the city.

(a) General criteria for storm water management plans.

1. An applicant shall install or construct all storm water management facilities according the criteria outlined in the city's SWMDS.

2. The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover, such as wetlands, ponds, natural swales and depressions, as they exist before development, to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

3. The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:

a. Infiltration of runoff on-site, if suitable soil conditions are available for use;

b. Flow attenuation by use of open vegetated swales and natural depressions;

c. Storm water retention facilities; and

d. Storm water detention facilities.

4. A combination of successive practices may be used to achieve the applicable minimum control requirements specified in subdivision 3. above. Justification shall be provided by the applicant for the method selected.

(b) Specifications. At a minimum, applicants shall comply with all of the NPDES general construction storm water permit requirements.

(c) Wetlands. Existing wetlands may be used for storm water management purposes, provided the following criteria are met:

1. The wetland shall not be classified as a Group I or II water within the City Water Resource Management Plan.

2. A protective buffer strip of natural vegetation, at least ten feet in width, shall surround all wetlands.

3. A sediment trapping device or area that is designed to trap sediments 0.5 millimeters in size or greater, with a trap volume size based upon a prescribed maintenance schedule, shall be installed prior to discharge of storm water into the wetlands.

4. The natural outlet control elevation of the wetlands, if it is not a DNR public water, shall not be changed, except when either i) the outlet is intended to restore the wetland to its original elevation, ii) the wetland basin is landlocked and the artificial outlet control is placed no lower than 1.5 feet below the ordinary high water mark, iii) the proposed level control is identified in the City Water Resource Management Plan, or iv) the level change is approved by a technical evaluation panel convened pursuant to the state Wetland Conservation Act of 1991 (WCA).

5. The water fluctuation from storm water shall not be increased over what occurs naturally, except as provided in subdivision 4.c. above.

6. The wetland shall not be a protected fen.

7. Wetlands shall not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas in accordance with the WCA. When wetland replacement is required, it shall be guided by the following principles in descending order of priority:

a. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;

b. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;

c. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;

d. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and

e. Compensating for the impact by replacing or providing substitute wetland resources or environments.

8. If the wetland is a DNR public water, all necessary permits from the DNR shall be obtained.

(d) Models/methodologies/computations. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the Director of Public Works. Plans, specifications and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the Director of Public Works.

(e) Watershed management plans/groundwater management plans. Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with M.S. §§ 103B.231 and 103B.255, respectively, as they may be amended from time to time, and as approved by the Minnesota Board of Water and Soil Resources in accordance with the state law.

(7) Storm water management fee.

(a) When required. In lieu of the storm water management facilities required in § 9.106(I), the city may allow an applicant to make a monetary contribution to the development and maintenance of community storm water management facilities, designed to serve multiple land disturbing and development activities, when consistent with the City's Water Resource Management Plan.

(b) Calculation of fee. The amount of monetary contribution shall be found in the SWMDS. For preliminary plats, an estimated impervious coverage per lot, subject to the approval of the Director of Public Works, shall be included in the total impervious surface area calculation.

(c) Payment of fee. Payment of a monetary contribution shall occur as follows:

1. Building permit–upon issuance of building permit.

2. Excavation permit–upon issuance of excavation permit.

3. Preliminary plat–upon approval of final plat or commencement of land alteration, whichever occurs first.

(8) Inspection and maintenance. All storm water management facilities shall be designed to minimize the need for maintenance, to provide access for maintenance purposes, and to be structurally sound. In addition, the following maintenance standards shall apply:

(a) All storm water detention periods shall be maintained to ensure continued effective removal of pollutants from storm water runoff. In addition, upon 50% of the pond's original design volume being filled with sediment, the sediment shall be removed and the pond restored to its original design.

(b) The Director of Public Works, or designated representative, shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter.

(c) All permanent storm water management facilities must provide a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term storm water management facilities. Such responsibilities shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the city and recorded at the County Recorder's office prior to final plan approval. At a minimum, the maintenance agreement shall describe the inspection and maintenance obligations:

1. The responsible party who is permanently responsible for inspection and maintenance of the structural and nonstructural measures.

2. Pass responsibilities for such maintenance to successors in title.

3. Allow the city and its representatives the right of entry for the purposes of inspecting all permanent storm water management systems.

4. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed after proper and reasonable notice to the responsible party of the permanent storm water management system.

5. Include a maintenance plan that contains, but is not limited to, the following:

a. Identification of all structural permanent storm water management systems.

b. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to, quality, temperature, and quantity of runoff.

c. Identification of the responsible party for conducting the inspection, monitoring and maintenance for each practice.

d. Include a schedule and format for reporting compliance with the maintenance agreement to the city.

e. Right of entry. The issuance of a permit constitutes a right of entry for the city or its contractor to enter upon the construction site. The applicant shall allow the city and its authorized representatives, upon presentation of credentials, to:

i. Enter upon the permitted site for the purpose of obtaining information, examining records, conducting investigations or surveys.

ii. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.

iii. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.

iv. Inspect the storm water pollution control measures.

v. Sample and monitor any items or activities pertaining to storm water pollution control measures.

vi. Correct deficiencies in storm water, erosion and sediment control measures.

(d) Storm water management facilities serving a single-family residential area or subdivision, but more than one single-family lot, shall be maintained by the city. The cost incurred by the city for maintenance of said facilities shall be assessed, levied through a special storm water taxing district against the properties contributing storm water runoff to or through the facility, or by the city's storm water utility.

(e) Storm water management facilities serving a multiple-family residential building or development; a commercial, industrial or institutional building or development; or an individual parcel shall be maintained by the property owner on which the facility is located, unless it is determined by the Director of Public Works that it is in the best interests of the city for the city to maintain such facilities. If the city is to maintain the storm water management facilities, the cost incurred by the city for the maintenance may be assessed or levied as described in subsection (d) above.

(9) Penalty. Any person, firm or corporation violating any provision of this section shall be fined not less than deemed committed on each day during or on which a violation occurs or continues.

(10) Other controls. In the event of any conflict between the provisions of this section and the provisions of the city code, the more restrictive standard prevails.

(J) Land alterations.

(1) Purpose. The purpose of this section is to manage land alterations within the city and provide for the review and approval of proposed grades prior to land alteration activities.

(2) In general. No person, firm or corporation may engage in any excavation, grading or filling of any land in the city without first having secured a permit from the Public Works Director in accordance with this section.

(3) Exemption. The removal of material for the purpose of constructing a basement or placement of footings is exempt from the provisions of this section, provided a grading plan was submitted and approved as part of the review and approval process. Grading of new subdivisions or developments is also exempt from the provisions of this section, provided a grading plan was submitted and approved as part of the review and approval process.

(4) Land alteration permit required. A land alteration permit from the Public Works Director is required for any of the following activities:

(a) Placement, removal or grading of more than ten cubic yards of earthen material on steep slopes adjacent to a lake or wetland, or within the shore or bluff impact zone of a lake or wetland.

(b) Placement, removal or grading of more than 50 cubic yards of earthen material anywhere in the city.

(c) Placement, removal or grading of earthen material within ten feet of any property line, or when such activity alters the drainage patterns of adjacent property.

(d) Placement, removal or grading of any property for the purposes of installing artificial turf or other surface that may require additional review of permeability and potential for illicit discharge.

(5) Conditional use permit required. A conditional use permit is required for any of the following activities:

(a) Placement, removal or grading of more than 500 cubic yards of earthen material on developed property zoned R-1 or R-2.

(b) Placement, removal or grading of more than 1,000 cubic yards of earthen material on undeveloped property zoned R-1 or R-2.

(c) Placement, removal or grading of more than 1,500 cubic yards of earthen material on property zoned R-3, R-4 or LB.

(d) Placement, removal or grading of more than 2,000 cubic yards of earthen material on property zoned GB, CBD, I-1, I-2, or MXD.

(6) Submittal requirements. An application for a land alteration permit shall include the following:

(a) A legal description of the land to be altered.

(b) The nature of the proposed alteration and future use of the property.

(c) The starting date and completion date of the land alteration.

(d) The names and addresses of all the owners of all the land to be altered.

(e) Scaled plans, showing the existing and proposed topography with two- foot contour intervals, and signed by a registered surveyor or engineer in the State of Minnesota.

(f) A scaled plan, showing existing and proposed vegetation and ground cover.

(g) An erosion and sedimentation control plan.

(h) Product specification sheet showing permeability, materials used, and potential for illicit discharge.

(K) Exterior lighting.

(1) In general. No use shall be operated or occupied so as to create light or glare in such an amount or to such a degree of intensity as to constitute a hazardous condition or a public nuisance. Lighting shall not create a sense of brightness that is substantially greater than the ambient lighting conditions so as to cause annoyance, discomfort, decreased visibility or a hazard for vehicular or pedestrian traffic.

(2) Lighting fixtures. Lighting fixtures shall be of a downcast with flat lens, cut-off type that conceals the light source from view and prevents light from shining on adjacent property. At no time should a fixture be aimed and/or tilted above a horizontal plane in commercial or industrial districts, with the exception of architectural up-lighting or landscape lighting.

(3) Lighting intensity. Lighting shall not directly or indirectly cause illumination or glare in excess of one-half footcandle as measured at the closest residential property line and three footcandles as measured at the closest street curb line or non-residential property line. Lighting shall be maintained stationary and constant in intensity and color, and shall not be of a flashing, moving or intermittent type.

(4) Submission. Detailed plans showing fixture type, wattage, light source, location and elevation along with site point by point showing footcandles must be submitted.

(5) Lighting of buildings. Lighting of building facades or roofs shall be located, aimed and shielded so that the light is directed only onto the facade or roof.

(6) Exceptions. The following uses are exempt from the provisions of this section:

(a) Publicly controlled or maintained street lighting, warning lights, emergency lights, or traffic signals.

(b) Athletic fields and other outdoor recreational facilities serving or operated by an institutional or public use that is operated in accordance with all other applicable provisions of this article.

(L) Off-street parking and loading.

(1) Purpose. The purpose of off-street parking and loading requirements is to alleviate or prevent congestion of the public right-of-way, to provide for the parking and loading needs of specific uses, to minimize the incompatibility between parking and loading areas and adjacent uses, and to regulate the size, design, maintenance and location of required off street parking and loading areas.

(2) Change of use. If the use of a building or site is changed or intensified, parking and loading facilities shall be provided for the changed or intensified use in accordance with the provisions of this section.

(3) Existing facilities. Existing off-street parking and loading facilities shall not be reduced below the requirements for a similar new use or, if less than the requirements for a similar new use, shall not be reduced further.

(4) Use of facilities.

(a) Required parking and loading spaces and driveways providing access to such spaces shall not be used for storage, display, sales, rental or repair of motor vehicles or other goods, or for the storage of inoperable vehicles or snow.

(b) Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 9,000 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.

(5) Location of facilities. Required off-street parking spaces in the R-1 and R-2 Zoning Districts shall be located on the same lot as the principal building. Required off-street parking and loading facilities in all other zoning districts shall be located on the same lot or development site as the use served, except as follows:

(a) Off-site parking for multiple-family and institutional uses shall be located no more than 200 feet from the main entrance of the use being served.

(b) Off-site parking for commercial or industrial uses shall be located no more than 400 feet from the main entrance of the use being served.

(c) Reasonable and improved access shall be provided from the off-site parking facility to the use being served.

(d) The site used for off-site parking shall be under the same ownership as the principal use being served or use of the off-site parking facility shall be protected by a recordable instrument acceptable to the city.

(6) Calculation of requirements. Calculating the number of parking or loading required shall be in accordance with the following:

(a) Gross floor area. The term “gross floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined based on the exterior floor dimensions of the building, structure or use times the number of floors, minus 10%.

(b) Places of public assembly. In places or worship, stadiums, sports arenas and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each three feet of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this section.

(c) Capacity. In cases where parking requirements are based on capacity of persons, the capacity shall be based on the maximum number of persons that may occupy a place, as determined under the building code and posted within the establishment.

(d) Employees. When parking requirements are based on employee counts, such calculations shall be based on the maximum number of employees on the premises at any one time.

(e) Calculating space. When calculating the number of off-street parking spaces required results in fraction, each fraction of one-half or more shall require another space. The Council, at its discretion, may reduce the minimum required parking to not less than 1.5 parking spaces per unit for multifamily structures

with seven or more units, after consideration of factors including but not limited to the present or future availability of transit services, shared parking, pedestrian orientation, and occupancy characteristics.

(f) Garage or carport. A garage or carport shall be considered a parking space. However, a building permit shall not be granted to convert a garage or carport to living space unless other acceptable provisions are made to provide the required parking space.

(g) Joint parking. Except for shopping centers or where a shared parking arrangement has been approved by the city, the off-street parking requirements for each use in a multi-use structure or site shall be calculated separately in determining the total spaces required.

(h) Proof of parking. In cases where the future potential use of a building may generate additional parking demand, the city may require a proof of parking plan for the site that shows how the anticipated parking demand will be met.

(7) Design and maintenance of parking facilities. Off-street parking facilities are subject to the following design and maintenance requirements:

(a) Size of parking spaces. Each parking space shall be not less than 9 feet wide and 20 feet in length, exclusive of an adequately designed system of access drives. In the case where the parking space is abutting a curb at its narrowest dimension, the parking stall length may be reduced to 18 feet. In parking lots with more than 300 spaces, up to 40% of such spaces may be designated and clearly marked as compact car parking spaces with signage that is reasonably visible year round. A compact car parking space shall not be less than 8 feet wide and 18 feet in length, exclusive of the adequately designed system of access drives.

(b) Access and circulation. Except for parking accessory to one- and two-family dwellings, each required off-street parking space shall have direct access to an aisle or driveway no less than 24 feet in width and designed to provide safe and efficient means of vehicular access to and from the parking space without using public right-of-way for maneuvering.

(c) Surfacing. All off-street parking areas, all driveways leading to such parking areas and all other areas upon which motor vehicles may be located shall be surfaced with a dustless all-weather hard surface material. Acceptable materials include asphalt, concrete, brick, cement pavers or similar material installed and maintained per industry standards. Crushed rock shall not be considered an acceptable surfacing material.

(d) Drainage. Driveways shall not exceed a grade of 6% and all parking lots except those for less than four vehicles shall be graded according to a drainage plan that has been approved by the City Engineer. Catch basins, sumps and underground storm sewers may be required.

(e) Curbing. Except for one-, two-, three- and four-family residential uses, all off-street parking areas, all driveways leading to such parking areas, landscape islands, and other areas upon which motor vehicles may be located shall have six-inch non-surmountable poured in place concrete perimeter curbing. In cases where existing circumstances or area practices make such curbing impractical, the requirement may be waived subject to submittal and approval of a parking area drainage plan by the City Engineer.

(f) Lighting. Lighting used to illuminate an off-street parking area shall comply with the performance requirements of this section. The height of parking lot light poles or standards shall be no less than 12 feet

and no more than the maximum height established for structures in the district in which the lights will be installed.

(g) Setbacks. Except for one-, two-, three- and four-family residential uses, parking lots and loading areas shall be subject to the same setbacks as a structure for the district in which such parking is located. One-, two-, three- and four-family residential uses are subject to the following setback requirements:

1. Residential lots platted prior to the effective date of this section and having a lot width of 60 feet or less, shall maintain a minimum side yard setback of one foot in all districts.

2. Residential lots platted after the effective date of this section or having a lot width greater than 60 feet shall maintain a minimum side yard setback of three feet in all districts.

3. The creation of a joint driveway use between adjoining property owners shall require a conditional use permit.

4. No more than 50% of the front yard setback shall be paved for parking purposes.

(h) Residential driveway locations. Driveways may only lead directly to, or be contiguous to driveways leading to, and attached or detached garage.

(i) Minimum driveway widths. In all zoning districts, driveways shall be no less than 12 feet in width.

(j) Parking lots and loading areas shall be subject to the same setbacks as a structure for the district in which such parking is located.

(k) Signs. No sign shall be located in any parking area except as necessary for the orderly operation of traffic movement or parking regulation.

(l) Screening. All off-street parking areas containing six or more parking spaces and located next to a residential use shall be screened with fencing or landscaping no less than six feet in height that is 80% opaque on a year round basis.

(m) Landscaping. All setback areas shall be landscaped with grass, vegetation or other landscape material. The front yard setback area of all off-street parking areas containing six or more parking spaces shall have a vegetative screen no less than 30 inches in height that is 80% opaque on a year round basis.

(n) Striping. All off-street parking areas containing six or more parking spaces shall have the parking spaces and aisles clearly painted on the pavement according to the plan approved by the city.

(o) Maintenance. Parking areas and driveways shall be kept free of dirt, dust and debris, and the pavement shall be maintained in good condition. In winter months, required parking areas for commercial businesses shall be cleared of snow. Landscaping, lighting, fencing or other features installed in conjunction with parking areas shall also be maintained and kept in good condition at all times.

(8) Off-street parking district.

(a) Should the city establish a public off-street parking district, those uses located within the district shall be exempt from providing off-street parking spaces as required herein.

(b) The CBD, Central Business District, is established as a public off-street parking district, so that nonresidential uses are exempt from providing off-street parking spaces as required herein. Residential uses, including those in mixed-use buildings, shall provide off-street parking as required herein.

(9) Shared parking. The City Council may approve the use of a required off-street parking area for more than one principal use on the same or an adjacent site if the following conditions are met:

(a) Location. The use for which application for shared parking is being made is located within 300 feet of the use providing the parking facilities.

(b) Nighttime uses. Up to 50% of the off-street parking facilities required for a bowling alley, nightclub, school auditorium, theater or similar nighttime use may be supplied by off-street parking facilities provided primarily for a daytime use.

(c) Sunday use. Up to 75% of the off-street parking facilities required for a place of worship or similar Sunday use may be supplied by off-street parking facilities provided primarily for a daytime use.

(d) Daytime use. For the purposes of this provision, the following uses are considered primarily daytime uses: financial institutions, offices, retail stores, personal service facilities and similar uses.

(e) Contract. A legally binding instrument for the shared use of off-street parking facilities shall be approved by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use.

(10) *Off-street parking requirements.* Off-street parking shall be provided as specified in the following table, except as otherwise provided in this section.

Use	**Minimum Spaces Required**
Use	**Minimum Spaces Required**
Residential Uses	
Single-family	2 per unit, two must be enclosed (garage)
Accessory Dwelling Units	1 off-street parking space per unit
Two-family	2 per unit, two must be enclosed (garage)
Townhome/Twinhome	2 per unit, two must be enclosed (garage)
Multiple-family	
One-bedroom units	1 per unit, must be enclosed (garage)
Two-bedroom or larger units	2 per unit, one ~~two~~ must be enclosed (garage)
Manufactured home park	2 per unit
Residential care facility (6 or fewer)	2 per unit, two must be enclosed (garage)
Residential care facility (7 or more)	1 per employee, 1 per every 6 residents
Convent/monastery	1 per every 3 beds
Rooming house/group living quarters	2 per every 3 residents

Nursing home	1 per every 2 beds
Senior housing/assisted living	1 per every 2 units
Transitional/emergency housing	1 per employee, plus 1 per every 6 residents
Bed and breakfast home	2 plus 1 per every room rented
Public/Institutional Uses	
Community center	Determined by staff-based on parking study
Drop-in facility	30% of building capacity
Golf course	5 per hole, plus 30% of capacity of club house
Government facility	Based on type of use
Religious facilities/places of worship	1 per every 3.5 seats, capacity of main assembly area
School–elementary/junior high	10 plus 1 per classroom
School–senior high	10 plus 1 per every 6 students
School–vocational or business	Determined by staff–based on parking study
School–performing/visual/martial arts	30% of building capacity
Commercial Uses	
Retail sales/services	1 per 300 sf, gross floor area
Retail sales, outdoor	1 per 1,000 sf of sales/display area
Auditorium/places of assembly	1 per 3.5 seats, based on design capacity
Automobile convenience facility	6 spaces, plus 1 per 300 sf, gross floor area
Automobile repair	1 per 300 sf, gross floor area, plus 2 per service bay
Automobile sales/rental	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outdoor sales/display area
Banquet hall	1 per 3.5 seats, based on design capacity
Billiards hall	30% of building capacity
Bowling alley	5 per lane, plus 30% of capacity for related uses
Car wash	2 spaces per bay, plus 4 stacking spaces per bay
Clinic, medical and dental	1 per 300 sf, gross floor area
Clinic, veterinary	6 per veterinarian
Club or lodge	30% of building capacity
Consignment/thrift store	1 per 300 sf, gross floor area
Currency exchange	1 per 300 sf, gross floor area
Day care center	1 per every employee, plus 1 drop off space for every 5 enrollees
Financial institution	1 per 300 sf, gross floor area, plus 6 stacking spaces for each

	drive-through lane
Food service, convenience	6 plus 1 per 40 sf of dining/service area, plus 6 stacking spaces for each drive-through lane
Food service, limited	30% of building capacity
Food service, full-service	30% of building capacity
Funeral home	1 per 5 seats, plus 1 per 300 sf of non-eating area
Greenhouse/garden center	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outside sales/display area
Health/fitness club	Determined by staff–based on parking study
Hospital	Determined by staff–based on parking study
Hotel/motel	1 per unit, plus 30% of capacity for meeting rooms
Laboratory, medical	1 per 300 sf, gross floor area
Liquor store, off-sale	1 per 300 sf, gross floor area
Museum/gallery	30% of building capacity
Office	1 per 300 sf, gross floor area
Pawnshop	1 per 300 sf, gross floor area
Personal services	1 per 300 sf, gross floor area or 2 per station, whichever is greater
Professional services	1 per 300 sf, gross floor area
Recreational facility, indoor	1 per 150 sf of rink, court, pool area, and the like
Recreational facility, outdoor	30% of facility capacity
Recreation vehicle sales	1 per 300 sf, gross floor area, plus 1 per 1,000 sf of outdoor sales/display area
Shopping center	1 per 300 sf, gross floor area
Studio, professional	1 per 300 sf, gross floor area
Studio, radio and television	Determined by staff–based on design capacity
Theater, live performance or movie	1 per 3.5 seat, based on design capacity
Industrial Uses	
Assembly/manufacturing/processing	2 per every 3 employees or 1 per 1,000 sf, gross floor area, whichever is greater
Concrete, asphalt or rock crushing	2 per every 3 employees
Freight terminal	1 per 3,000 sf, gross floor area of storage/warehousing, plus 1 per 300 sf, gross floor area of office area
Maintenance facility	1 per 3,000 sf, gross floor area, plus 1 per 300 sf, gross floor area of office
Office/showroom	1 per 300 sf, gross floor area of office/showroom, plus 1 per

	3,000 sf, gross floor area of storage
Office/warehouse	1 per 300 sf, gross floor area of office, plus 1 per 3,000 sf, gross floor area of storage
Outdoor sales/display	1 per 1,000 sf of sales/display area
Outdoor storage	1 per 3,000 sf of storage area
Printing/publishing	2 per every 3 employees or 1 per 1,000 sf, gross floor area, whichever is greater
Salvage operation	2 per 3 employees
Self-service storage facility	1 per 3,000 sf, gross floor area of storage, plus 1 per 300 sfr, gross floor area of office
Warehouse/distribution	1 per 3,000 sf, gross floor area of storage/warehousing, plus 1 per 300 sf, gross floor area of office/sales area

(11) Stacking requirements. Drive-up and drive-through facilities shall provide adequate stacking space for vehicles in accordance with the following table. Stacking spaces shall require a minimum pavement width of 12 feet, a length of 20 feet per vehicle, and shall be exclusive of any other required parking spaces or drive aisles.

Use	Minimum Stacking Spaces
Automobile washing facility–self-service	4 spaces per bay at entrance, 1 space per bay at exit
Automobile washing facility–automatic	4 spaces per bay at entrance, 1 space per bay at exit
Food service–fast food drive-through	4 spaces behind menu board, 4 space behind first window
Financial institution	4 spaces per teller window, 2 spaces per ATM kiosk
Other drive-up or drive-through uses	2 spaces per window

(12) Off-street loading requirements. Off-street loading space shall be provided for any non- residential use that receives or distributes materials or merchandise by trucks or similar vehicles and has a gross floor area of 5,000 square feet or more, in accordance with the following standards:

(a) Dimensions. Loading berths shall be no less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.

(b) Location. Loading berths shall be located on the site and shall be separate from any required off-street parking. Loading berths shall not be located less than 50 feet from the property line of any residential property or residentially zoned property. Loading berths shall not be located within the front yard setback area.

(c) Access. Each loading berth shall be located with appropriate means of vehicular access to and from a public street or alley and shall not interfere with automobile or pedestrian traffic either on the site or adjacent to the site.

(d) Surfacing. All loading berths and access driveways shall be surfaced with a dustless all-weather material and constructed to control drainage according to a plan approved by the City Engineer.

(e) Use. Any space designated as a loading berth or access drive in accordance with the terms of this section shall not be used for the storage of goods, inoperable vehicles or required off-street parking.

(f) Number. For facilities with less than 20,000 square feet gross floor area, the off-street loading requirements may be met by providing a designated loading zone on site, as opposed to constructing a loading berth. For facilities with 20,000 square feet gross floor area or greater, one off- street loading berth shall be provided for every 30,000 square feet gross floor area or fraction thereof.

(M) *Tree Preservation and Planting Standards for Landscaping and Screening.*

(1) *Purpose.* The City of Columbia Heights recognizes the great value trees, landscaping, and screening provide to all residents of the City. A healthy, resilient, and robust urban forest enhances the aesthetic, environmental, and economic well-being of the City. Tree preservation and planting standards, landscaping and screening requirements are established to buffer non-compatible land uses, screen unsightly views, reduce noise and glare, minimize storm water runoff, and generally enhance the quality and appearance of development within the community.

a. Preserve and increase the tree canopy cover of Columbia Heights by protecting mature trees throughout the City.
b. Protect and enhance property values by conserving trees.
c. Improve quality of life for all stakeholders, including residents, visitors, and wildlife.
d. Preserve and increase the environmental services provided by the urban forest including sequestration of CO2, erosion and stormwater mitigation, reduction of air pollutants, reduction of the urban heat island effect, and reduction of noise pollution.
e. Protect and maintain healthy trees in the development and building permit process. Protect and maintain healthy trees by ensuring best tree protection practices during construction and development.

(2) Preservation, protection, and replacement of Protected Trees:

a. This ordinance applies to all demolition, building permit applications, and land alteration permits, public or private, that require a survey.
b. Definitions:
    i. Protected Tree: Any tree variety on the List of Protected Tree Varieties as maintained and published by City staff with a diameter of 6” or greater as measured at 4.5’ above ground (DBH, Diameter at Breast Height). The List of Protected Tree Varieties may be amended from time to time.
    ii. Removable Tree: Any tree not defined as a Protected Tree.
    iii. City-Owned Tree: Any tree originating within the City right-of-way or originating from a City park or City-owned property.

c. Demolition and building permit applications must include a construction tree inventory plan indicating the location, species, and diameter of the trunk at 4.5' above the ground (DBH) for all Protected Trees on the property and City-Owned Trees on or adjacent to the construction site. The plan must also indicate any Protected Trees that are proposed to be removed, as well as their replacement tree(s) location, species, and size. Applications must also include a tree protection plan describing in detail how Protected Trees and City-Owned Trees will be preserved and protected during construction. The tree protection plan shall follow the standards as presented in the most recent version of the following publications:
    i. ANSI A300 Part 5- Management of Trees and Shrubs During Site Planning, Site Development, and Construction
    ii. ISA Best Management Practices- Managing Trees During Construction
d. The construction tree inventory plan and tree protection plan must be reviewed and approved by the City Forester. Approved tree protection measures shall be fully installed and inspected by City staff prior to commencement of any construction activities or vehicular traffic on site.
e. During the demolition and building process, the permit holder shall not leave any Protected Tree or adjacent City-owned tree without sufficient guards and protections to prevent injury to the protected tree during construction. Tree protection shall follow the standards as presented in the publications listed above (3.b.). City Forestry Staff monitoring is required for all projects with affected Protected Trees and/or replacement trees. Replacement trees will be monitored for three (3) years to ensure proper establishment.
f. Protected Tree varieties that are less than 6" in caliper must be moved to another location on the property if possible. Exceptions must be granted in writing by the City Forester.
g. If a Protected Tree is removed, except as allowed for in paragraph 5 below, it is subject to a size-based replacement policy.
    i. Protected trees with DBH 6"-15" are subject to a 2:1, "two for one" replacement requirement.
    ii. Protected trees with DBH 15"-20" are subject to a 3:1, "three for one" replacement requirement.
    iii. Protected trees with DBH 20"-25" are subject to a 4:1, "four for one" replacement requirement.
    iv. Protected trees with DBH >25" are subject to a 5:1, "five for one" replacement requirement.
    v. Replacement trees must be varied by species and are subject to approval by the City Forester.
    vi. Replacement trees are subject to the size and diversity requirements as outlined below.
    vii. A payment of $400 for each tree may be made to the City in lieu of planting replacement trees where sufficient space does not exist on the property. Payments will support the planting of replacement trees by City staff on City property.
    viii. Replacement trees shall be planted according to the standards set forth in the MN Department of Natural Resources publication "A Pocket Guide to

Planting Trees". All replacement trees are subject to inspection by City staff for a period of 2 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.

(3) Removal of Protected and Removable Trees:
   a. Protected Trees may be removed in the following areas:
      i. Within the footprint of the building pad of a new or remodeled building, or within a 10' radius of the footprint.
      ii. Within driveways and parking areas meeting all other City ordinance requirements.
   b. Protected Trees removed in accordance with sections (i.) and (ii.) above are required to be replaced at a rate of 1:1, "one for one." Replacement trees are subject to all requirements listed in paragraph (3.) above.
   c. Removable Trees may be removed for any development or building permit without replacement.
   d. If Protected Trees are dead, diseased, or hazardous their removal must be approved in writing by the City Forester before removal. Dead, diseased, or hazardous trees are not subject to replacement requirements.

(4) Exemptions from Tree Preservation Ordinance: Tree removal on property with an existing building or structure that is not being modified is exempt from this ordinance.

(5) Standards for Newly Planted Trees and Replacement Trees
   a. *Landscaping and screening.*
      i. *Landscape plan required.* A landscape plan is required for all new commercial, industrial, institutional, and multi-family development. For development having an anticipated construction value in excess of $750,000, the landscape plan must be prepared by a landscape architect registered in the State of Minnesota. Said landscape plan shall include the location, size, quantity, and species of all existing and proposed plant materials.
      ii. *Design considerations.* The following design concepts and requirements should be considered when developing a landscape plan for submittal to the city:
         1. To the maximum extent possible, the landscape plan shall incorporate existing vegetative features on the site.
         2. The overall composition and location of landscaped areas should complement the scale of the development and its surroundings.
         3. The use of native species is preferred in all landscaping choices, and a minimum of 80% of all plants used shall be native to MN.
         4. The City of Columbia Heights is committed to enhancing the diversity and resiliency of its urban forest. A variety of trees and shrubs shall be used to provide visual interest year-round and meet diversity requirements. No more than 25% of the required number of trees or shrubs may be comprised of any one species or genus. No less than 50% of the required number of trees shall be over-story deciduous trees and no less than 10% shall be coniferous. New trees and replacement trees shall be planted according to the

standards set forth in the MN Department of Natural Resources publication "A Pocket Guide to Planting Trees". All replacement trees are subject to inspection by City staff for a period of 3 years beginning the day of planting. Any trees determined to be unhealthy or poorly established during this period shall be subject to replacement.

5. Final slopes greater than 3:1 will not be permitted without special treatment such as terracing, retaining walls or special ground covers.
6. All plant materials shall meet the minimum size standards listed in Table 1; all planting locations shall meet the soil volume requirements for the plant material listed in Table 2. Soil volume requirements must be met by contiguous, uncompacted soil suitable for the plant type. Soil depth beyond 3 feet shall not be counted towards soil volume requirements. Landscaped areas should be of adequate size to allow proper plant growth, protect plantings from both pedestrian and vehicular traffic, and provide adequate area for plant maintenance. Definitions and rules for calculating soil volume provided in Appendix B. All exceptions to soil volume requirements must be approved by the City Forester in writing.

Table 1: Plant Size Requirements

Plant Type	**Minimum Size at Planting**
Trees	
Evergreen-over-story	6 feet in height
Evergreen—ornamental	6 feet in height
Deciduous–over-story	2.5 inches diameter, measured 2 feet from base
Deciduous–ornamental	2 inches diameter, measured 2 feet from base
Shrubs	
Evergreen	2 feet in height
Deciduous	2 feet in height
Screening shrubs–either	3 feet in height

Table 2: Soil Volume Requirements

Expected Tree Size at Maturity	Minimum Soil Volume Requirement (ft^3)

Small trees: 10-25 ft crown spread, 8-12" mature DBH	300
Medium trees: 25-35 ft crown spread, 12-18" mature DBH	700
Large trees: 35+ ft crown spread, 18"+ mature DBH	1100

Appendix A: List of Protected Tree Varieties

Common Name	Botanical Name
Birch	*Betula spp.*
Buckeye, Ohio	*Aesculus glabra*
Catalpa, Northern	*Catalpa speciosa*
Cedar, Eastern Red	*Juniperus virginiana*
Cedar, Northern White	*Thuja occidentalis*
Elm (except Siberian/Asian elms)	*Ulmus spp. (Except U. pumila)*
Fir, White	*Abies concolor*
Hackberry	*Celtis occidentalis*
Hemlock, Eastern	*Tsuga canadensis*
Hickory	*Carya spp.*
Honey locust	*Gleditsia triacanthos*
Ironwood	*Ostrya virginiana*
Kentucky coffee	*Gymnocladus dioica*
Linden	*Tilia spp.*
Maple, Black	*Acer nigrum*
Maple, Red	*Acer rubrum*
Maple, Sugar	*Acer saccharum*
Mountain ash	*Sorbus spp.*
Oak	*Quercus spp.*
Pine, Red	*Pinus resinosa*
Pine, White	*Pinus strobus*
Spruce, Norway	*Picea abies*
Spruce, White	*Picea glauca*
Walnut, Black	*Juglans nigra*

Appendix B: Definitions and Rules for Calculating Soil Volume

The following definitions apply to soil media for newly planted trees in the City of Columbia Heights:

Open soil. Exclusively refers to either uncompacted native soils (no greater than 80% Proctor), or

amended soils meeting the Minnesota Department of Transportation standards for approved topsoil, that are not covered by hardscape or paved surfaces.

Available open soil. The uncovered length by width of a planting bed, multiplied by depth of preparation up to 36 inches deep. Most unprepared urban subgrade is highly compacted and does not qualify as available.

Covered soil. Soil volume provided below hardscape or paved surfaces in the form of suspended soil cells or structural soil. Only 25% of the volume of structural soils may be counted towards soil volume requirements. All covered soil used in cell-type systems or suspended pavement systems shall be loam.

Shared soil. Soil media shared by more than one tree in a planting bed sharing open soil, or an individual tree in a planting bed that is connected to other open soils via Soil Cells or Structural Soil. Areas of shared soil must have a continuous root path that does not restrict to less than 4 feet wide or 2 feet deep. Trees in shared soil spaces received a 30% credit towards total soil volume requirements.

Isolated soil. Soil media in a tree well or small enclosed planting bed that is not connected to other prepared soil volumes and is totally isolated by hardscape such as driveways, sidewalks, or vaults.

Connected soil. Two or more areas of open soil that are connected below hardscape with either soil cells or structural soil. These connected beds can now qualify as shared soil.

The following standards and exceptions apply to calculating soil volumes:

1) The total soil volume provided for a tree shall be calculated in cubic feet by adding the available open soil volume to the available covered soil volume within a 50-foot radius of the tree.

2) When total soil volume consists of more than one planter bed or open soil area, those areas must be connected by continuous root paths at least 4 feet wide and 2 feet deep.

3) Soil volumes for covered soil shall be calculated by using only the space available to roots and may not include the components providing structure. 90% of the volume of cell-type hardscape suspension systems may be counted towards total soil volume; 25% of the volume of structural soils may be counted towards total soil volume. A maximum depth of 36” may be used when calculating total soil volume; depths beyond 36” may not be counted towards soil volume requirements. Trees in shared soil spaces receive a 30% credit towards total soil volume requirements.

(6) *Landscaping requirements.* Landscaping shall be provided in accordance with the following requirements:

a. All required setbacks shall be landscaped with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover. Artificial turf shall not be considered a pervious ground cover unless a land disturbance permit is issued and approved by the Public Work Director.

b. A minimum of one tree shall be planted for every 50 feet of street frontage or fraction thereof. The trees shall be planted within the front yard and may be arranged in a cluster or placed at regular intervals to best complement existing landscape design patterns in the area.
c. A minimum of four trees shall be planted for every one acre of lot area covered by buildings, parking areas, loading areas, exterior storage areas and other impervious surfaces.
d. Parking areas shall have a minimum of 100 square feet of landscape area and one over- story tree for each 20 spaces or, fraction thereof. The remainder of the landscape area shall be covered with turf grass, native grasses, trees, shrubs, vines, perennial flowering plants, or other pervious ground cover.

(7) *Screening requirements.* Screening shall be provided in accordance with the following requirements:
a. All off-street parking areas containing six or more parking spaces and located adjacent to a residential or residentially zoned property, the parking area shall be screened along the boundary with the residential use. Where any commercial or industrial use is located adjacent to or across a public alley from a residential or a residentially zoned property, the commercial or industrial use shall be screened along the boundary with the residential use.
b. Exterior storage of materials or equipment, except for allowed retail sales and temporary placement of equipment, shall be screened from all adjacent non-industrial uses and from the public right-of-way.
c. Required screening shall consist of a fence, wall, earthen berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis. Said screening shall be located as close to the property line as practicable and no closer than 15 feet from the edge of a public right-of-way.

(8) *Installation and maintenance.* The following regulations shall govern the installation and maintenance of landscaping and screening materials.
a. All landscaping materials and screening materials shall be installed in conjunction with site development and prior to issuance of a final certificate of occupancy.
b. A letter of credit or other security as acceptable to the city shall be deposited with the Zoning Administrator, in an amount equal to 100% of the estimated cost of landscaping and/or screening. The letter of credit or other security as acceptable to the city, or portions thereof, shall be forfeited to maintain and/or replace materials for a period of time to include at least two growing seasons. A portion of the letter of credit or other security as acceptable to the city may be released after one growing season as determined by the Zoning Administrator. The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.
c. The property owner shall be responsible for continued maintenance of landscaping and screening materials to remain in compliance with the requirements of this section. Plant materials that show signs of disease or damage shall be promptly removed and replaced within the next planting season.

(9) *Screening of parking areas from adjacent properties.* All parking and loading areas (including drive-through facilities, pump island service areas and stacking spaces) abutting a public street or sidewalk shall provide:

a. A landscaped frontage strip at least five feet wide along the public street or sidewalk. If a parking area contains over 100 spaces, the minimum required landscaped frontage strip shall be increased to eight feet in width.
b. Screening consisting of either a masonry wall, fence, berm or hedge or combination that forms a screen a minimum of three feet in height, a maximum of four and one half feet in height, and not less than 50% opaque on a year-round basis. For reasons of personal safety and security, parking lot screening should allow clear visibility of pedestrians above the three-foot high viewing range.
c. Trees shall be planted at regular intervals of no greater than 50 feet within the frontage strip.

(N) Building design standards.

(1) Purpose. The purpose of this section is to promote quality development throughout the community that is attractive and visually compatible with adjacent development.

(2) Design review required. Approval of building elevations is required for all new commercial, industrial, institutional and multi-family development. Building design approval is also required for any remodeling or expansion activity that increases the overall size of the building by 10% or more.

(3) Building materials and design. The following material and design standards shall be adhered to:

(a) Building materials for all projects shall be durable, require low maintenance and be of the same or better quality than that used on surrounding properties; and shall consist of any of the following materials: Brick; natural stone; stone treated concrete panels; glass curtain wall panels; wood, provided surfaces are finished for exterior use and only woods of proven exterior durability are used such as cedar, redwood, and cypress; factory fabricated and finished metal frame paneling; or other materials of high architectural quality as approved by staff.

(b) Building elevations and facades should include a variety of architectural features and building materials to provide visual interest and give each project a distinct character. Building facades shall contain windows at the ground level or first floor in order to increase security of adjacent outdoor spaces by maximizing natural surveillance and visibility. Special care should be given to building elevations that face a public right-of-way or a residential area. Doors, window frames, screening walls, and other architectural features should be finished to complement the color and material of the principal building. At least 20% of the first floor facade that faces a public street, sidewalk or parking lot shall be windows or doors for residential uses. At least 20% of the first floor facade that faces a public street, sidewalk or parking lot shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level for non-residential uses. Windows shall be distributed in a more or less even manner. Minimum window area shall be measured between the height of two feet and ten feet above the finished level of the first floor.

(c) All additions, exterior alterations or accessory buildings constructed after the original buildings shall be of the same material and design as the original structure. However, this provision shall not prohibit

the upgrading of the quality of materials used in a remodeling or expansion activity, provided said upgraded material complements the original.

(d) All structures over 120 square feet shall have full perimeter footings.

(e) Steel frame structures with metal siding and roof are allowed in commercial and industrial districts provided 50% or more of the front of the structure is masonry type veneer and windows, and the side walls shall be at least four feet from grade with the same type of masonry veneer.

(4) Application of master plan district provisions. Properties located within the district boundaries of master plan area shall also be subject to the district provisions of the master plan.

(5) Design guidelines. The City Council may adopt by resolution design guidelines that shall apply to designated areas or districts of the city with greater specificity than the standards in this section. Where there is a conflict between the design guidelines and the standards in this section, the guidelines shall apply. The design guidelines shall not prohibit public art. Public art shall be allowed to be incorporated into building design and may include but is not limited to; painted block, landscaping and tree plantings, and ornamental structures, etc. Public art shall be encouraged as an alternative to traditional design guideline requirements.

(O) Telecommunication towers/antennae.

(1) Purpose.

(a) The purpose of this division is to provide a uniform and comprehensive set of standards for the development and installation of wireless communications towers, antennas and related facilities. The regulations and requirements contained herein are intended to: (i) regulate the placement, construction and modification of wireless communications towers and related wireless communications facilities in order to protect the health, safety, and welfare of the public and the aesthetic quality of the city; and (ii) encourage managed development of wireless communications infrastructure, while at the same time not unreasonably interfering with the development of the competitive wireless communications marketplace in the City of Columbia Heights.

(b) It is intended that the city shall apply these regulations to accomplish the following:

1. Minimize the total number of towers throughout the community through siting standards;

2. Encourage the location of towers in non-residential areas and with compatible uses;

3. Provide for the appropriate location and development of wireless communications towers, antennas and related facilities within the city, to the extent possible, to minimize potential adverse impacts on the community;

4. Minimize adverse visual impacts of wireless communications towers and related facilities through careful design, siting, landscape screening, and innovative camouflaging techniques utilizing current and future technologies;

5. Promote and encourage shared use/co-location of towers and antenna support structures;

6. Maintain and preserve the existing residential character of the City of Columbia Heights and its neighborhoods and to promote the creation of a convenient, attractive and harmonious community;

7. Promote the public safety and avoid the risk of damage to adjacent properties by ensuring that wireless communications towers and related wireless communications facilities are properly designed, constructed, modified, maintained and removed;

8. Ensure that wireless communications towers and related wireless communications facilities are compatible with surrounding land uses;

9. Encourage the use of alternative support structures, co-location of new antennas on existing wireless communications towers, camouflaged towers, and construction of towers with the ability to locate three or more providers;

10. Maintain and ensure that a non-discriminatory, competitive and broad range of wireless communications services and high-quality wireless communications infrastructure consistent with federal law are provided to serve the community; and

11. Ensure that wireless communications facilities comply with radio frequency emissions standards as promulgated by the Federal Communications Commission.

(c) This section is not intended to regulate satellite dishes, satellite earth station antennas, residential television antennas in private use, multichannel multipoint distribution service antennas, or amateur radio antennas.

(2) Definitions. For the purposes of this division the following terms and phrases shall have the meaning ascribed to them herein:

ACCESSORY STRUCTURE. Means a structure or portion of a structure subordinate to and serving the principal structure on the same lot.

ACCESSORY USE. Shall have the meaning set forth in the Chapter 9.

ANTENNA. Means a device fabricated of fiberglass, metal or other material designed for use in transmitting and/or receiving communications signals and usually attached to a wireless communications tower or antenna support structure.

ANTENNA SUPPORT STRUCTURE. Any building or structure, excluding towers, used or useable for one or more wireless communications facilities.

BUFFER or BUFFERING. A natural or landscaped area or screening device intended to separate and/or partially obstruct the view of adjacent land uses or properties from one another so as to lessen the impact and adverse relationship between dissimilar, unrelated or incompatible land uses.

CITY. The City of Columbia Heights, Minnesota, and any and all departments, agencies and divisions thereof.

CITY CODE. The Columbia Heights City Code, as amended from time to time.

CITY COUNCIL or COUNCIL. The Columbia Heights City Council or its designee.

CITY MANAGER. The City Manager of the City of Columbia Heights, Minnesota or the City Manager's designee.

CO-LOCATION. The use of a single wireless communications tower, antenna support structure and/or site by more than one provider.

CONDITIONAL USE. Those uses that are generally compatible with other uses permitted in a zoning district, but that require individual review of their location, design, configuration, intensity and structures, and may require the imposition of conditions pertinent thereto in order to ensure the appropriateness of the use at a particular location. This definition shall only apply to this specific division and shall not apply to other sections or provisions of the land use and development regulations.

CONDITIONAL USE PERMIT. A permit specially and individually granted by the Council after a public hearing thereon by the Planning Commission for any conditional use so permitted in any zoning district. In approving a conditional use permit, the Council may impose reasonable conditions to accomplish the objectives of this division with respect to use, screening, lighting, hours of operation, noise control, maintenance, operation or other requirements.

EQUIPMENT CABINET or SHELTER. A structure located near a wireless communications facility that contains electronics, back-up power generators and/or other on-site supporting equipment necessary for the operation of the facility.

EXISTING TOWER. Any tower designated as an existing tower by division (O)(6) for which a permit has been properly issued prior to the effective date of this division, including permitted towers that have not yet been constructed so long as such approval is current and not expired. After the effective date of this division, any tower approved and constructed pursuant to the provisions of this division shall thereafter be treated as an existing tower for purposes of regulation pursuant to this division and the land use and development regulations.

GUYED TOWER. A wireless communications tower that is supported, in whole or in part, by guy wires and ground anchors or other means of support besides the superstructure of the tower itself.

LAND USE AND DEVELOPMENT REGULATIONS. Chapter 9 of the Columbia Heights Code, as it may be amended from time to time.

MICROWAVE DISH ANTENNA. A dish-like antenna used to transmit and/or receive wireless communications signals between terminal locations.

MONOPOLE TOWER. A wireless communications tower consisting of a single pole or spire supported by a permanent foundation, constructed without guy wires and ground anchors.

NONCONFORMITY. Shall have the meaning given in M.S. § 394.22, subd. 8, or successor statutes, and shall be governed by the provisions of the land use and development regulations (nonconformities).

PANEL ANTENNA. An array of antennas designed to direct, transmit or receive radio signals from a particular direction.

PICO CELL. A low-power cell whose coverage area extends 300 to 500 yards.

PLANNING COMMISSION. The Columbia Heights Planning and Zoning Commission.

PROVIDER. (When used with reference to a system) means a person or entity that provides wireless communications service over a wireless communications facility, whether or not the provider owns the

facility. A person that leases a portion of a wireless communications facility shall be treated as a provider for purposes of this division.

SATELLITE DISH. An antenna device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, or cornucopia-shaped and is used to transmit and/or receive electromagnetic signals. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations, TVROs and satellite microwave antennas.

SELF-SUPPORT/LATTICE TOWER. A tower structure requiring no guy wires for support.

STEALTH or CAMOUFLAGED TOWER, EQUIPMENT CABINET or FACILITY. Any wireless communications tower, equipment cabinet or facility designed to hide, obscure or conceal the presence of the tower, antenna, equipment cabinet or other related facility. The stealth technology used must incorporate the wireless communications tower, equipment cabinet and facility into and be compatible with the existing or proposed uses of the site. Examples of stealth facilities include, but are not limited to: architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and wireless communications towers designed to look like light poles, power poles, trees, flag poles, clocks, steeples or bell towers.

UTILITY POLE-MOUNTED FACILITY. A wireless communications facility attached, without regard to mounting, to or upon an electric transmission or distribution pole, street light, traffic signal, athletic field light, utility support structure or other similar facility located within a public right- of-way or utility easement approved by the Planning Commission. The facility shall include any associated equipment shelters regardless of where they are located with respect to the mount.

WHIP ANTENNA. An omni-directional antenna used to transmit and/or receive radio signals.

WIRELESS COMMUNICATIONS FACILITY. A facility that is used to provide one or more wireless communications services, including, without limitation, arrays, antennas and associated facilities used to transmit and/or receive wireless communications signals. This term does not include wireless communications towers, over-the-air reception devices that deliver or receive broadcast signals, satellite dishes regulated by 47 C.F.R. § 25.104, devices that provide direct-to home satellite services (“DBS”) or devices that provide multichannel multi-point distribution services (“MMDS”) as defined and regulated by 47 C.F.R. § 1.4000, as amended.

WIRELESS COMMUNICATIONS SERVICES. Those services specified in 47 U.S.C. §§ 332(c)(7)(C) and 332(d)(1)-(2), and any amendments thereto.

WIRELESS COMMUNICATIONS TOWER. A guyed, monopole or self-support/lattice tower, or extension thereto, constructed as a freestanding structure, supporting one or more wireless communications facilities used in the provision of wireless communications services.

ZONING ADMINISTRATOR. The person appointed by the City Manager as provided in the land use and development regulations.

(3) Applicability. The requirements of this division apply to the extent provided herein to all new, existing, replacement, re-located or expanded and/or modified wireless communications towers and wireless communications facilities. The requirements of this division apply throughout the city. It is the express intent of the city to impose, to the extent permitted by applicable law, all requirements of this

division to all land within the city, whether publicly or privately held, including, without limitation, private property, city property, church property, utility property and school property.

(a) Non-essential services. Wireless communications towers and wireless communications facilities will be regulated and permitted pursuant to this division and not regulated or permitted as essential services, public utilities or private utilities.

(b) Attempt to locate on existing tower or antenna support structure. Every owner/operator seeking to locate a wireless communications facility within the city must attempt to locate on an existing wireless communications tower or antenna support structure as required by division (O)(7) and (8).

(4) Exempt from city review. The following activities shall be permitted without city approvals:

(a) Amateur radio. The installation of any antenna and its supporting tower, pole or mast to the extent city regulation is preempted by state or federal law.

(b) Residential television antennas. The installation of residential television antennas in private use to the extent preempted by state and federal law.

(c) Satellite dishes. The installation of satellite dishes to the extent preempted by state or federal law.

(d) Mobile news. The use of mobile services equipment providing public information coverage of news events of a temporary or emergency nature.

(5) Permitted locations. The following applies to all wireless communications towers, including re-located or expanded and/or modified towers, but not to existing towers:

(a) Wireless communications towers less than 120 feet in height shall be a permitted use in the I-1 and I-2 zoning districts.

(b) Wireless communications towers greater than or equal to 120 feet in height shall be a conditional use in the I-1 and I-2 zoning districts.

(c) Wireless communications towers less than 80 feet in height shall be a permitted use in the RB, CBD and GB zoning districts.

(d) Wireless communications towers greater than or equal to 80 feet in height shall be a conditional use in the RB, CBD and GB zoning districts.

(e) Wireless communications towers less than 80 feet in height shall only be allowed as a conditional use in the R-1, R-2, R-3, R-4 and LB zoning districts.

(f) Wireless communications towers greater than or equal to 80 feet in height shall not be a permitted use in the R-1, R-2, R-3, R-4 and LB zoning districts.

(g) Except where superseded by the requirements of county, state or federal regulatory agencies possessing jurisdiction over wireless communications towers, equipment cabinets and wireless communications facilities, such towers, equipment cabinets and facilities shall be stealth towers, stealth equipment cabinets and stealth facilities camouflaged to blend into the surrounding environment using stealth technology in a manner pre-approved by the city on a case-by-case basis.

(h) Utility pole-mounted facilities shall be permitted as accessory uses in all zoning districts. Applications for such facilities shall be subject to the conditions set forth in this division.

(6) Existing towers.

(a) Except where otherwise noted, existing towers shall not be rendered nonconforming uses by this division. The city encourages the use of these existing towers for purposes of co-locating additional wireless communications facilities. Any and all towers erected and in use or approved on or before the effective date of this division shall be treated as existing towers. These towers shall be considered conforming uses with respect to this division and the city shall allow co-location on these towers subject to the requirements of division (O)(7) so long as the providers utilize the most visually unobtrusive equipment that is technologically feasible.

(b) Owners of existing towers shall be required to comply with the requirements and procedures set forth in division (O)(13) and (14) to replace an existing tower.

(c) Owners of existing towers shall be required to comply with the applicable requirements and procedures set forth in division (O)(6), (7), (8) and (13) to modify or relocate an existing tower or to co-locate a wireless communications facility on an existing tower.

(d) Increases in height of an existing wireless communications tower, modification of an existing wireless communications tower or conversion of an existing wireless communications tower to a stealth or camouflage structure shall be treated as a new tower and subject to all the applicable requirements of this division.

(e) Owners of existing wireless communications towers shall be required to comply with the requirements set forth in division (O)(15) and (16).

(7) Co-location use, modification and relocation of existing towers.

(a) Any owner of an existing tower or antenna support structure containing additional capacity suitable for installation or co-location of wireless communications facilities shall permit providers to install or co-locate said facilities on such towers or antenna support structures; provided that no existing tower or antenna support structure shall be used to support wireless communications facilities for more than three separate providers. Any co-location of wireless communications facilities shall be subject to mutually agreeable terms and conditions negotiated between the parties.

(b) Any existing tower may be modified or relocated to accommodate co-location of additional wireless communications facilities as follows:

1. An application for a wireless communications permit to modify or relocate a wireless communications tower shall be made to the Zoning Administrator. The application shall contain the information required by division (O)(14)(b) and (c). The Zoning Administrator shall have the authority to issue a wireless communications permit without further approval by the Council or the Planning Commission, except as provided in this division. Any denial of an application for a wireless communications permit to modify or relocate a wireless communications tower for purposes of co-location shall be made in accordance with division (O)(14)(e).

2. The total height of the modified tower and wireless communications facilities attached thereto shall not exceed the maximum height allowed for a permitted wireless communications tower in the zoning district in which the tower is located, unless a conditional use permit is granted by the city.

3. Permission to exceed the existing height shall not require an additional distance separation from designated areas as set forth in this division. The tower's pre-modification height shall be used to calculate such distance separations.

4. A tower which is being rebuilt to accommodate the co-location of additional wireless communications facilities may be moved on the same parcel subject to compliance with the requirements of this division.

5. A tower that is relocated on the same parcel shall continue to be measured from the original tower location for the purpose of calculating the separation distances between towers as provided herein.

(8) Application to locate wireless communications facility on existing tower.

(a) An application for a wireless communications permit to locate or re-locate a wireless communications facility on an existing tower must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:

1. Name, address and telephone number of the applicant;

2. Location of the existing tower, along with the tower owner's name and telephone number;

3. Number of applicant's wireless communications facilities to be located on the subject tower;

4. A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all other construction standards set forth by the city code, and federal and state law;

5. An application fee in the amount set by the Council for each wireless communications facility listed on the application;

6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;

7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and the supporting tower, topography, and any other information deemed by the city to be necessary to assess compliance with this division and the land use and development regulations;

8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;

9. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of the land use and development regulations; and

10. A certification that the site described in the application is located on an existing tower and the owner/operator agrees to the co-location of the subject wireless communications facility.

(b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an existing tower and that satisfies the requirements set forth in this division, shall receive expedited treatment in the review process.

(c) So as to further expedite the permitting process and to promote the efficient use of existing sites, the city encourages the users of existing towers to submit a single application for approval of multiple users on a single existing site. Applications for approval at multiple user sites shall be given priority in the review process. The fee to be submitted with a multiple user application shall be the fee specified in this subsection multiplied by the number of users listed in such application.

(d) A petitioner shall submit any additional information requested by the city for purposes of evaluating the permit request.

(e) In granting or denying a wireless communications permit to locate or re-locate a wireless communications facility on an existing tower, the Zoning Administrator shall prepare a written record of decision including findings of fact.

(9) Wireless communications facilities on antenna support structures.

(a) All wireless communications facilities to be located on antenna support structures shall be subject to the following minimum standards:

1. Wireless communications facilities shall only be permitted on buildings which are at least 35 feet tall.

2. Wireless communications facilities shall be permitted on the city's water tower; provided that the city may impose reasonable conditions which ensure that such facilities do not interfere with access to or maintenance of the tower.

3. If an equipment cabinet associated with a wireless communications facility is located on the roof of a building, the area of the equipment cabinet shall not exceed 10 feet in height, 400 square feet in area nor occupy more than 10% of the roof area. All equipment cabinets shall be constructed out of nonreflective materials and shall be designed to blend with existing architecture and located or designed to minimize their visibility.

(b) Antenna dimensions.

1. Unless a conditional use permit is obtained from the city, whip antennas and their supports must not exceed 25 feet in height and 12 inches in diameter and must be constructed of a material or color which matches the exterior of the antenna support structure.

2. Unless a conditional use permit is obtained from the city, panel antennas and their supports must not exceed 8 feet in height or 2.5 feet in width and must be constructed of a material or color which matches the exterior of the building or structure, so as to achieve maximum compatibility and minimum visibility.

3. Unless a conditional use permit is obtained from the city, microwave dish antennas located below 65 feet above the ground may not exceed 6 feet in diameter. Microwave dish antennas located 65 feet and higher above the ground may not exceed 8 feet in diameter.

(c) Notwithstanding anything to the contrary, wireless communications facilities and related equipment shall not be installed on antenna support structures in residential zoning districts, unless a conditional use permit is obtained from the city.

(d) Wireless communications facilities located on antenna support structures, and their related equipment cabinets, shall be located or screened to minimize the visual impact of such facilities and equipment cabinets upon adjacent properties. Any such screening shall be of a material and color that matches the exterior of the building or structure upon which it is situated. Wireless communications facilities and related equipment cabinets shall be of a stealth design, and shall have an exterior finish and/or design as approved by the city.

(10) Application to locate wireless communications facility on antenna support structure.

(a) An application for a wireless communications permit to locate or re-locate a wireless communications facility on an antenna support structure must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:

1. Name, address and telephone number of the applicant;

2. Location of the antenna support structure, along with the property owner's name and telephone number;

3. Number of applicant's wireless communications facilities to be located on the subject property;

4. A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all requirements and standards set forth in the city code, and federal and state law;

5. An application fee in an amount set by the Council for each wireless communications facility listed on the application;

6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;

7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and the rooftop and building, topography, a current survey, landscape plans, and any other information deemed by the city to be necessary to assess compliance with this division and the land use and development regulations;

8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;

9. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this division and the land use and development regulations; and

10. A certification that the site described in the application is located on an existing antenna support structure and the owner/operator agrees to the location or co-location of the subject wireless communications facility.

(b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an antenna support structure and that satisfies the requirements set forth in this division, shall receive expedited treatment in the review process.

(c) So as to further expedite the permitting process and to promote the efficient use of existing sites, the city encourages the users of antenna support structures to submit a single application for approval of multiple users on a single existing site. Applications for approval at multiple user sites shall be given priority in the review process. The fee to be submitted with a multiple user application shall be the fee described in this division multiplied by the number of users listed in such application.

(d) An applicant must submit a proposed stealth design for camouflaging its wireless communications facility, unless this requirement is preempted by the operation of applicable laws or regulations.

(e) A petitioner shall submit any additional information requested by the city for purposes of evaluating the permit request.

(f) In granting or denying a wireless communications permit to locate or re-locate a wireless communications facility on an antenna support structure, the Zoning Administrator shall prepare a written record of decision including findings of fact.

(11) Utility pole-mounted wireless communications facilities.

(a) Utility pole-mounted wireless communications facilities may be permitted as accessory uses in all zoning districts if the provider uses pico cell equipment. Such facilities shall only be permitted in public rights-of-way that are at least 100 feet in width. To the greatest practical extent, utility pole- mounted wireless communications facilities shall be sited where they are concealed from public view by other objects such as trees or buildings. When it is necessary to site such a facility in public view, to the greatest practical extent it shall be designed to limit visual impact on surrounding land uses, which design must be approved by the city.

(b) The height of a utility pole-mounted facility shall not exceed two feet above the pole structure.

(c) Equipment cabinets associated with utility pole-mounted wireless communications facilities which are located within the public right-of-way shall be of a scale and design that make them no more visually obtrusive than other types of utility equipment boxes normally located within the right- of-way and shall be located in a manner and location approved by the city. To the greatest practical extent, equipment cabinets associated with utility pole-mounted facilities which are located outside of the public right-of-way shall be concealed from public view or shall be architecturally designed using stealth technology or buffered to be compatible with surrounding land uses, except that such shelters located in residential zoning districts must be screened from the view of residents and pedestrians.

(d) Equipment cabinets associated with utility pole-mounted wireless communications facilities which are located outside the public right-of-way shall meet the setback requirements for accessory buildings and structures for the zoning district in which the equipment cabinet is located.

(e) Generators associated with equipment shelters must meet with the requirements of the city code.

(12) Application for utility pole-mounted wireless communications facility.

(a) An application for a wireless communications permit to locate or re-locate a utility pole-mounted wireless communications facility must be submitted to the Zoning Administrator on the designated form and shall, at a minimum, contain the following:

1. Name, address and telephone number of the applicant;

2. Location of the utility pole-mount, along with the property owner's name and telephone number;

3. Number of applicant's wireless communications facilities to be located on the subject property;

4. A sworn and certified statement in writing by a qualified engineer that the wireless communications facility will conform to any and all requirements and standards set forth in the city code, and federal and state law;

5. An application fee in the amount set by the Council for each wireless communications facility listed on the application;

6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;

7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications facility, on-site land uses and zoning, elevation and stealth design drawings of the proposed wireless communications facility and utility pole-mount, topography, a current survey, landscape plans, and any other information deemed by the city to be necessary to assess compliance with this division and the land use and development regulations;

8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;

9. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this division and the land use and development regulations; and

10. A certification that the site described in the application is located on a utility pole- mount and the owner/operator agrees to the location of the wireless communications facility.

(b) An application for a wireless communications permit to locate or re-locate a wireless communications facility that proposes to co-locate said facility on an already existing utility pole-mount and that satisfies the requirements set forth in this division, shall receive expedited treatment in the review process.

(c) A petitioner shall submit any additional information requested by the city for purposes of evaluating the permit request.

(d) In granting or denying a wireless communications permit to locate or re-locate a utility pole-mounted wireless communications facility, the Zoning Administrator shall prepare a written record of decision including findings of fact.

(13) Construction of new towers.

(a) Conditions of approval for wireless communications towers.

1. Setback.

a. The distance between the base of any proposed wireless communications tower, measured from the center of a tower, and the nearest lot line shall be at least equal to the height of the tower, provided that this distance may be reduced to a specified amount if an applicant provides a certification from the tower manufacturer or a qualified engineer stating that the tower is designed and constructed in such a way as to crumple, bend, collapse or otherwise fall within the specified distance.

b. In no event shall the distance between the base of a proposed wireless communications tower, measured from the center of the tower, and the nearest lot line be less than 20% of the tower height.

2. Structural requirements. All wireless communications tower designs must be certified by a qualified engineer specializing in tower structures and licensed to practice in the State of Minnesota. The certification must state the tower design is structurally sound and, at a minimum, in conformance with the city's building code, the State Building Code, and any other standards outlined in the land use and development regulations, as amended from time to time.

3. Height. The height of permitted wireless communications towers shall be as specified in division (O)(5).

(b) Requirements for separation between towers.

1. Except for wireless communications facilities located on roof-tops or utility pole- mounted facilities, the minimum wireless communications tower separation distance shall be calculated and applied irrespective of jurisdictional boundaries.

2. Measurement of wireless communications tower separation distances for the purpose of compliance with this division shall be measured from the base of a wireless communications tower to the base of the existing or approved wireless communications tower.

3. Proposed towers must meet the following minimum separation requirements from existing towers or towers previously approved but not yet constructed at the time a development permit is granted pursuant to this division:

MINIMUM TOWER SEPARATION DISTANCE		
Height of Existing Tower	**Height of Proposed Tower**	**Minimum Separation**
MINIMUM TOWER SEPARATION DISTANCE		
Height of Existing Tower	**Height of Proposed Tower**	**Minimum Separation**
Less than 50 feet	Less than 50 feet	100 feet
	50–100 feet	200 feet
	101–150 feet	400 feet
	151–200 feet	800 feet
50–100 feet	Less than 50 feet	100 feet

	50–100 feet	400 feet
	101–150 feet	600 feet
	151–200 feet	800 feet
101–150 feet	Less than 50 feet	100 feet
	50–100 feet	400 feet
	101–150 feet	600 feet
	151–200 feet	800 feet
151–200 feet	Less than 50 feet	100 feet
	50–100 feet	600 feet
	101–150 feet	800 feet
	151–200 feet	1,000 feet

4. For the purpose of this subsection, the separation distances shall be measured by drawing or following a straight line between the center of the base of the existing or approved structure and the center of the proposed base, pursuant to a site plan of the proposed wireless communications tower.

(c) Standards for co-location. This subsection is designed to foster shared use of wireless communications towers.

1. Construction of excess capacity. Any owner of a wireless communications tower shall permit other providers to install or co-locate antennae or wireless communications facilities on such towers, if available space and structural capacity exists; provided, however, that no wireless communications tower shall be used to support wireless communications facilities for more than three separate providers. Any co-location of wireless communications facilities shall be subject to mutually agreeable terms and conditions negotiated between the parties. All new wireless communications towers shall be constructed with excess capacity for co-location as follows:

Less than 80 feet in height	One additional user
80 feet to 119 feet in height	Two or more additional users (up to a maximum of three users)
120 feet in height or greater	Three additional users

2. Notwithstanding anything to the contrary, all new monopole towers over 80 feet in height and existing monopole towers that are extended to a height over 80 feet shall be designed and built to accommodate at least two providers, and up to a maximum of three providers if technically possible.

3. Notwithstanding anything to the contrary, all new guyed towers, and existing guyed towers that are replaced or modified shall be designed and built to accommodate three providers.

4. Site area. The site or leased footprint shall contain sufficient square footage to accommodate the equipment/mechanical facilities for all proposed providers based upon the structural capacity of the tower.

5. Setbacks. If it is determined that a proposed wireless communications tower cannot meet setback requirements due to increases in tower height to accommodate the co-location of at least one additional wireless communications service provider, minimum setback requirements may be reduced by a maximum of 15 feet, unless such a reduction would decrease the distance between the base of the tower and the nearest lot line to less than 20% of the tower height, in which case set-back requirements may be reduced to a distance that is equal to or greater than 20% of the tower height.

(d) Tower design and type.

1. All proposed wireless communications towers shall be monopole towers or stealth towers. Self-supporting towers or guyed lattice towers shall only be permitted as a replacement of like structures.

2. Utility pole-mounted facilities or extensions on utility poles to accommodate the mounting of wireless communications facilities shall be of the monopole type.

3. Antennas shall be of the uni-cell variety whenever feasible or mounted internal to the wireless communications tower structure.

4. Stealth wireless communications towers, equipment cabinets and related facilities shall be required in all zoning districts.

(e) Landscaping minimum requirements. Wireless communications towers shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from surrounding property. The standard buffer shall consist of a landscaped strip at least 10 feet wide outside the perimeter of the compound. Existing mature growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as wireless communications towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer. All areas disturbed during project construction shall be replanted with vegetation. The owner of a wireless communications tower is responsible for all landscaping obligations and costs. A landscaping plan for the purpose of screening the base of the tower from view shall be submitted to the Zoning Administrator for approval prior to the issuance of a building permit for the tower. The city may waive the enforcement of this condition if it is deemed unnecessary.

(f) Visual impact standards. To assess the compatibility with and impact on adjacent properties of a proposed wireless communications tower site, an applicant seeking to construct, relocate or modify a wireless communications tower may be required to submit a visual impact analysis. The requirements of this subsection shall be required for any application to construct a tower greater than 80 feet in height. The applicant may request a review of a proposed wireless communications tower location, prior to submission of an application, to determine whether or not a visual impact analysis will be required. The applicant shall be advised of the requirement to submit a visual impact analysis by the city within ten working days following the city's receipt of the applicant's application for construction of a new wireless communication tower or the relocation or modification of an existing tower.

1. Whenever a visual impact analysis is required, an applicant shall utilize digital imaging technology to prepare the analysis in a manner acceptable to the city. At a minimum, a visual impact analysis must provide the following information:

a. The location of the proposed wireless communications tower illustrated upon an aerial photograph at a scale of not more than one inch equals 300 feet (1 inch = 300 feet). All adjacent zoning districts within a 3,000-foot radius from all property lines of the proposed wireless communications tower site shall be indicated; and

b. A line of site analysis which shall include the following information:

i. Certification that the proposed wireless communications tower meets or exceeds standards contained in this division;

ii. Identification of all significant existing natural and manmade features adjacent to the proposed wireless communications tower site and identification of features which may provide buffering and screening for adjacent properties and public rights-of-way;

iii. Identification of at least three specific points within a 2,000-foot radius of the proposed wireless communications tower location, subject to approval by the Zoning Administrator, for conducting the visual impact analysis;

iv. Copies of all calculations and a description of the methodology used in selecting the points of view and collection of data submitted in the analysis;

v. Graphic illustration of the visual impact of the proposed wireless communications tower, at a scale that does not exceed five degrees of horizontal distance, presented from the specific identified points;

vi. Identification of all screening and buffering materials under the permanent control of the applicant (only screening and buffering materials located within the boundaries of the proposed site shall be considered for the visual impact analysis); and

vii. Identification of all screening and buffering materials that are not under the permanent control of the applicant but are considered of a permanent nature due to ownership or use patterns, such as a public park, vegetation preserve, required development buffer, and the like.

2. Screening and buffering materials considered in the visual impact analysis shall not be removed by future development on the site. However, screening and buffering materials considered in the visual impact analysis shall be replaced if they die.

3. An applicant shall provide any additional information that may be required by the Zoning Administrator to fully review and evaluate the potential impact of the proposed wireless communications tower.

(14) Application process for new towers.

(a) The use of existing structures to locate wireless communications facilities shall be preferred to the construction of new wireless communications towers. To be eligible to construct a new wireless communications tower within city limits, an applicant must establish to the satisfaction of the city that the applicant is unable to provide the service sought by the applicant from available sites, including co-locations within the city and in neighboring jurisdictions; and the applicant must demonstrate to the reasonable

satisfaction of the city that no other suitable existing tower or antenna support structure is available, including utility poles; and that no reasonable alternative technology exists that can accommodate the applicant's wireless communications facility due to one or more of the following factors:

1. The structure provides insufficient height to allow the applicant's facility to function reasonably in parity with similar facilities;

2. The structure provides insufficient structural strength to support the applicant's wireless communications facility;

3. The structure provides insufficient space to allow the applicant's wireless communications facility to function effectively and reasonably in parity with similar equipment;

4. Use of the existing structure would result in electromagnetic interference that cannot reasonably be corrected;

5. The existing structure is unavailable for lease under a reasonable leasing agreement;

6. Use of the structure would create a greater visual impact on surrounding land uses than the proposed alternative or otherwise would be less in keeping with the goals, objectives, intent, preferences, purposes, criteria or standards of this division, the land use and development regulations and land development regulations; and/or

7. Other limiting factors.

(b) An applicant must submit any technical information requested by the city or its designated engineering consultant as part of the review and evaluation process.

(c) An application for a wireless communications permit to construct a wireless communications tower must be submitted to the Zoning Administrator on the designated form and shall contain, at a minimum, the following information:

1. Name, address and telephone number of the applicant;

2. Proposed location of the wireless communications tower, along with all studies, maps and other information required by division (O)(13) and (14) (applicant shall submit information for only one proposed tower per application);

3. Number of applicant's wireless communications facilities to be located on the subject tower and the number of spaces available for co-location;

4. A sworn and certified statement in writing by a qualified engineer that the wireless communications tower will conform to all requirements set forth in the city code, and federal and state law;

5. An application fee in the amount set by the Council;

6. A copy of all licenses and/or franchises required by federal, state or local law for the construction and/or operation of a wireless communications system in the city;

7. A scaled site plan clearly indicating the location, type and height of the proposed wireless communications tower, on-site land uses and zoning, elevation and stealth design drawings of the proposed

tower, topography, and any other information deemed by the Zoning Administrator to be necessary to assess compliance with this division and the land use and development regulations;

8. An inventory of the applicant's existing towers and wireless communications facilities, if any, that are either within the jurisdiction of the city or within one mile of the city limits, including specific information about the location, height, and design of each wireless communications facility or tower;

9. The names, addresses and telephone numbers of all owners of existing towers or antenna support structures within an area equal to 100% of the search ring for the wireless communications facility proposed to be located on the proposed new tower;

10. Written documentation in the form of an affidavit that the applicant made diligent, but unsuccessful efforts for permission to install or co-locate the proposed wireless communications facility on all existing towers or antenna support structures located within an area equal to 100% of the search ring for the proposed site of the wireless communications facility;

11. Written, technical evidence from a qualified engineer that the proposed wireless communications facility cannot be installed or co-located on an existing tower or antenna support structure located within the city and must be located at the proposed site in order to meet the coverage requirements of the proposed wireless communications service, together with a composite propagation study which illustrates graphically existing and proposed coverage in industry-accepted median received signal ranges;

12. A written statement from a qualified engineer that the construction and placement of the proposed wireless communications tower will comply with Federal Communications Commission radiation standards for interference and safety and will produce no significant signal interference with public safety communications and the usual and customary transmission or reception of radio, television, or other communications services enjoyed by adjacent residential and non-residential properties; and

13. A certification that the applicant will comply with all applicable federal, state or local laws including all the provisions of this division and the land use and development regulations.

(d) A proposed wireless communications tower that exceeds the height limitations for a permitted tower in the GB, RB, CBD, I-1 or I-2 zoning districts, or any proposed wireless communications tower under 80 feet in the R-1, R-2, R-3, R-4, or LB districts, shall only be allowed upon approval of a conditional use permit. The City Council may establish any reasonable conditions for approval that are deemed necessary to mitigate adverse impacts associated with the conditional use, to protect neighboring properties, and to achieve the objectives of this division and the land use and development regulations. Such a conditional use permit shall be required in addition to a wireless communications permit.

(e) In granting or denying a wireless communications permit to construct a wireless communications tower, the Zoning Administrator shall prepare a written record of decision including findings of fact. Proposed wireless communication towers that meet the standards and requirements contained herein, including location and height limitations, may be approved administratively by the Zoning Administrator. Proposed wireless communication towers that do not meet the standards and requirements contained herein, including location and height limitations, may be denied administratively by the Zoning Administrator, provided that the written record of decision including findings of fact is accepted by the Council.

(15) Annual registration requirement.

(a) Wireless communications facilities.

1. To enable the city to keep accurate, up-to-date records of the location of wireless communications facilities within city limits, on an annual basis, no later than February 1 of each year, or upon change in ownership of wireless communications facilities, the owner/operator of such facilities shall submit documentation to the Zoning Administrator providing:

a. Certification in writing that the wireless communications facility conforms to the requirements, in effect at the time of construction of the facility, of the State Building Code and all other requirements and standards set forth in the city code, and federal and state law by filing a sworn and certified statement by a qualified engineer to that effect. A wireless communications facility owner/operator may be required by the city to submit more frequent certification should there be reason to believe that the structural and/or electrical integrity of the wireless communications facility is jeopardized. The city reserves the right upon reasonable notice to the owner/operator of the wireless communications facility to conduct inspections for the purpose of determining whether the wireless communications facility complies with the State Building Code and all requirements and standards set forth in local, state or federal laws; and

b. The name, address and telephone number of any new owner, if there has been a change of ownership of the wireless communications facility.

2. Annual payment of a registration fee, as set by the Council, for each wireless communications facility located within the city shall be submitted to the city at the time of submission of the documentation required above.

(b) Wireless communications towers.

1. To enable the city to keep accurate, up-to-date records of the location and continued use of wireless communications towers within city limits, on an annual basis, no later than February 1 of each year, or upon change in ownership of a wireless communications tower, the owner/operator of each tower shall submit documentation to the Zoning Administrator providing:

a. Certification in writing that the wireless communications tower is structurally sound and conforms to the requirements, in effect at the time of construction of the tower, of the State Building Code and all applicable standards and requirements set forth in the city code, and federal and state law, by filing a sworn and certified statement by a qualified engineer to that effect. The tower owner may be required by city to submit more frequent certifications should there be reason to believe that the structural and/or electrical integrity of the tower is jeopardized;

b. The number of providers located on the tower and their names, addresses and telephone numbers;

c. The type and use of any wireless communications facilities located on the tower; and

d. The name, address and telephone number of any new owner of the tower, if there has been a change of ownership of the tower.

2. An annual payment of a registration fee, as set by the Council, for each tower located within the city shall be submitted to the city at the time of submission of the documentation required above.

(16) General requirements. The following conditions apply to all wireless communications towers and wireless communications facilities in the city:

(a) Duration of permits. If substantial construction or installation has not taken place within one year after city approval of a wireless communications permit, the approval shall be considered void unless a petition for time extension has been granted by the City Council. Such a petition shall be submitted in writing at least 30 days prior to the expiration of the approval and shall state facts showing a good faith effort to complete the work permitted under the original permit.

(b) Assignment and subleasing. No wireless communications facility, tower or antenna support structure or wireless communications permit may be sold, transferred or assigned without prior notification to the city. No sublease shall be entered into by any provider until the sublessee has obtained a permit for the subject wireless communications facility or tower or antenna support structure. No potential provider shall be allowed to argue that a permit should be issued for an assigned or subleased wireless communications facility or tower or antenna support structure on the basis of any expense incurred in relation to the facility or site.

(c) Aesthetics. Wireless communications towers and wireless communications facilities shall meet the following requirements:

1. Signs. No commercial signs or advertising shall be allowed on a wireless communications tower or a wireless communications facility.

2. Lighting. No signals, lights, or illumination shall be permitted on a wireless communications tower or a wireless communications facility, unless required by the Federal Aviation Administration or other applicable authority. If lighting is required, the lighting alternatives and design chosen must cause the least obtrusiveness to the surrounding community. However, an applicant shall obtain approval from the city if the Federal Aviation Administration requires the addition of standard obstruction marking and lighting (i.e., red lighting and orange and white striping) to the tower. An applicant shall notify the Zoning Administrator prior to making any changes to the original finish of the tower.

3. Graffiti. Any graffiti or other unauthorized inscribed materials shall be removed promptly or otherwise covered in a manner substantially similar to, and consistent, with the original exterior finish. The city may provide a wireless communications tower or equipment cabinet owner and/or operator written notice to remove or cover graffiti within a specific period of time or as required by other appropriate sections of the city code as presently existing or as may be periodically amended. In the event the graffiti has not been removed or painted over by the owner and/or operator within the specified time period, the city shall have the right to remove or paint over the graffiti or other inscribed materials. In the event the city has to remove or paint over the graffiti, then the owner and/or operator of the wireless communications tower or equipment cabinet or structure on which the graffiti existed, shall be responsible for all costs incurred.

(d) Federal and state requirements. All wireless communications towers and wireless communications facilities must meet or exceed the standards and regulations of the Federal Aviation Administration, the Federal Communications Commission, and any other agency of the state or federal government with the authority to regulate wireless communications towers and facilities. If such standards and regulations change, then the owners of the wireless communications towers and wireless communications facilities subject to such standards and regulations must bring such towers and facilities into compliance with such revised standards and regulations within six months of the effective date of such standards and regulations,

unless a different compliance schedule is mandated by the controlling state or federal agency. Failure to maintain or bring wireless communications towers and wireless communications facilities into compliance with such revised standards and regulations shall constitute a violation of this division and shall be subject to enforcement under the city code. Penalties for violation may include fines and removal of the tower or wireless communications facility at the owner's expense.

(e) Licenses or franchise. An owner of a wireless communications tower or wireless communications facility must notify the city in writing within 48 hours of any revocation or failure to renew any necessary license or franchise.

(f) Discontinued use. In the event the use of a wireless communications tower or wireless communications facility is discontinued, the owner and/or operator shall provide written notice to the city of its intent to discontinue use and the date when the use shall be discontinued.

(g) Abandoned tower or antenna. The city may require removal of any abandoned or unused wireless communications tower or wireless communications facility by the tower or facility owner within 30 days after notice from the city of abandonment. A wireless communications tower or wireless communications facility shall be considered abandoned if use has been discontinued for 180 consecutive days.

1. Removal by city. Where a wireless communications tower or wireless communications facility is abandoned but not removed within the specified time frame, the city may remove the facility or remove or demolish the tower and place a lien on the property following the procedures (but not the criteria) for demolition of an unsafe building/structure of the city's housing code.

2. Towers utilized for other purposes. Where a wireless communications tower is utilized for other purposes, including but not limited to light standards and power poles, it shall not be considered abandoned; provided, however, that the height of the tower may be reduced by the city so that the tower is no higher than necessary to accommodate previously established uses.

3. Restoration of area. Where a wireless communications tower or facility is removed by an owner, said owner, at no expense to the city, shall restore the area to as good a condition as prior to the placement of the tower or facility, unless otherwise instructed by the city.

4. Surety or letter of credit for removal. Prior to the issuance of a building permit, a surety or letter of credit shall be submitted by the property owners or tower operators to ensure the removal of abandoned wireless communications towers. The surety or letter of credit shall be utilized to cover the cost of removal and disposal of abandoned towers and shall consist of the following:

a. Submission of an estimate from a certified structural engineer indicating the cost to remove and dispose of the tower; and

b. Either a surety or a letter of credit, equivalent to 100% of the estimated cost to remove and dispose of the tower. The form of the surety or the letter of credit shall be subject to approval by the Zoning Administrator and the City Attorney.

(h) FCC emissions standards. At all times, owners and/or operators of wireless communications facilities shall comply with the radio frequency emissions standards of the Federal Communications Commission.

1. Testing required. All existing and future wireless communications facilities shall be tested in accordance with applicable laws and regulations. Such testing, to the extent it is required, shall comply with standards and procedures prescribed by the Federal Communications Commission.

2. Inspections. The city reserves the right to conduct random radio frequency emissions inspections. The cost for such random inspections shall be paid from the wireless communications annual registration fees, unless an owner and/or operator is found to be in noncompliance with Federal Communications Commission RF emissions standards, whereupon the noncompliant owner and/or operator shall reimburse the city in full for the cost of the inspection.

(i) Maintenance. All wireless communications facilities, wireless communications towers and antenna support structures shall at all times be kept and maintained in good condition, order, and repair, and, maintained in stealth condition (if stealth or camouflage is a permit requirement). The same shall not menace or endanger the life or property of any person, and shall retain original characteristics. All maintenance or construction on a wireless communications tower, wireless communications facility or antenna support structure shall be performed by licensed maintenance and construction personnel. The city shall notify a provider in writing regarding any specific maintenance required under this division. A provider shall make all necessary repairs within 30 days of such notification. Failure to effect noticed repairs within 30 days may result in revocation of a tower owner's or provider's permit and/or removal of the tower, wireless communications facility or antenna support structure.

(j) Emergency. The city reserves the right to enter upon and disconnect, dismantle or otherwise remove any wireless communications tower or wireless communications facility should the same become an immediate hazard to the safety of persons or property due to emergency circumstances, as determined by the Zoning Administrator or his designee, such as natural or manmade disasters or accidents, when the owner of any such tower or facility is not available to immediately remedy the hazard. The city shall notify any said owner of any such action within 24 hours. The owner and/or operator shall reimburse the city for the costs incurred by the city for action taken pursuant to this subsection.

(k) Equipment cabinets. Equipment cabinets located on the ground shall be constructed out of non-reflective materials and shall be screened from sight by mature landscaping and located or designed to minimize their visibility. All equipment cabinets shall be no taller than ten feet in height, measured from the original grade at the base of the facility to the top of the structure, and occupy no more than 400 square feet in area, unless a waiver is granted by the city upon written request from a provider.

(l) Equipment on site. No mobile or immobile equipment or materials of any nature shall be stored or parked on the site of a wireless communications tower or wireless communications facility, unless used in direct support of a wireless communications tower or wireless communications facility or for repairs to the wireless communications tower or wireless communications facility currently underway.

(m) Inspections. The city reserves the right upon reasonable notice to the owner/operator of a wireless communications tower or antenna support structure, including utility poles and rooftops, to conduct inspections for the purpose of determining whether the tower or other support structure and/or related equipment cabinet complies with the State Building Code and all applicable requirements and standards set forth in local, state or federal law and to conduct radiation measurements to determine whether all antenna and transmitting equipment are operating within Federal Communications Commission requirements.

(n) Security.

1. An owner/operator of a wireless communications tower shall provide a security fence or equally effective barrier around the tower base or along the perimeter of the wireless communications tower compound.

2. If high voltage is necessary for the operation of the wireless communications tower or antenna support structure, “HIGH VOLTAGE - DANGER” warnings signs shall be permanently attached to the fence or barrier and shall be spaced no more than 20 feet apart, or on each fence or barrier frontage.

3. “NO TRESPASSING” warning signs shall be permanently attached to the fence or barrier and shall be spaced no more than 20 feet apart.

4. The letters for the “HIGH VOLTAGE - DANGER” and “NO TRESPASSING” warning signs shall be at least six inches in height. The two warning signs may be combined into one sign. The warning signs shall be installed at least 4.5 feet above the finished grade of the fence or barrier.

(o) Advances in technology. All providers shall use and apply any readily available advances in technology that lessen the negative aesthetic effects of wireless communications facilities and wireless communications towers to the residential communities within the city. Every five years, the city may review existing structures and compare the visual impact with available technologies in the industry for the purpose of removal, relocation or alteration of these structures in keeping with the general intent of this division. Such removal, relocation or alteration may be required by the city pursuant to its zoning power and authority.

(17) Review of applications. The city shall process all applications for wireless communications towers and wireless communications facilities in a timely manner and in accordance with established procedures. The reason for the denial of any application filed in accordance with this provision shall be set forth in writing, and shall be supported by substantial evidence in a written record.

(18) Appeals. At any time within 30 days after a written order, requirement, determination or final decision has been made by the Zoning Administrator or other official in interpreting or applying this division, except for actions taken in connection with prosecutions for violations thereof, the applicant or any other person affected by such action may appeal the decision in accordance with the provisions of the land use and development regulations.

(19) Revocation. A material breach of any terms and conditions of a permit issued for a wireless communications tower or wireless communications facility under this division and the land use and development regulations may result in the revocation by the city of the right to operate, utilize or maintain the particular tower or wireless communications facility within the city following written notification of the violation to the owner or operator, and after failure to cure or otherwise correct said violation within 30 days. A violation of this division shall be subject to enforcement in accordance with the land use and development regulations. Penalties for a violation of a permit or this division may include fines and removal of the wireless communications tower or wireless communications facility at the owner’s expense.

(Ord. 1424, passed 12-11-00)

(P) Sign regulations.

(1) Purpose. The purpose of this division is to allow effective signage appropriate to the character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse impacts on nearby property and protect the public health, safety and general welfare.

(2) Application. The sign regulations set forth in this division shall apply to all structures and all land uses, except as otherwise prohibited by this article. All signs allowed by this division shall be limited to on-premise signs.

(3) Permits.

(a) Permit required. It shall be unlawful for any person to erect, build, construct, attach, hang, place, suspend, affix, structurally alter, or relocate any sign within the city without having first obtained a permit from the city unless herein excluded.

(b) Application for sign permit. An application for a sign permit shall be filed with the Zoning Administrator on the approved form and shall be accompanied by such information as may be required to ensure compliance with the provisions of this division, including but not limited to, the following:

1. A drawing showing the proposed location of the sign for which the permit is being requested and the location of all existing signage on the premises.

2. A drawing indicating the size, color, content and materials of the sign, as well as the method of construction and attachment to the building or to the ground.

3. Engineering data showing the structure is designed to accommodate dead load and wind pressure, in any direction, in the amount required within this division, when specifically requested by the Zoning Administrator.

(c) Application fee. Fees for all sign permits shall be established by resolution of the City Council.

(d) Issuance of permit. Upon the filing of a completed application for a sign permit, the Zoning Administrator shall examine all accompanying drawing and supplemental data to determine compliance with the requirements of this division. Upon approval, the sign permit shall remain valid for a period of one year. If no work has commenced within such time period, a new permit shall be required even if no changes have been made to the original site plan.

(e) Exemptions. The following changes shall not require a sign permit. These exceptions shall not be construed as relieving the owner of the sign from the responsibility for its proper erection and maintenance and its compliance with the provisions of this article or any other law or ordinance regulating the same.

1. The changing of the advertising copy or message of a painted or printed sign. Except for theater marquees and changeable copy signs specifically designed for the use of replaceable copy, electric signs shall not be included in this exception.

2. Painting, repainting or cleaning of an advertising structure or the changing of the advertising copy or message thereon, unless a structural change is made.

(4) General sign standards.

(a) Construction requirements. All signs shall be constructed and maintained in such a manner so as to present a professional appearance and maintained in accordance with the applicable provisions of the

Uniform Building and Electrical Codes. The site on which the sign is constructed shall utilize existing finished grade, and shall not be raised, bermed, or otherwise elevated above surrounding grade to achieve a greater height than allowed by this article.

(b) Maintenance. All signs, including temporary signs, together with all of their supports, braces, guys, and anchors, shall be kept in good repair and in proper state of preservation. The display surfaces of all signs shall be kept neatly painted or posted. Every sign and the immediate surrounding premises shall be maintained by the owner or person in charge thereof in a safe, clean, sanitary, and inoffensive condition, and free and clear of all obnoxious substances, rubbish and weeds.

(c) Inspection. All signs for which a permit is required shall be subject to inspection by the Zoning Administrator. The Zoning Administrator, or any other official of the municipality who may be appointed by him is hereby authorized to enter upon any property or premises to ascertain whether the provisions of this division are being obeyed.

(5) Exempt signs. In all districts, the provisions of this section shall not apply to the following signs:

(a) Signs of any governmental unit designed for regulatory and safety purposes;

(b) Memorial plaques, cornerstones and historical tablets;

(c) Political signs regulated per state statute;

(d) Direction signs not more than two in number identifying the location and nature of a building, structure, or use which is not readily visible from the street, serving such building, structure, or use on lands forming part of the site of such buildings, structure, or uses, provided that each such sign is not more than ten square feet in total area;

(e) Signs not exceeding nine square feet in area located upon private property and directed toward the prevention of trespassing;

(f) Window signage that does not exceed 25% of the total area of the window on or in which it is displayed;

(g) Temporary signs pertaining to drives or events of charitable, educational or religious organizations, and governmental signs used for the promotion of citywide functions and/or events, provided that such signs shall not be erected or posted for a period of more than 14 days prior to the date of the event and shall be removed within three days thereafter;

(h) Flags or emblems of political, civic, philanthropic, educational or religious organizations;

(i) In residential districts, one temporary on-site, freestanding real estate sign advertising the sale, lease, or rental of the lot or premises upon which such sign is situated, provided the sign does not exceed six feet in height and 15 square feet in area. On corner lots, a second such sign may be located on the property if said sign abuts a second street right-of-way. No such temporary on-site sign shall remain seven days past the date of termination of such offering.

(j) In commercial or industrial districts, one temporary on-site, freestanding real estate sign advertising the sale, lease, or rental of the lot or premises upon which such sign is situated, provided the sign does not exceed six feet in height and 32 square feet in area. On corner lots, a second such sign may be

located on the property if said sign abuts a second street right-of-way. No such temporary on-site sign shall remain seven days past the date of termination of such offering.

(k) One on-site temporary sign advertising a group of lots for sale within a subdivision or a group of homes for sale within a project along each street frontage which bounds such subdivision or project, provided that the total area of such sign shall not exceed the greater of 64 square feet with no single dimension in excess of 16 feet or eight square feet per lot or house for sale. No such on-site temporary sign shall remain past the sate of sale of the last lot within the subdivision or the last house within the housing project.

(l) Temporary on-site signs indicating the name and nature of a construction or demolition project, plus the names of the contractors, subcontractors and professional advisors, provided the combined area of such signs fronting upon each street which abounds such project shall not exceed a ratio of two square feet of sign area for each 1,000 square feet of lot area. In no case shall the combined area of such signs fronting upon each street exceed the greater of 64 square feet with no single dimension in excess of 16 or eight square feet per house or lot on which such construction or demolition is located. The display of such sign shall be limited to a period not to exceed the duration of the said construction or demolition project, at which time such signs shall be removed.

(m) One wall sign per dwelling for permitted home occupations not to exceed two square feet per surface and limited to one surface.

(n) Time and temperature signs not to exceed 20 square feet per sign and one sign per side of building.

(o) In commercial or industrial districts, one temporary on-site banner or pennant advertising the sale of the lot or premises on which such a banner or pennant is situated, or one temporary on-site banner or pennant advertising the lease or rental of a tenant space, provided that the banner or pennant shall not exceed 48 square feet in area when advertising the sale of the lot or premises, and 32 square feet in area when advertising the lease or rental of a tenant space. No such banner or pennant shall remain past the date of the offering.

(p) Public art shall not count towards any signage regulations and only the portion of the artwork displaying the name of the business shall count towards the overall signage area.

(6) Prohibited signs. Signs that are not specifically permitted in this division are hereby prohibited in all districts unless criteria is presented to allow the Planning Commission to deem that the sign design preserves and maintains the community's unique historical and cultural elements. Without restricting or limiting the generality of the provisions of the foregoing, the following signs are specifically prohibited:

(a) A balcony sign and a sign mounted or supported on a balcony.

(b) Any sign that obstructs any part of a doorway or fire escape.

(c) Any sign which, because of its position, movement, shape, illumination or color constitutes a traffic hazard because it obstructs free and clear vision, or interrupts, confuses or misleads traffic.

(d) A private sign containing words or symbols, which might reasonably be construed as traffic controls.

(e) An animated or rotating sign, except barber poles and signs displaying time and temperature information only in the animated or rotating portion thereof.

(f) A flashing sign, including indoor flashing, electrical signs visible from the public right- of-way, other than time and temperature signs limited to such time and temperature information.

(g) Any roof sign, unless attached to mansard roof or similar decorative style roof that is vertical in nature.

(h) A projecting sign which either extends more than 18 inches from the building or structure to which it is attached, or which is larger than three feet in vertical height, other than canopy or marquee signs.

(i) Any sign that does not display the name of the manufacturer or maker permanently attached to, or painted or printed on, the exterior or structural supports of the sign.

(j) Any sign that is erected, placed or maintained by any person on a rock, fence, or trees.

(k) Any sign that interferes with any electric light, or power, telephone, telecommunications, or telegraph wires, or the supports thereof.

(l) Any sign containing electrical wiring which does not conform to the Electrical Code or the components thereof do not bear the label of an approved testing agency.

(m) Any window sign or signs which exceed 25% of the total area of the window on or in which it is displayed.

(n) Portable signage, excluding sandwich board signs.

(o) Temporary signage stuck into the ground, excluding political signs regulated per state statute, professional real estate signs, garage sale signs, and any listed in division (P)(5).

(p) Variable electronic message signs.

(7) Temporary signs. The following standards shall apply to temporary signs in all zoning districts:

(a) Each temporary sign, with the exception of sandwich board signs, shall require a sign permit from the City of Columbia Heights.

(b) No more than four temporary sign permits may be issued per business per calendar year.

(c) No more than two temporary signs shall be displayed per business at any given time. When two temporary signs are displayed, each sign shall require a permit and each sign will count toward the allotment of temporary signage permitted per business per calendar year. If the business is located within a shopping center, nor more than four temporary signs may be displayed throughout the shopping center at any given time.

(d) Any sign not considered permanent shall be considered temporary.

(e) Temporary signage may not be used as permanent wall signage for the business.

(f) Temporary signs or pennants shall not exceed 32 square feet in area for businesses located in the CBD, Central Business District, and shall not exceed 48 square feet in area throughout the remainder of the city and shall be directly and fully attached to the wall of the building.

(g) Each temporary sign shall be limited to a 30-day display period per permit.

(h) Grand opening signs.

1. Each new business is permitted one grand opening sign, at the time when the new business is established in the city.

2. Grand opening signs do not require a permit.

3. The signs do not count against the total number of temporary signs allowed per property per calendar year.

4. Grand opening signs are allowed for no more than 60 consecutive days.

5. Grand opening signs must display a message consistent with the promotion of the grand opening on the new business.

6. Grand opening signs shall be no greater than 50 square feet in area.

7. The signs must meet all other applicable regulations for temporary signage in the city pertaining to placement on the property, maintenance, and the like.

(i) No temporary sign shall extend over or into any street, alley, sidewalk or other public thoroughfare, and may not cover more than 25% of window area such that 75% of the total window area is kept clear at all times.

(j) No temporary sign shall be erected so as to prevent free ingress to or egress from any door, window or fire escape, nor shall such sign be attached to any standpipe or fire escape.

(k) Unauthorized use of temporary signage shall be subject to the other sanctions as provided herein.

(l) Sandwich board signs.

1. Permitted in the LB, Limited Business, GB, General Business, and CBD, Central Business District only.

2. One sandwich board sign is permitted per business.

3. Sandwich board signs are limited to eight square feet in area per side.

4. Sandwich board signs are limited to five feet in height.

5. The sign shall be professionally painted and maintained in a neat and readable manner.

6. Signs shall be placed on private property only, and shall be set back at least five feet from all property lines.

7. Signs shall not obstruct vehicular or pedestrian traffic or visibility and shall not create a safety hazard.

8. Signs shall not be lighted and shall not utilize noise amplifiers.

9. In the CBD, Central Business District only, sandwich board signs may be placed on public sidewalks, directly in front of the business being advertised.

(8) Dynamic LED signage.

(a) Regulations. Dynamic LED signage is allowed as a conditional use in those zoning districts specified in this code. All dynamic LED signage is subject to the following conditions:

1. Dynamic LED signs are allowed only on monument signs for conditionally permitted uses in all zoning districts, with the exception of the PO, Public District, in which LED signage may be utilized in existing pylon signs. Motor fuel stations may display dynamic LED signs as part of the pylon sign to promote motor fuel prices only. Such motor fuel price signs do not require a conditional use permit. All dynamic LED signs may occupy no more than 60% of the actual copy and graphic area. The remainder of the sign must not have the capability to have dynamic LED signs, even if not used. Only one, contiguous dynamic display area is allowed on a sign face.

2. A dynamic LED sign may not change or move more often than once every ten seconds for commercial, industrial uses, or public uses, and no more than once every ten minutes for religious and/or educational institution uses, except one for which changes are necessary to correct hour-and-minute, date, or temperature information.

3. A display of time, date or temperature information may change as frequently as once every five seconds, however information displayed not relating to the date, time or temperature must not change or move more often than once every ten seconds for commercial, industrial uses, or public uses, and no more than once every ten minutes for religious and/or educational institution uses.

4. The images and messages displayed must be static, and the transition from one state display to another must be instantaneous without any special effects. Motion, animation and video images are prohibited on dynamic LED sign displays.

5. 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.

6. Dynamic LED signs must be designed and equipped to freeze the device in one position if a malfunction shall occur. 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 it is not complying with the standards of this section.

7. Dynamic LED signs may not exceed a maximum illumination of 5,000 nits (candelas per square meter) during daylight hours and a maximum illumination of 500 nits (candelas per square meter) between dusk to dawn as measured from the sign's face at maximum brightness. Dynamic LED signs must have an automatic dimmer control to produce a distinct illumination change from a higher illumination level to a lower level for the time period between one-half hour before sunset and one half-hour after sunrise.

8. Dynamic LED signs existing on the effective date of Ordinance 1593, passed April 25, 2011, must comply with the operational standards listed above. An existing dynamic LED sign that does not meet the structural requirements may continue as a non-conforming sign subject to § 9.105(E).

(9) Signs in Residential Districts R-1, R-2A and R-2B.

(a) Permitted signs. In the R-1, Single-Family Residential District, and the R-2, Two- Family Residential District, the following signs shall be permitted:

1. One identification sign per dwelling unit not to exceed two square foot per surface, and limited to one surface attached directly to the structure.

2. One wall or ground sign for each conditional use other than the residential use, not to exceed 16 square feet per surface, and limited to two surfaces.

3. One institutional sign not to exceed 40 square feet per surface, limited to two surfaces, and set back a minimum of ten feet from any property line.

4. In case of multiple structures on one parcel, a second institutional sign may be installed provided there is a minimum distance of 75 feet between the two sign structures.

(b) Restrictions on permitted signs. Permitted signs in the R-1, Single-Family Residential, and R-2A and R-2B, Two-Family Residential Districts are subject to the following restrictions:

1. The maximum height of a sign, including its structures, shall not exceed eight feet above the grade at street level or at the base of the sign, whichever is greater.

2. No animated sign shall be permitted.

3. All illuminated signs shall be shielded in such a way as to protect the rights of adjacent property owners from nuisance.

4. The sign number and area permitted by this division are considered maximums. These maximums, or any portions thereof which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned by such persons, or to any other owner, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the R-1, R-2A and R-2B Districts, the following signs shall require a conditional use permit:

1. A dynamic LED sign used in conjunction with a religious institution.

2. A dynamic LED sign used in conjunction with an educational institution.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the R-1, Single-Family Residential, and R-2A and R-2B, Two-Family Residential Districts are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. A dynamic LED sign may change its message with a frequency of no less than one message for each ten minutes of display time.

(10) Signs in Residential Districts R-3 and R-4.

(a) Permitted signs. In the R-3, Limited Multiple-Family Residential District, and the R-4, Multiple-Family Residential District, the following signs shall be permitted:

1. One identification sign per dwelling unit not to exceed two square feet per surface, limited to one surface, and attached directly to the structure for each single- and two-family residence.

2. One area identification sign per lot line facing a public street not to exceed 16 square feet per surface and limited to two surfaces, for each multiple dwelling.

3. One institutional sign not to exceed 40 square feet per surface, limited to two surfaces, and set back a minimum of ten feet from any property line.

4. In case of multiple structures on one parcel, a second institutional sign may be installed provided there is a minimum distance of 75 feet between the two sign structures.

(b) Restrictions on permitted signs. Permitted signs in the R-3, Limited Multiple-Family Residential, and R-4, Multiple-Family Residential Districts are subject to the following restrictions:

1. The maximum height of a sign, including its structures, shall not exceed eight feet above the grade at street level or at the base of the sign, whichever is greater.

2. No animated signs shall be permitted.

3. All illuminated signs shall be shielded in such a way as to protect the rights of adjacent property owners from nuisance.

4. The sign number and area permitted by this division are considered maximums. These maximums, or any portions thereof which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such persons, or to any other persons, or to any other owners, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the R-3 and R-4 Districts, the following signs shall require a conditional use permit:

1. A dynamic LED sign used in conjunction with a religious institution.

2. A dynamic LED sign used in conjunction with an educational institution.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the R-3, Limited Multiple-Family Residential, and R-4, Multiple-Family Residential Districts are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten minutes of display time.

(11) Signs in LB, Limited Business District.

(a) Permitted signs. In the LB, Limited Business District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building not to exceed 50 square feet of total surface area for all sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

2. One freestanding pylon sign only if the building or structure is located adjacent to a state trunk highway and located 20 feet or more from the front lot line, not to exceed 40 square feet per surface, and limited to two surfaces.

3. If not located adjacent to a state trunk highway and/or where the 20-foot setback cannot be met, one monument sign not to exceed 40 square feet in size, limited to two sides, not to exceed 8 feet in height, and set a minimum of 5 feet from any property line.

4. Any pylon or monument sign must be a minimum of five feet from any building or structure on the same lot.

5. One wall sign on each side of the building which faces a public alley, not to exceed four square feet per surface and limited to one surface per sign.

6. One area identification sign for each shopping center not to exceed 50 square feet per surface, and limited to four surfaces, in addition to one wall sign for each primary use business not to exceed 50 square feet per surface, limited to one surface.

7. One identification sign for each use other than primary use not to exceed two square, feet per surface, and limited to one surface.

8. One wall sign per building with an area of the lesser of 20 square feet or 1/2 square foot for each front foot of a building or structure provided that the said sign is located on the same side of the building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

(b) Restrictions on permitted signs. Permitted signs in the LB, Limited Business District, are subject to the following restrictions:

1. Total sign area shall not exceed two square feet for each front foot of the building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a pylon sign including its structure shall not exceed 20 feet above grade at street level or at the base of the sign, whichever is greater. The maximum height of a monument sign including its structure shall not exceed 8 feet above grade at street level or at the base of the sign, whichever is greater.

3. The sign number and area permitted by this section are considered maximums. These maximums, or any portion thereof, which are not utilized by the owner, occupant or user of property are non-

transferable to any other property owned, occupied or used by such persons, or to any other owner, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the LB District, the following signs shall require a conditional use permit:

1. A dynamic LED sign used in conjunction with a commercial business.

2. A dynamic LED sign used in conjunction with a religious institution.

3. A dynamic LED sign used in conjunction with an educational institution.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the LB, Limited Business District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each 10 seconds of display time for commercial businesses.

4. Dynamic LED signs may change its message with a frequency of no less than one message for each ten minutes of display time for religious or educational institutions.

(12) Signs in CBD, Central Business District.

(a) Permitted signs. In the CBD, Central Business District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building not to exceed 100 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of the building that faces abutting residential parcel.

2. One monument sign not to exceed 50 square feet in size, limited to two sides, not to exceed ten feet in height, and set a minimum of five feet from any property line.

3. Any monument sign must be a minimum of five feet from any building or structure on the same lot.

4. One wall sign on each side of the building that faces a public alley, not to exceed four square feet per surface and limited to one surface per sign.

5. One area identification sign for each shopping center not to exceed 100 square feet per surface, and limited to four surfaces; one wall sign for each primary use business, not to exceed 100 square feet per surface and limited to one surface.

6. One identification sign for each user other than the primary use, not to exceed two square feet per surface, and limited to one surface.

7. One wall sign per building with an area of the lesser of 20 square feet or one-half square foot for each front foot of a building or structure provided that the said sign is located on the same side of the

building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

(b) Restrictions on permitted signs. Permitted signs in the CBD, Central Business District, are subject to the following restrictions:

1. Total sign area shall not exceed two square feet for each front foot of building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a monument sign, including its structures, shall not exceed eight feet above grade at street level or at the base of the sign, whichever is greater.

3. The sign number and area permitted by this division are considered maximums. These maximums, or any portion thereof, which are not utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such persons or any other owner, occupant or user of property in the same or other districts.

(c) Conditional use signs. In the CBD District, the following signs shall require a conditional use permit: dynamic LED signage.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the CBD, Central Business District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten seconds of display time.

(13) Signs in the GB, General Business District.

(a) Permitted signs. In the GB, General Business District, the following signs shall be permitted:

1. Any number of walls signs on any side of a building not to exceed 200 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

2. One freestanding pylon sign only if the building or structure is located adjacent to a state trunk highway and located 20 feet or more from the front lot line, not to exceed 75 square feet per surface and limited to two surfaces. Provided, however, that:

a. If the building contains more than 80,000 square feet of gross floor area or the site on which the building is located contains more than 90,000 square feet of surface area;

b. If the street frontage of the site on which the building or structure is located exceeds 150 feet in length; and

c. If the building is located 20 feet or more from the front lot line and is located adjacent to a state trunk highway, a second freestanding sign not to exceed 75 square feet and limited to two surfaces shall be permitted at a location at least 50 feet distant from any other freestanding sign and at least 25 feet distant from the lot line of any adjoining parcel of and other than a street or alley.

3. If not located adjacent to a state trunk highway where the 20-foot building setback cannot be met, one monument sign not to exceed 50 square feet in size, limited to two sides, not to exceed ten feet in height, and setback a minimum of five feet from any property line.

4. Any pylon or monument sign must be a minimum of five feet from any building or structure on the same lot.

5. One wall sign on each side of the building that faces a public alley, not to exceed four square feet per surface and limited to one surface per sign.

6. One area identification sign for each shopping center, not to exceed 100 square feet per surface, limited to four surfaces, in addition to one wall sign for each primary use business, not to exceed 100 square feet per surface, limited to one surface.

7. One identification sign for each use other than primary use, not to exceed two square feet per surface, and limited to one surface.

8. One wall sign per building with an area of the lesser of 20 square feet or 1/2 square foot for each front foot of a building or structure provided that the said sign is located on the same side of the building as an entrance approved by the City Building Official as a public entrance and provided that the said public entrance and sign faces a parking facility designated by the city as approved public parking.

(b) Restrictions on permitted signs. Permitted signs in the GB, General Business District, are subject to the following restrictions:

1. Total signage shall not exceed two square feet for each front foot of building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a sign, including its structures, shall include only the surface area on the exterior façade of the premises occupied by such tenant, user or owner.

3. The maximum height of a pylon sign, including its structures, shall not exceed 25 feet above the grade at street level or at the base of the sign, whichever is greater. The maximum height of a monument sign, including its structures, shall not exceed eight feet above grade at street level or at the base of the sign, whichever is greater, unless the monument sign is located in the Design Overlay Highway District. In this case, the maximum height may be increased to ten feet above grade at street level or at the base of the sign, whichever is greater, if the principal structure is greater than or equal to 22 feet in height.

4. The sign number and area permitted by this section are considered maximum. These maximums, or any portion thereof, which hare not utilized by the owner, occupant or user of property are non-transferable to any other property owned, occupied or used by such persons or to any other owner, occupant or user of property in the same or other districts.

(c) Conditional use permits. In the GB District, the following signs shall require a conditional use permit: dynamic LED signage.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the GB, General Business District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten seconds of display time.

(14) Signs in I-1 and I-2 Industrial Districts.

(a) Permitted signs. In the 1-1, Light Industrial District, and the I-2, General Industrial District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building to exceed 100 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts residentially zoned land, no wall sign may be located on the side of building that faces abutting residential parcels.

2. One freestanding pylon sign only if the building or structure is located 20 feet or more from the front lot line, not to exceed 100 square feet per surface, and limited to two surfaces. Where the 20-foot setback cannot be met, one monument sign not exceed 50 square feet in size, limited to two sides, not to exceed 10 feet in height, and set a minimum of 5 feet from any building or structure on the same lot.

3. Any pylon or monument sign must be a minimum of five feet from any building or structure on the same lot.

4. One identification sign for each use other than primary use, not to exceed two square feet per surface and limited to one sign.

5. Billboards located adjacent to public streets with speed limits of 45 miles per hour or more, placed at a minimum of 1,500-foot intervals, not to exceed 100 square feet per surface and limited to two surfaces.

(b) Restrictions on permitted signs. Permitted signs in the I-1, Light Industrial District, and the I-2, General Industrial District, are subject to the following restrictions:

1. Total sign area shall not exceed two square feet for each front foot of building or structure. In the case of multiple occupancy, the wall surface for each tenant, user or owner shall include only the surface area on the exterior facade of the premises occupied by such tenant, user or owner.

2. The maximum height of a sign including its structures shall not exceed 25 feet above the grade at street level or at the base of the sign, whichever is greater. The maximum height of a monument sign, including its structures, shall not exceed 10 feet above grade at street level or at the base of the sign, whichever is greater.

3. The sign number and area permitted by this division are considered maximums. These maximums, or any portion thereof, which are not utilized by the owner, occupant or user of property are non-

transferable to any other property owned, occupied or used by such person or to any other owner, occupant or user of property located in the same or other districts.

(c) Conditional use signs.In the I-1 and I-2 Industrial Districts, the following signs shall require a conditional use permit: dynamic LED signage.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the I-1, Light Industrial District, and the I-2, General Industrial District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten seconds of display time.

(15) Signs in the PO, Public and Open Space District.

(a) Permitted signs. In the PO, Public and Open Space District, the following signs shall be permitted:

1. Any number of wall signs on any side of a building not to exceed 200 square feet of total surface area for all wall sign surfaces and limited to one surface per sign. Provided, however, that if a parcel of land on which a building is located directly abuts a residentially zoned land, no wall sign may be located on the side of the building that faces the abutting residential parcel.

2. One monument sign per street frontage for those public facility parcels that include governmental offices. Such signs shall not exceed 50 square feet in area, and shall be located no closer than five feet from any property line.

3. Any number of freestanding identification signage used to promote the name of a public city, regional or state park. Such signs shall be no greater than 40 square feet in area, shall not exceed ten feet in height, and shall be located no closer than five feet from any property line.

(b) Restrictions on permitted signs. Permitted signs in the PO, Public and Open Space District are subject to the following restrictions:

1. Total signage shall not exceed two square feet for each front foot of building or structure.

2. The maximum height of a monument sign shall not exceed ten feet in height.

3. The sign number and area permitted by this section are considered maximum. These maximums, or any portion thereof, which are not utilized by the owner or user of the property are non-transferable to any other property owned, occupied or used by such persons or to any other owner or user of property located in the same or other districts.

(c) Conditional use signs. In the PO District, the followings signs shall require a conditional use permit: a dynamic LED sign used in conjunction with a governmental facility.

(d) Restrictions on conditional use signs. Signs requiring a conditional use permit in the PO, Public and Open Space District, are subject to the following restrictions:

1. All signage must be approved through the conditional use permit process as outlined in § 9.104(H) above.

2. All signage must meet the requirements for dynamic LED signs as outlined in division (P)(8) above.

3. Dynamic LED signs may change its message with a frequency of no less than one message for each ten minutes of display time.

(16) Signs for nonconforming residential uses. Sign number and area for residential uses in commercial, business or industrial zones are limited to the maximum number and area for the actual use of the subject property.

(17) Minimum yard requirements–freestanding signs. The minimum front, side and rear yard requirements for freestanding signs shall be ten feet from any property line or as otherwise stated in this article. When the bottom edge of the freestanding pylon sign is eight feet or more above grade, the leading edge of the sign may extend within one foot of the property line. Provided, however, no freestanding sign shall invade the area required for traffic visibility by this division.

(Q) Erosion and sediment control.

(1) Purpose.

(a) During the construction process, soil is highly vulnerable to erosion by wind and water. Eroded soil endangers water resources by reducing water quality and causing the siltation of aquatic habitat for fish and other desirable species. Eroded soil also necessitates repair of sewers and ditches and the dredging of lakes.

(b) As a result, the purpose of this local regulation is to safeguard persons, protect property, and prevent damage to the environment in the city. This division will also promote the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the city. This division is to be used in supplement to the City Zoning Code, § 9.106 and to any other regulations as required by state agencies.

(2) Definitions. For the purpose of this division, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AS-BUILT PLANS. Record drawings of approved and as-constructed improvements.

BEST MANAGEMENT PRACTICES (BMPs). Erosion and sediment control and water quality management practices that are the most effective and practicable means of controlling, preventing, and minimizing degradation of surface water, including avoidance of impacts, construction phasing, minimizing the length of time soil areas are exposed, prohibitions, and other management practices published by state or designated area-wide planning agencies.

CLEARING. Any activity that removes the vegetative surface cover.

CONSERVATION EASEMENT. Legal land preservation agreement between a landowner and a municipality or a qualified land protection organization. The easement confers the transfer of usage rights from one party to another.

CONSTRUCTION ACTIVITY. A disturbance to the land that results in a change in the topography, or the existing soil cover (both vegetative and non-vegetative). Examples of construction activity may include clearing, grading, filling and excavating.

CONTRACTOR. The party who signs the construction contract. Where the construction project involves more than one contractor, the general contractor shall be the contractor that is responsible pursuant to the obligations set forth in this division.

DEVELOPER. The party who signs the development agreement with the city to construct a project.

DEWATERING. The removal of water for construction activity. It can be a discharge of appropriated surface or groundwater to dry and/or solidify a construction site. Minnesota Department of Natural Resources permits are required to be appropriated, and if contaminated, may require other MPCA permits to be discharged.

EROSION. The wearing away of the ground surface as a result of movement of wind, water, ice and/or land disturbance activities.

EROSION CONTROL. A measure that prevents erosion, including, but not limited to: soil stabilization practices, limited grading, mulch, temporary or permanent cover, and construction phasing.

EROSION CONTROL INSPECTOR. A designated agent given authority by the city to inspect and maintain erosion and sediment control practices.

FINAL GRADE. Excavation or fill of material to final plan elevation. Final grade completed as part of individual site development.

FINAL STABILIZATION. All soil disturbing activities at the site have been completed and a uniform (evenly distributed, without large bare areas) perennial vegetative cover, with a density of 70% of approved vegetative cover, for the area has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed.

GRADING. Excavation or fill of material, including the resulting conditions thereof.

GRADING, DRAINAGE AND EROSION CONTROL PERMIT. A permit issued by the municipality for the construction or alteration of the ground and for the improvements and structures for the control of erosion, runoff, and grading. Hereinafter referred to as GRADING PERMIT.

GRADING, DRAINAGE AND EROSION CONTROL PLANS. A set of plans prepared by or under the direction of a licensed professional engineer. Plans are required to indicate the specific measures and sequencing to be used to control grading, sediment and erosion on a development site during and after construction as detailed in the "Zoning Ordinance" and City SWPPP.

IMPERVIOUS SURFACE. A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include rooftops, sidewalks, patios, driveways, parking lots, storage areas, and concrete, asphalt, or gravel roads.

LAND DISTURBING ACTIVITY. Any land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands within the city's jurisdiction, including, but not limited to, clearing, grubbing, grading, excavating, transporting and filling.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES). The program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits under the Clean Water Act (Sections 301, 318, 402, and 405) and United States Code of Federal Regulations Title 33, Sections 1317, 1328, 1342, and 1345.

PERIMETER SEDIMENT CONTROL. A barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

PERMANENT COVER. Final site stabilization. Examples include turf, gravel, asphalt, and concrete.

PHASING. Clearing a parcel of land in distinct phases, with the stabilization of each phase completed before the clearing of the next.

PUBLIC WATERWAY. Any body of water, including, but not limited to, lakes, ponds, rivers, streams, and bodies of water delineated by the city or other state or federal agency.

PUBLIC WORKS DIRECTOR. A registered professional engineer with the State of Minnesota who has received training and is given authority by the city to review, authorize, approve, inspect, and maintain erosion and sediment control plans and practices.

ROUGH GRADE. Excavation or fill of material to a condition suitable for general maintenance.

SEDIMENT. The product of an erosion process; solid material, both mineral and organic, that is in suspension, is being transported, or has been moved by water, air, or ice, and has come to rest on the earth's surface, either above or below water level.

SEDIMENT CONTROL. Measures and methods employed to prevent sediment from leaving the site. Sediment control practices may include, but are not limited to, silt fences, sediment traps, earth dikes, drainage swales, check dams, subsurface drains, pipe slope drains, storm drain inlet protection, and temporary or permanent sedimentation basins.

SITE. A parcel of land or a contiguous combination thereof, where grading work is performed as a single unified operation.

STABILIZED. The exposed ground surface has been covered by appropriate materials such as mulch, staked sod, riprap, wood fiber blanket, or other material that prevents erosion from occurring. Grass seeding is not stabilization.

STANDARD PLATES. General drawings having or showing similar characteristics or qualities that are representative of a construction practice or activity.

START OF CONSTRUCTION. The first land-disturbing activity associated with a development, including land preparation such as clearing, grading, excavation and filling.

STORM WATER. Defined under Minn. Rules, part 7077.0105, subp. 41(b), and includes precipitation runoff, storm water runoff, snow melt runoff, and any other surface runoff and drainage.

STORM WATER POLLUTION PREVENTION PROGRAM (SWPPP). A program for managing and reducing storm water discharge that includes erosion prevention measures and sediment controls that, when implemented, will decrease soil erosion on a parcel of land and decrease off-site nonpoint pollution.

SURFACE WATER or WATERS. All streams, lakes, ponds, marshes, wetlands, reservoirs, springs, rivers, drainage systems, waterways, watercourses, and irrigation systems, whether natural or artificial, public or private.

TEMPORARY EROSION CONTROL. Methods employed to prevent erosion. Examples of temporary cover include: straw, wood fiber blanket, wood chips, and erosion netting.

WATERWAY. A channel that directs surface runoff to a watercourse or to the public storm drain.

WATER CONVEYANCE SYSTEM. Any channel that conveys surface runoff throughout the site.

WETLAND or WETLANDS. Defined in Minn. Rules, part 7050.0130, subp. F, and includes those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. Constructed wetlands designed for wastewater treatment are not waters of the state.

ZONING ORDINANCE. City code detailing city specifications for all plan requirements.

(3) Permits.

(a) Approval. No person shall be granted a grading permit for land-disturbing activity that would require the uncovering or distributing of material in excess of any of the following measurements without the approval of a Grading, Erosion and Sediment Control, and Storm Water Management Plan by the city.

1. Ten thousand square feet.

2. Five hundred cubic yards undeveloped land, or 50 cubic yards developed land.

3. Within 1,000 feet of a waterway.

(b) Exception. No grading permit is required for land disturbances under the amounts specified above, or for the following activities:

1. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

2. General establishment of new construction lawns, or the addition of four or fewer inches of topsoil.

3. Existing nursery and agricultural operations conducted as a permitted main or accessory use.

(c) Application requirements.

1. Each application shall bear the name(s) and address(es) of the owner or developer of the site, and of any consulting firm retained by the applicant, together with the name of the applicant's principal contact at such firm.

2. A filing fee and security as outlined by the city's Zoning Ordinance and subdivision (d) below.

3. A Grading, Erosion and Sediment Control, and Storm Water Management Plan meeting the requirements of this division. Each application shall include the required number of plans and other required materials as specified on the application form.

4. The application form shall include a statement by the applicant that any land clearing, construction, or development involving the movement of earth shall be in accordance with the approved Grading, Erosion and Sediment Control, and Storm Water Management Plan.

(d) Security.

1. The permittee will be required to file with the city an irrevocable, automatically renewing letter of credit, or other improvement security in the amount specified by the current city SWMDS for fee schedule.

a. The security shall cover all costs of engineering and inspection, site improvements, street sweeping, repairs to erosion control measures, and maintenance of improvements for such period as specified by the city. Such deposit shall be provided prior to the release of the grading permit.

b. Deposit shall be released after final stabilization is complete, erosion control measures have been removed, and their removal area inspected.

2. Individual lot developers shall be required to provide a bond with a building permit application.

a. The security shall cover city costs for street sweeping, installation, maintenance and repairs to erosion control measures. The bond will be in an amount as specified by the current city SWMDS for fee schedule.

b. The security shall be released after turf is established as specified in the City Zoning Ordinance.

(e) Procedure. The city will review each application for grading permit to determine its conformance with the provisions of this regulation and other applicable requirements. The city requires complete application no less than 15 working days in advance of the desired grading permit date. Upon complete application, the city shall, in writing:

1. Approve the permit application;

2. Approve the permit application, subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the permit subject to these conditions; or

3. Disapprove the permit application, indicating the reason(s) and procedure for submitting a revised application and/or submission;

4. Appeals of denial of permit shall be processed in accordance with appeal to the City Zoning Ordinance.

(4) Grading, Erosion and Sediment Control, and Storm Water Management Plan requirements.

(a) Plan requirements. Grading, erosion control practices, sediment control practices, storm water management practices, and waterway crossings shall meet the design criteria set forth in the Grading, Erosion and Sediment Control, and Storm Water Management Plan, and shall be adequate to prevent

transportation of sediment from the site to the satisfaction of the city. No land shall be disturbed until the plan is approved by the Public Works Director, and conforms to the standards set forth herein.

(b) The Grading, Erosion and Sediment Control, and Storm Water Management Plan shall comply with all of the NPDES general construction storm water permit requirements and the city's SWMDS for temporary erosion and sediment control, waste control, final stabilization and permanent water quality.

(5) Construction requirements. Construction specifications, waterway and watercourse protections requirements, and pollution prevention management measures shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.

(6) Inspection. Notification, procedures, material requirements, permittee inspection, authorization, and record keeping shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.

(7) Site maintenance. Responsibilities, maintenance requirements, and lapses regarding site maintenance shall comply, at a minimum, with all of the NPDES general construction storm water permit requirements, in addition to the city's SWMDS.

(8) Final stabilization requirements. Final stabilization is not complete until the criteria laid out in the NPDES general construction storm water permit and the city's SWMDS are met.

(9) Post-construction storm water management. All post-construction storm water management plans must be submitted to the Public Works Director prior to the start of construction activity. Standards for post-construction storm water management shall be as follows:

(a) Specifications. At a minimum, applicants shall comply with all of the NPDES general construction storm water permit requirements.

(b) Design criteria. Permanent storm water management systems shall meet the design criteria as provided in the city's SWMDS.

(c) Maintenance agreement. The applicant shall enter into a maintenance agreement with the city that documents all responsibilities for operation and maintenance of long-term storm water treatment BMPs. Such responsibilities shall be documented in a maintenance plan and executed through a maintenance agreement. All maintenance agreements must be approved by the city and recorded at the County Recorder's office prior to final plan approval. At a minimum, the maintenance agreement shall describe the following inspection and maintenance obligations:

1. The responsible party who is permanently responsible for inspection and maintenance of the structural and nonstructural measures.

2. Pass responsibilities for such maintenance to successors in title.

3. Allow the city and its representatives the right of entry for the purposes of inspecting all permanent storm water management systems.

4. Allow the city the right to repair and maintain the facility, if necessary maintenance is not performed, after proper and reasonable notice to the responsible party of the permanent storm water management system.

5. Include a maintenance plan that contains, but is not limited to, the following:

a. Identification of all structural permanent storm water management systems.

b. A schedule for regular inspections, monitoring, and maintenance for each practice. Monitoring shall verify whether the practice is functioning as designed and may include, but is not limited to, quality, temperature, and quantity of runoff.

c. Identification of the responsible party for conducting the inspection, monitoring, and maintenance for each practice.

d. Include a schedule and format for reporting to the city compliance with the maintenance agreement.

6. The issuance of a permit constitutes a right of entry for the city or its contractor to enter upon the construction site. The applicant shall allow the city and its authorized representatives, upon presentation of credentials, to:

a. Enter upon the permitted site for the purpose of obtaining information, examining records, conducting investigations or surveys.

b. Bring such equipment upon the permitted development as is necessary to conduct such surveys and investigations.

c. Examine and copy any books, papers, records, or memoranda pertaining to activities or records required to be kept under the terms and conditions of the permit.

d. Inspect the storm water pollution control measures.

e. Sample and monitor any items or activities pertaining to storm water pollution control measures.

f. Correct deficiencies in storm water and erosion and sediment control measures.

(10) Certification.

(a) Approved Grading, Erosion and Sediment Control, and Storm Water Management Plan. Plans for grading, stripping, excavating, and filling work, bearing the approval of the Public Works Director, shall be maintained at the site during the progress of the work.

(b) Procedure. The city will withhold issuance of building permits until the approved certified Grading Plan and Site Development Plan are on file with the city, all securities as required by this division are received, conservation posts are installed, and all erosion control measures are in place as determined by the Public Works Director.

(c) As-built Grading Plan and Development Plan. Within 60 days after completion of site development, as per the approved Grading, Erosion and Sediment, and Storm Water Management Plan, the developer shall provide the city with an As-built Grading Plan and Development Plan as defined in the City Zoning Ordinance.

(d) Removal of erosion control measures. The above-specified requirements will be authorized for removal upon the sodding of the rear yards, completion of punch list items involving ponds and slopes, final

stabilization, completion of proper turf establishment, and placement of the proper conservation easement posts and signs as specified. Inspection is required after the removal of erosion control measures to verify proper restoration. Please refer to City Zoning Ordinance for specifications.

(11) Enforcement.

(a) Notice of violation.

1. In the event that any work on the site does not conform to the approved erosion and sediment control plan, or any of the requirements listed in the provisions of this article, the Public Works Director, or his or her designee, shall issue a written notice of violation to the applicant, detailing the corrective actions necessary for compliance.

2. The applicant shall conduct the corrective actions within the time period determined by the city and stated in the notice.

3. If an imminent hazard exists, the city may require that the corrective work begin immediately.

(b) Stop work order/revocation of site development permit.

1. In the event that any person holding a site development permit pursuant to this article violates the terms of the permit or implements site development in such a manner as to materially adversely affect the health, welfare, environment, or safety of persons residing or working in the neighborhood or development site so as to be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood, the city may suspend or revoke the site development permit through the issuance of a stop work order, or the revocation of the site development or building permit.

2. The city may draw down on the grading permit security, with 30 days written notice to developer, for any violation of the terms of this contract related to landscaping, if the violation is not cured within such 30-day period, or if the security is allowed to lapse prior to the end of the required term. If the security is drawn down, the proceeds shall be used to cure the default.

3. No development, utility or street construction will be allowed and no building permits will be issued unless the development is in full compliance with the requirements of this subdivision.

(c) Violation and penalties.

1. No person shall construct, enlarge, alter, repair, or maintain any grading, excavation, or fill, or cause the same to be done, contrary to or in violation of any terms of this division. Any person violating any of the provisions of this division shall be deemed guilty of a misdemeanor and each day during which any violation of any of the provisions of this division is committed, continued, or permitted, shall constitute a separate offense.

2. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine as specified by the city ordinance for fee schedule for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this division shall be required to bear the expense of such restoration.

(R) Small wireless facilities.

(1) Purpose.

(a) The purpose of this division is to establish specific requirements for obtaining a small wireless facility permit for the installation, mounting, modification, operation, and replacement of small wireless facilities and installation or replacement of wireless support structures by commercial wireless providers on public and private property, including in the public right-of-way.

(b) This division does not apply to any wireline facilities, including wireline backhaul facilities. A wireless provider must obtain a small cell pole attachment permit pursuant to or other applicable authorization for use of the public right-of-way to construct, install, replace, or modify any wireline backhaul facility, such as fiber optic cable. The granting of a small wireless facility permit pursuant to this division is not a grant of such authorization.

(2) Definitions. In this division, the following terms shall have the meaning ascribed to them below:

APPLICABLE LAW. All applicable federal, state, and local laws, codes, rules, regulations, orders, and ordinances, as the same be amended or adopted from time to time.

APPLICANT. Any person submitting a small wireless facility permit application under this division.

CITY. The City of Columbia Heights, Minnesota.

COLLOCATE or COLLOCATION. To install, mount, maintain, modify, operate, or replace a small wireless facility on, under, within, or adjacent to an existing wireless support structure that is owned privately or by the city.

DAYS. Counted in calendar days unless otherwise specified. When the day, or the last day, for taking any action or paying any fee falls on Saturday, Sunday, or a federal holiday, the action may be taken, or the fee paid, on the next succeeding secular or business day.

DECORATIVE POLE. A utility pole owned, managed, or operated by or on behalf of the city or any other governmental entity that:

1. Is specifically designed and placed for an aesthetic purpose; and

2. a. On which a nondiscriminatory rule or code prohibits an appurtenance or attachment, other than:

i. A small wireless facility;

ii. A specialty designed informational or directional sign; or

iii. A temporary holiday or special event attachment; or

b. On which no appurtenance or attachment has been placed, other than:

i. A small wireless facility;

ii. A specialty designed informational or directional sign; or

iii. A temporary holiday or special event attachment.

DEPARTMENT. The Department of Public Works of the city.

DESIGN DISTRICT. Any district within the city within which architectural design elements are required.

DIRECTOR. The Director of the department.

EXCAVATE. To dig into or in any way remove, physically disturb, or penetrate a part of a public right-of-way.

FCC and COMMISSION. The Federal Communications Commission.

HISTORIC DISTRICT. A geographically definable area, urban or rural, that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically during the period of significance but linked by association or function.

MICRO WIRELESS FACILITY. A small wireless facility that is no larger than 24 inches long, 15 inches wide, and 12 inches high, and whose exterior antenna, if any, is no longer than 11 inches.

OBSTRUCT. To place a tangible object in a public right-of-way so as to hinder free and open passage over that or any part of the public right-of-way.

PERMITTEE. A person that has been granted a small wireless facility permit by the department.

PERSON. Any individual, group, company, partnership, association, joint stock company, trust, corporation, society, syndicate, club, business, or governmental entity. PERSON shall not include the city.

PUBLIC RIGHT-OF-WAY. The area on, below, or above a public roadway, highway, street, cartway, bicycle lane, and public sidewalk in which the city has an interest, including other dedicated rights-of-way for travel purposes and utility easement of the city.

SMALL WIRELESS FACILITY.

1. A wireless facility that meets both of the following qualifications:

a. Each antenna is located inside an enclosure of no more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all its exposed elements could fit within an enclosure of no more than six cubic feet; and

b. All other wireless equipment associated with the small wireless facility, excluding electric meters, concealment elements, telecommunications demarcation boxes, battery backup power systems, grounding equipment, power transfer switches, cutoff switches, cable, conduit, vertical cable runs for the connection of power and other services, and any equipment concealed from public view within or behind an existing structure or concealment, is in aggregate no more than 28 cubic feet in volume; or

2. A micro wireless facility.

SMALL WIRELESS FACILITY PERMIT. A permit issued by the department authorizing the installation, mounting, maintenance, modification, operation, or replacement of a small wireless facility or installation or replacement of a wireless support structure in addition to collocation of a small wireless facility on the wireless support structure.

UTILITY POLE. A pole that is used in whole or in part to facilitate telecommunications or electric service. It does not include a traffic signal pole.

WIRELINE BACKHAUL FACILITY. A facility used to transport communications data by wire from a wireless facility to a communications network.

WIRELESS FACILITY.

1. Equipment at a fixed location that enables the provision of wireless service between user equipment and a wireless service network, including:

a. Equipment associated with wireless service;

b. A radio transceiver, antenna, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration; and

c. A small wireless facility.

2. WIRELESS FACILITY does not include:

a. Wireless support structures;

b. Wireline backhaul facilities; or

c. Coaxial or fiber-optic cables between utility poles or wireless support structures, or that are not otherwise immediately adjacent to or directly associated with a specific antenna.

WIRELESS PROVIDER. A provider of wireless service, including, but not limited to, radio communication service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves and which permits a user generally to receive a call that originates and/or terminates on the public switched network or its functional equivalent, regardless of the radio frequencies used.

WIRELESS SERVICE. Any service using licensed or unlicensed wireless spectrum, including the use of wi-fi, whether at a fixed location or by means of a mobile device, that is provided using wireless facilities. WIRELESS SERVICE does not include services regulated under Title VI of the Communications Act of 1934, as amended, including a cable service under United States Code, Title 47, Section 522, Clause (6).

WIRELESS SUPPORT STRUCTURE. A new or existing structure in a public right-of-way designed to support or capable of supporting small wireless facilities, including, but not limited to, a utility pole or a building, as reasonably determined by the department.

(3) Small wireless facility permit applications.

(a) Application form. The Director shall develop and make publicly available a form application. To the extent possible, the Director shall allow for applications to be consolidated pursuant to this division. A complete application must be submitted for each small wireless facility permit desired.

(b) Consolidated applications. A wireless provider may apply for up to 15 small wireless facility permits in a consolidated application, provided all small wireless facilities in the consolidated application are located within a two-mile radius, consist of substantially similar equipment, and are to be collocated on similar types of wireless support structures. The department shall review a consolidated application as allowed by this division. If necessary, the applied-for small wireless facility permits in a consolidated application may be approved or denied individually, but the department may not use the denial of one or more permits as a

basis to deny all small wireless facility permits in a consolidated application. Any small wireless facility permits denied in a consolidated application shall be subject to a single appeal.

(c) Information not required. The department shall not require an applicant to provide any information that:

1. Has previously been provided to the department by the applicant in a small wireless facility permit application, if the applicant provides specific reference to the previous application containing the information sought by the department and the previous information remains unchanged; and

2. Is not reasonably necessary to review a small wireless facility permit application for compliance with generally applicable and reasonable health, safety, and welfare regulations, and to demonstrate compliance with applicable Federal Communications Commission regulations governing audio frequency exposure, or other information required by this division.

(4) Establishment of general standards.

(a) General standards. The Director shall establish and maintain a set of standards for the installation, mounting, maintenance, modification, operation, or replacement of small wireless facilities and placing new or replacement wireless support structures in the public right-of-way applicable to all permittees under this division. The general standards shall include, but not be limited to, information to be required in a small wireless facility permit application, design standards, construction standards, aesthetic standards, a form application, permitting conditions, insurance and security requirements, and rates and fees.

(b) Design standards. Any design standards established by the Director shall be:

1. Reasonable and nondiscriminatory; and

2. Include additional installation and construction details that do not conflict with this division, including, but not limited to, a requirement that:

a. An industry standard pole load analysis be completed and submitted to the city, indicating that the wireless support structure to which the small wireless facility is to be attached will safely support the load; and

b. Small wireless facility equipment on new and existing wireless support structures be placed higher than 15 feet above ground level.

3. The Director shall additionally include the following in any design standards established under this division.

a. Any wireless support structure installed in the public right-of-way after May 31, 2017, may not exceed 50 feet above ground level, unless the city agrees to a greater height, subject to local zoning regulations, and may be subject to separation requirements in relation to other wireless support structures;

b. Any wireless support structure replacing an existing wireless support structure that is more than 50 feet above ground level may be placed at the height of the existing wireless support structure, unless the city agrees to a greater height, subject to zoning regulations;

c. Wireless facilities constructed in the public right-of-way after May 31, 2017, may not extend more than ten feet above an existing wireless support structure in place as of May 31, 2017;

d. If necessary to collocate a small wireless facility, a wireless provider may replace a decorative pole if the replacement pole reasonably conforms to the design and aesthetic qualities of the displaced decorative pole, subject to the approval of the Director of Public Works;

e. A wireless provider shall comply with the city's requirements to install facilities underground, including, without limitation, in compliance with § 6.301 of the City Code; and

f. All small wireless facilities collocated or wireless support structures installed in a Design District or Historic District shall comply with any design or concealment or other measures required by the city.

(c) Construction standards. Any construction standards established by the Director shall include at least the following terms and conditions:

1. Compliance with applicable law. To the extent this requirement is not preempted or otherwise legally unenforceable, a permittee shall comply with all applicable law and applicable industry standards.

2. Prevent interference. A permittee shall collocate, install, and continuously operate any authorized small wireless facilities and wireless support structures in a manner that prevents interference with other wireless facilities and other facilities in the right-of-way and the operation thereof. With appropriate permissions from the department, a permittee shall, as is necessary for the safe and reliable operation, use, and maintenance of an authorized small wireless facility or wireless support structure, maintain trees as prescribed by standards promulgated by the department.

3. Other rights not affected. A permittee shall not construe a contract, permit, correspondence, or other communication from the city as affecting a right, privilege, or duty previously conferred or imposed by the department to or on another person.

4. Restoration. A permittee, after any excavation of a public right-of-way, shall provide for restoration of the affected public right-of-way and surrounding areas, including the pavement and its foundation, to the same condition that existed before the excavation. If a permittee fails to adequately restore the public right-of-way within a specified date, the department may:

a. Itself restore the public right-of-way and recover from the permittee the reasonable costs of the surface restoration; or

b. Recover from the permittee a reasonable degradation fee associated with a decrease in the useful life of the public right-of-way caused by the excavation.

5. A permittee that disturbs uncultivated sod in the excavation or obstruction of the public right-of-way shall plant grasses that are native to Minnesota and, wherever practicable, that are of the local eco-type, as part of the restoration required under this division, unless the owner of the real property over which the public right-of-way traverses objects. In restoring the public right-of-way, the permittee shall consult with the Department of Wildlife Conservation regarding the species of native grasses that conform to the requirements of this division.

6. Permittee’s liability. A permittee is solely responsible for the risk and expense of the collocation of the permittee’s small wireless facility and installing or replacing the permittee's wireless support structure. The city neither warrants nor represents that any area within the public right-of-way is suitable for such collocation or installation or replacement. A permittee shall accept the public right-of-way as is and where is

and assumes all risks related to any use. The city is not liable for damage to small wireless facilities due to an event of damage to a wireless support structure in the public right-of-way.

(5) Small wireless facility application review process.

(a) Eligibility for review. An application shall be eligible for review if the application conforms to the general standards adopted by the Director.

(b) Authorization. A small wireless facility permit issued pursuant to any application processed hereunder shall authorize:

1. The installation, mounting, modification, operation, and replacement of a small wireless facility in the public right-of-way or city-owned property; or

2. Construction of a new, or replacement of an existing, wireless support structure, and collocation of a small wireless facility on the wireless support structure.

(c) Review process. An application submitted pursuant to this section shall be reviewed as follows:

1. Submission of application. Applicant shall submit a complete application accompanied by the appropriate application fee as set forth in § 9.106(R)(15) to the department. Prior to submitting a small wireless facility permit application, an applicant shall inspect any wireless support structure on which it proposes to collocate a small wireless facility and determine, based on a structural engineering analysis by a Minnesota registered professional engineer, the suitability of the wireless support structure for the proposed collocation. The structural engineering analysis shall be submitted to the department with the application, and shall certify that the wireless support structure is capable of safely supporting the proposed small wireless facility considering conditions at the proposed location, including the condition of the public right-of-way, hazards from traffic, exposure to wind, snow and/or ice, and other conditions affecting the proposed small wireless facility that may be reasonably anticipated.

2. Application review period. The department shall, within 60 days after the date a complete application for the collocation is submitted to the department, issue or deny a small wireless facility permit pursuant to the application. The department shall, within 90 days after the date a complete application for a new or replacement wireless support structure in addition to the collocation of a small wireless facility is submitted to the department, issue or deny a small wireless facility permit pursuant to the application. If the department receives applications within a single seven-day period from one or more applicants seeking approval of small wireless facility permits for more than 30 small wireless facilities or ten wireless support structures, the department may extend the 90-day review period of this division by an additional 30 days. If the department elects to invoke this extension, it must inform in writing any applicant to whom the extension will be applied.

3. Completeness determination. The department shall review a small wireless facility permit application for completeness following submittal. The department shall provide a written notice of incompleteness to the applicant within ten days of receipt of the application, clearly and specifically delineating all missing documents or information. Information delineated in the notice is limited to documents or information publicly required as of the date of application and reasonably related to the department's determination of whether the proposed equipment falls within the definition of a small wireless facility and whether the proposed deployment satisfies all health, safety, and welfare regulations applicable to the small wireless facility permit request and complies with this division and applicable

standards promulgated by the department. If an applicant fails to respond to the department's notice of incompleteness within 90 days, the application shall be deemed expired and no small wireless facility permit shall be issued. Upon an applicant's submittal of additional documents or information in response to a notice of incompleteness, the department shall within ten days of submission notify the applicant in writing of any information requested in the initial notice of incompleteness that is still missing. Second or subsequent notices of incompleteness may not specify documents or information that were not delineated in the original notice of incompleteness.

4. Reset and tolling of review period. In the event that a small wireless facility permit application is incomplete, and the department has provided a timely and complete written notice of incompleteness, then the applicable review period shall be reset, pending the time between when a notice is mailed and the submittal of information in compliance with the notice. Subsequent notices shall toll the applicable review period. An applicant and the department can mutually agree in writing to toll the applicable review period at any time.

5. Moratorium prohibited. Notwithstanding any applicable law to the contrary, including, but not limited to, M.S. §§ 394.34 and 462.355, the department shall not establish any moratorium with respect to the filing, receiving, or processing of applications for small wireless facility permits, or issuing or approving small wireless facility permits.

6. Nondiscriminatory processing of applications. The department shall ensure that any application processed under this division is performed on a nondiscriminatory basis.

7. Permit not required. A permittee shall provide 30 days advance written notice to the department, but shall not be required to obtain a small wireless facility permit, or pay an additional small wireless facility permit fee for:

a. Routine maintenance;

b. The replacement of a small wireless facility with a small wireless facility that is substantially similar to or smaller in size; or

c. The installation, placement, maintenance, operation, or replacement of a micro wireless facility that is strung on a cable between existing utility poles, in compliance with the National Electrical Safety Code.

(6) Small wireless facility permit conditions.

(a) General conditions of approval. In processing and approving a small wireless facility permit, the department shall condition its approval on compliance with:

1. Generally applicable and reasonable health, safety, and welfare regulations consistent with the city's public right-of-way management;

2. Reasonable accommodations for a decorative pole;

3. Any reasonable restocking, replacement, or relocation requirements when a new wireless support structure is placed in the public right-of-way;

4. Construction of the proposed small wireless facility within six months from the date the small wireless facility permit is issued;

5. Obtaining additional authorization for use of the public right-of-way for the construction of wireline backhaul facilities or any other wired facilities;

6. Compliance with the city's general standards; and

7. Compliance with all applicable law.

(b) Generally applicable and reasonable health, safety, and welfare regulations. Generally applicable and reasonable health, safety, and welfare regulations for the purposes of this division include, without limitation, the following:

1. A structural engineering analysis by a Minnesota registered professional engineer certifying that a wireless support structure can reasonably support a proposed small wireless facility considering the conditions of the street, the anticipated hazards from traffic to be encountered at the proposed location, and any wind, snow, ice, or other conditions that may be reasonably anticipated at the proposed location;

2. A determination by the department that, based upon reasonable engineering judgment, a proposed small wireless facility is of excessive size or weight or would otherwise subject a wireless support structure to an unacceptable level of stress;

3. A determination by the department that, based upon reasonable engineering judgment, a proposed small wireless facility would cause undue harm to the reliability or integrity of the city’s electrical infrastructure or would likely violate generally applicable electrical or engineering principles;

4. A determination by the department that a proposed small wireless facility presents an unreasonable safety hazard as specifically and reasonably identified by the department;

5. A determination by the department that a proposed small wireless facility impairs the city’s ability to operate or maintain the public right-of-way;

6. A determination by the department that a proposed small wireless facility cannot be placed due to insufficient capacity and the infrastructure cannot be modified or enlarged consistent with the requirements of this division and the department’s general standards; or

7. A determination by the department that a proposed small wireless facility is in violation of the National Electric Safety Code or applicable law.

(c) Authorized use. An approval of a small wireless facility permit under this division authorizes the collocation of a small wireless facility on an existing wireless support structure to provide wireless services, or the installation or replacement of a wireless support structure and collocation of a small wireless facility, and shall not be construed to confer authorization to:

1. Provide any service other than wireless service;

2. Construct, install, maintain, or operate any small wireless facility or wireless support structure in a right-of-way other than the approved small wireless facility or wireless support structure; or

3. Install, place, maintain, or operate a wireline backhaul facility in the right-of-way.

(d) Other permits required. Any person desiring to obstruct or perform excavation in a public right-of-way within the city for purposes of collocating a small wireless facility or installing or replacing a wireless support structure shall, consistent with § 6.301 of City Code, obtain the necessary permit from the city prior to conducting any such activities.

(e) Exclusive arrangements prohibited. The city shall not enter into an exclusive arrangement with any person for use of a public right-of-way for the collocation of a small wireless facility or for the installation or operation of a wireless support structure.

(f) Unauthorized small wireless facility. No person shall install, mount, modify, operate, or replace a small wireless facility in the public right-of-way or on city-owned property, or install or replace a wireless support structure without first obtaining a small wireless facility permit from the city.

1. If an unauthorized small wireless facility or wireless support structure is discovered, the department shall provide written notice to the owner of the unauthorized small wireless facility within five days of discovery of the unauthorized small wireless facility. If an owner of an unauthorized small wireless facility or wireless support structure cannot be reasonably identified, the department need not provide any written notice.

2. If the owner of an unauthorized small wireless facility or wireless support structure can be reasonably identified, the department may remove the unauthorized small wireless facility or wireless support structure without incurring liability to the owner of the small wireless facility or wireless support structure and at the owner's sole expense no sooner than five days after providing notice of the department's discovery of the unauthorized small wireless facility or wireless support structure to the owner.

3. If the owner of an unauthorized small wireless facility or wireless support structure cannot be reasonably identified, the department may remove the unauthorized small wireless facility or wireless support structure without incurring liability to the owner of the small wireless facility or wireless support structure and at the owner's sole expense.

(g) Relocation. The department may require a permittee to relocate or modify a small wireless facility or wireless support structure in a public right-of-way or on city-owned property in a timely manner and at the permittee's cost if the department determines that such relocation or modification is required to protect public health, safety and welfare, or to prevent interference with other facilities authorized pursuant to this division, or to prevent interference with public works projects of the department.

(h) Security required. Each permittee shall submit and maintain with the department a bond, cash deposit, or other security acceptable to the department, in a form and amount determined by the department in accordance with the general standards, securing the faithful performance of the obligations of the permittee and its agents under any and all small wireless facility permits issued to the permittee under this division. If, in accordance with this division, the department deducts any amounts from such security, the permittee must restore the full amount of the security prior to the department's issuance of any subsequent small wireless facility permit. The department shall return or cancel the security should the permittee cease to operate any small wireless facilities in the right-of-way.

(i) Payment of fees required. A small wireless facility permit shall not be issued prior to the complete payment of all applicable fees.

(j) Notice of assignment required. A permittee upon or within ten calendar days after transfer, assignment, conveyance, or sublet of an attachment that changes the permit and/or billing entity or ownership responsibilities shall provide written notification to the department.

(7) Small wireless facility permit term. A small wireless facility permit for a small wireless facility in the public right-of-way shall have a term equal to the length of time that the small wireless facility is in use, unless the small wireless facility permit is revoked under this division or is otherwise allowed to be limited by applicable law. The term for all other small wireless facility permits shall be for a period of up to ten years.

(8) Denial or revocation of a small wireless facility permit.

(a) Permit denial. The department may deny any small wireless facility permit if the applicant does not comply with all provisions of this division, or if the department determines that the denial is necessary to protect public health, safety, and welfare, or when necessary to protect the public right-of-way and its current use.

(b) Permit revocation. The department may revoke a small wireless facility permit, with or without refund, in the event of a substantial breach of the terms and conditions of any statute, ordinance, rule, or regulation, or any material condition of the small wireless facility permit. A substantial breach includes, but is not limited to, the following:

1. A material violation by act or omission of a provision of a small wireless facility permit;

2. An evasion or attempt to evade any material provision of a small wireless facility permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;

3. A material misrepresentation of fact in a small wireless facility permit application;

4. A failure to correct, in a timely manner, collocation of a small wireless facility or installation or replacement of a wireless support structure that does not conform to applicable standards, conditions, or codes, upon inspection and notification by the department of the faulty condition;

5. A permittee fails to make timely payments of any fees due, and does not correct such failure within 20 days after receipt of written notice by the city of such failure;

6. A permittee becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt, or all or part of its small wireless facilities or wireless support structures are sold under an instrument to secure a debt and is not redeemed by the permittee within 60 days; or

7. A failure to complete collocation of a small wireless facility or installation, modification, or replacement of a wireless support structure within 270 days of the date a small wireless facility permit authorizing such activity is granted, unless the department and the permittee agree to extend the 270 day period or there is a lack of commercial power or communications transport infrastructure to the installation site.

(c) Written notice required. Any denial or revocation of a small wireless facility permit shall be made in writing and shall document the basis for the denial or revocation. The department shall notify the applicant or permittee in writing within three days of a decision to deny or revoke a small wireless facility permit. If a small wireless facility permit application is denied, the applicant may cure the deficiencies identified by the

department and submit its application. If the applicant resubmits the application within 30 days of receiving written notice of the denial, it may not be charged an additional filing or processing fee. The department must approve or deny the revised application within 30 days after the revised application is submitted. If small wireless facility permit or wireless support structure permit is revoked, the small wireless facility or wireless support structure shall be subject to removal in accordance with § 9.106(R)(11).

(9) City inspection of a small wireless facility or wireless support structure.

(a) Inspection permitted. The department may inspect, at any time, a permittee's collocation of a small wireless facility or installation or replacement of a wireless support structure. The department shall determine during an inspection whether the permittee's small wireless facility or wireless support structure is in accordance with the requirements of the permittee's applicable small wireless facility permit and other applicable law.

(b) Suspension of activities. During an inspection, if the department determines that a permittee has violated any material term of the permittee's small wireless facility permit or this division, the department may suspend the permittee's small wireless facility permit. The department shall provide prompt written notice of any suspension to a permittee, including the violations giving rise to the suspension. A suspension under this division is effective until a permittee corrects the alleged violation(s), at the permittee's sole expense. If the violation(s) are not corrected within 30 days after the date of such notice, the small wireless facility or wireless support structure shall be subject to removal in accordance with § 9.106(R)(11). A permittee may appeal any suspension issued under this division to the department as provided in § 9.106(R)(12).

(10) Abandoned small wireless facilities and wireless support structures. Where a small wireless facility or wireless support structure is not properly maintained or has not been used for the primary purpose of providing wireless services for 12 consecutive months, the department may designate the small wireless facility or wireless support structure as abandoned. The department shall provide written notice to a permittee within ten days of the permittee's small wireless facility or wireless support structure being designated as abandoned.

(11) Removal of a small wireless facility or wireless support structure.

(a) Removal permitted. The department may remove, at permittee's expense, or require a permittee to remove, any small wireless facility or wireless support structure if:

1. The small wireless facility permit or wireless support structure permit is revoked under this division or expires without renewal; or

2. The small wireless facility or wireless support structure is designated by the department as abandoned under § 9.106(R)(10).

(b) Notice to permittee; time to remove. The department shall provide written notice to the permittee that it must remove a small wireless facility or wireless support structure under this division, including the reasons therefor. If the permittee does not remove the small wireless facility or wireless support structure within 30 days after the date of such notice, the department may remove it at the permittee's expense without further notice to the permittee.

(12) Appeals. An applicant or permittee may have the denial or revocation of a small wireless facility permit, or fees and costs required by this division reviewed, upon written request, by the City Council or its

designee. The City Council or its designee shall act on a timely written request at its next regularly scheduled meeting. A decision by the City Council or its designee affirming a denial, revocation, or fee shall be in writing and supported by written findings establishing the reasonableness of the decision.

(13) Insurance.

(a) Minimum coverage. The department shall require that each permittee maintain in full force and effect, throughout the term of a small wireless facility permit, an insurance policy or policies issued by an insurance company or companies satisfactory to the city's Risk Manager. Such policy or policies shall, at a minimum, afford insurance covering all of the permittee's operations, vehicles, employees, agents, subcontractors, successors, and assigns as follows:

1. Workers' compensation, in statutory amounts, with employers' liability limits not less than $1,000,000 each accident, injury, or illness;

2. Commercial general liability insurance with limits not less than $2,000,000 each occurrence combined single limit for bodily injury and property damage, including contractual liability, personal injury, products and completed operations;

3. Commercial automobile liability insurance with limits not less than $2,000,000 each occurrence combined single limit for bodily injury and property damage, including owned, non-owned and hired auto coverage, as applicable; and

(b) Insurance requirements. Each permittee's insurance policy or policies are subject to the following:

1. Said policy or policies shall include the city and its officers and employees jointly and severally as additional insureds, shall apply as primary insurance, shall stipulate that no other insurance effected by the city will be called on to contribute to a loss covered thereunder, and shall provide for severability of interests.

2. Said policy or policies shall provide that an act or omission of one insured, which would void or otherwise reduce coverage, shall not reduce or void the coverage as to any other insured. Said policy or policies shall afford full coverage for any claims based on acts, omissions, injury, or damage which occurred or arose, or the onset of which occurred or arose, in whole or in part, during the policy period.

3. Said policy or policies shall be endorsed to provide 30 calendar days advance written notice of cancellation or any material change to the department.

4. Should any of the required insurance be provided under a claims-made form, a permittee shall maintain such coverage continuously throughout the term of a small wireless facility permit, and, without lapse, for a period of three years beyond the expiration or termination of the small wireless facility permit, to the effect that, should occurrences during the term of the small wireless facility permit give rise to claims made after expiration or termination of the small wireless facility permit, such claims shall be covered by such claims-made policies.

5. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general aggregate limit shall be double the occurrence or claims limits specified herein.

(c) Indemnity obligation. Such insurance shall in no way relieve or decrease a permittee's or its agent's obligation to indemnify the city pursuant to this division.

(d) Proof of insurance. Before the department will issue a small wireless facility permit, an applicant shall furnish to the department certificates of insurance and additional insured policy endorsements with insurers that are authorized to do business in the State of Minnesota and that are satisfactory to the department evidencing all coverages set forth herein.

(14) Indemnification and defense of city.

(a) Indemnification of city. As a condition of issuance of a small wireless facility permit, each permittee agrees on its behalf and on behalf of its agents, successors, or assigns to indemnify, defend, protect, and hold harmless the city from and against any and all claims of any kind arising against the city as a result of the issuance of the small wireless facility permit including, but not limited to, a claim allegedly arising directly or indirectly from the following:

1. Any act, omission, or negligence of a permittee or its any agents, successors, or assigns while engaged in the permitting or collocation of any small wireless facility or installation or replacement of any wireless support structure, or while in or about the public right-of-way that are subject to the small wireless facility permit for any reason connected in any way whatsoever with the performance of the work authorized by the small wireless facility permit, or allegedly resulting directly or indirectly from the permitting or collocation of any small wireless facility or installation or replacement of any wireless support structure authorized under the small wireless facility permit;

2. Any accident, damage, death, or injury to any of a permittee's contractors or subcontractors, or any officers, agents, or employees of either of them, while engaged in the performance of collocation of any small wireless facility or installation or replacement of any wireless support structure authorized by a small wireless facility permit, or while in or about the public right-of-way that are subject to the small wireless facility permit, for any reason connected with the performance of the work authorized by the small wireless facility permit, including from exposure to radio frequency emissions;

3. Any accident, damage, death, or injury to any person or accident, damage, or injury to any real or personal property in, upon, or in any way allegedly connected with the collocation of any small wireless facility or installation or replacement of any wireless support structure authorized by a small wireless facility permit, or while in or about the public right-of-way that are subject to the small wireless facility permit, from any causes or claims arising at any time, including any causes or claims arising from exposure to radio frequency emissions; and

4. Any release or discharge, or threatened release or discharge, of any hazardous material caused or allowed by a permittee or its agents about, in, on, or under the public right-of-way.

(b) Defense of city. Each permittee agrees that, upon the request of the department, the permittee, at no cost or expense to the city, shall indemnify, defend, and hold harmless the city against any claims as set forth in this division, regardless of the alleged negligence of the city or any other party, except only for claims resulting directly from the sole negligence or willful misconduct of the city. Each permittee acknowledges and agrees that it has an immediate and independent obligation to defend the city from any claims that actually or potentially fall within the indemnity provision, even if the allegations are or may be groundless, false, or fraudulent, which obligation arises at the time such claim is tendered to the permittee or its agent by the city and continues at all times thereafter. Each permittee further agrees that the city shall

have a cause of action for indemnity against the permittee for any costs the city may be required to pay as a result of defending or satisfying any claims that arise from or in connection with a small wireless facility permit, except only for claims resulting directly from the sole negligence or willful misconduct of the city. Each permittee further agrees that the indemnification obligations assumed under a small wireless facility permit shall survive its expiration or completion of collocation of any small wireless facility authorized by the small wireless facility permit.

(c) Additional requirements. The department may specify in a small wireless facility permit such additional indemnification requirements as are necessary to protect the city from risks of liability associated with the permittee's collocation of any small wireless facility or installation or replacement of any wireless support structure.

(15) Fees and costs.

(a) Application fees. The department shall charge a fee for reviewing and processing a small wireless facility permit application. The purpose of this fee is to enable the department to recover its costs directly associated with reviewing a small wireless facility permit application.

1. The department shall charge a fee of $500 for a small wireless facility permit application seeking to collocate up to five small wireless facilities. This fee shall increase by $100 for each additional small wireless facility that an applicant seeks to collocate.

2. The department shall charge a fee of $850 for a small wireless facility permit application seeking to install or replace a wireless support structure in addition to collocating of a small wireless facility on the wireless support structure.

(b) Annual small wireless facility permit fee. The department shall charge an annual small wireless permit fee for each small wireless facility permit issued to a permittee. The annual small wireless permit fee shall be determined by the Director and listed in the city's fee schedule. The annual small wireless permit fee shall be based upon the recovery of the city's rights-of-way management costs.

(c) City-owned wireless support structure fees. The department shall charge the following fees to the owner of any small wireless facility collocated on a wireless support structure owned by the city or its assigns located in the public right-of-way:

1. $150 per year for rent to occupy space on the wireless support structure;

2. $25 per year for maintenance associated with the space occupied on the wireless support structure; and

3. A monthly fee for electricity used to operate the small wireless facility, if not purchased directly from a utility, at the rate of:

a. $73 per radio node less than or equal to 100 max watts;

b. $182 per radio node over 100 max watts; or

c. The actual costs of electricity, if the actual costs exceed the above.

(d) City-owned property fees. The department shall charge an annual fee for collocating small wireless facilities on city-owned property not located in the public right-of-way. The department shall determine a reasonable and nondiscriminatory annual fee on a per location and per request basis.

(e) Discretion to require additional fees. In instances where the review of a small wireless facility permit application is or will be unusually costly to the department, the Director, in his or her discretion, may, after consulting with other applicable city departments, agencies, boards, or commissions, require an applicant to pay a sum in excess of the other fee amounts charged pursuant to this division. This additional sum shall be sufficient to recover the actual, reasonable costs incurred by the department and/or other city departments, agencies, boards, or commissions, in connection with a small wireless facility permit application and shall be charged on a time and materials basis. Whenever additional fees are charged, the Director, upon request, shall provide in writing the basis for the additional fees and an estimate of the additional fees. The department may not require a fee imposed under this division through the provision of in-kind services by an applicant as a condition of consent to use to city's public right-of-ways or to obtain a small wireless facility permit.

(f) Reimbursement of city costs. The department may determine that it requires the services of an expert in order to evaluate a small wireless facility permit application. In such cases, the department shall not issue a small wireless facility permit pursuant to the application unless the applicant agrees to reimburse the department for the actual, reasonable costs incurred for the services of a technical expert.

Section 3

The following language for Specific Development Standards is added, amended and deleted as provided in Section 9.107 of the City Code of 2005, is hereby established to read as follows:

(A) Purpose. The purpose of this section is to establish specific development standards that provide supplemental regulations to address the unique characteristics of certain land use.

(B) Applicability. The regulations set forth in this section shall apply to the specific use listed, whether it is identified as permitted, conditional or accessory within the applicable zoning district. These regulations shall be in addition to all other applicable regulations.

(C) Specific development standards. The following uses are subject to specific development standards:

(1) Adult entertainment use.

(a) Activities classified as obscene as defined by M.S. § 617.241 or successor statute, are prohibited.

(b) The use shall be located at least 1,000 feet from any other adult entertainment use.

(c) The use shall be located at least 1,000 feet from any facility with an on- or off-sale liquor, wine or beer license.

(d) The use shall be located at least 500 feet from any of the following protected uses: residentially-zoned property or residential use; licensed day care facility; public or private educational facility classified as an elementary, middle or junior high or senior high school; public library; public park; or religious institution or place of worship.

(e) An adult entertainment use lawfully operating as a conforming use is not rendered nonconforming by the subsequent location of any use listed above within 500 feet. If the adult entertainment use is

abandoned for a period of 90 days or more, it shall be deemed discontinued and subsequent use of the premises for adult entertainment will be required to meet the separation requirement.

(f) No more than one adult entertainment use shall be located on the property.

(g) The use shall not be located on any property that has a liquor license.

(h) Sign messages shall be generic in nature and shall only identify the type of business which is being conducted; signs shall not contain material classified as advertising.

(2) Animal kennel or shelter.

(a) Any activity conducted outdoors, including but not limited to play areas, outdoor runs, etc. shall be approved by the City Council through a Conditional Use Permit on a case-by-case basis.

(b) Outdoor kennels shall be prohibited.

(c) Outdoor activity spaces shall meet the following requirements:

1. The space shall be completely screened from abutting neighboring residential zoning districts or uses by a six-foot tall privacy fence that is at least 80 percent opaque.
2. The space shall be cleaned regularly so as not to create a nuisance as defined by the City Code.
3. Animal waste produced within the space shall not be allowed to directly enter the City's storm sewer system.

(d) All indoor activity shall include soundproofing and odor control.

(e) The kennel or shelter shall provide a minimum floor area of 48 square feet per dog and 20 square feet per cat or any other animal boarded at any one time, exclusive of office or storage area.

(f) Air temperature within the kennel or shelter shall be maintained between 60 degrees and 80 degrees Fahrenheit.

(g) Within the kennel area, wall finish material below 48 inches in height shall be impervious, washable materials such as sealed masonry, ceramic tile, glass board, or fiberglass reinforced plastic (FRP) panels.

(h) Floor finishes shall be sealed concrete, or another impervious surface approved by the City.

(i) Animal waste shall be immediately cleaned up with solid wastes being enclosed in a container of sufficient construction to eliminate odors and organisms. All animal waste shall be disposed of on a daily basis.

(j) The kennel or shelter shall provide sufficient, uniformly distributed lighting to the kennel area.

(3) Automobile convenience facility.

(a) The use shall be served by a major collector or higher functional classification of roadway.

(b) All buildings, canopies and pump islands shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(c) The storage of inoperable vehicles on the site is prohibited.

(d) The sale or repair of vehicles shall be prohibited.

(e) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(f) Canopy light fixtures shall be completely recessed within the canopy so that the lenses do not extend below the bottom surface of the canopy.

(g) Wherever fuel pumps are installed, pump islands shall be installed.

(h) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(i) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(j) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(k) There shall be no exterior display of merchandise for sale exceeding 50 square feet in area.

(l) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(m) A minimum of two access points for vehicular traffic shall be provided. Curb cuts shall be located no less than 50 feet from the intersecting right-of-way line on collector roadways and no less than 80 feet from the intersecting right-of-way line on arterial roadways.

(n) All new automobile convenience facilities must be located on a minimum of one acre of land.

(4) Automobile and motorcycle repair, major.

(a) All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces.

(b) All work shall be performed within a completely enclosed building.

(c) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automobile and motorcycle parts or storage of inoperable or salvage vehicles shall be prohibited.

(d) The sale of vehicles shall be prohibited, unless permitted by this article or allowed by conditional use.

(e) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from, residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(f) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(g) Any fuel sales or automobile convenience activities shall be subject to the applicable standards for automobile convenience facilities.

(h) All new major automobile and motorcycle repair facilities must be located on a minimum of one acre of land.

(5) Automobile and motorcycle repair, minor.

(a) All vehicles waiting for repair or pick-up shall be stored within an enclosed building or in designated off-street parking spaces.

(b) All work shall be performed within a completely enclosed building.

(c) All vehicles parked or stored on site shall display a current license plate with a current license tab. Outside storage of automobile and motorcycle parts or storage of inoperable or salvage vehicles shall be prohibited.

(d) The sale of vehicles shall be prohibited, unless permitted by this article or allowed by conditional use.

(e) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(f) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(g) Any fuel sales or automobile convenience activities shall be subject to the applicable standards for automobile convenience facilities.

(h) All new minor automobile and motorcycle repair facilities must be located on a minimum of one acre of land.

(6) Automobile and motorcycle sales/rental, new.

(a) The use shall be served by a major collector or higher classification of roadway.

(b) Outdoor vehicle display for used cars and motorcycles shall be limited to 30% of the total outdoor display area for a new car or motorcycle dealership. The display area shall be defined as the total number of parking spaces devoted to the sale of vehicles only, not including the required off-street parking spaces needed for the public and employees.

(c) Outdoor vehicle display areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(d) Outdoor vehicle display areas within the public right-of-way are prohibited.

(e) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(f) Outdoor vehicle display shall be within a designated area that is hard-surfaced.

(g) Outdoor vehicle display shall be in an orderly fashion, with access aisles provided as needed. The storage of inoperable, junk vehicles with expired tabs is prohibited.

(h) Music or amplified sounds shall not be audible from adjacent residential properties.

(i) Outdoor vehicle display shall not reduce the amount of off-street parking provided on site below the level required for the principal use.

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

(k) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(l) All new automobile and motorcycle sales/rental, (new) facilities must be located on a minimum of one acre of land.

(7) Automobile and motorcycle sales/rental, used.

(a) The use shall be served by a major collector or higher classification or roadway.

(b) An open-aired used auto, motorcycle and truck sales or rental lot as a stand-alone business is prohibited.

(c) Used automobiles and motorcycles may be sold or rented as a stand-alone business if the business if the used automobiles, motorcycles and associated business are contained within a building.

(d) Used automobiles and motorcycles may not be sold accessory to businesses other than new car and motorcycle dealerships.

(e) Outdoor vehicle display areas within the public right-of-way are prohibited.

(f) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(g) The outdoor storage of inoperable, junk vehicles and vehicles with expired tabs is prohibited.

(h) Music or amplified sounds shall not be audible from adjacent residential properties.

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

(j) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use included dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas, and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(k) All new automobile and motorcycle sales/rental, (used) facilities must be located on a minimum of one acre of land.

(8) Barbed wire fences.

(a) Barbed wire fences may only utilize a projecting arm to support the barbed wire, commencing at a point no less than six feet above the ground.

(b) At no point shall the projecting arm encroach into the city right-of-way or neighboring properties.

(9) Bed and breakfast home.

(a) The bed and breakfast home shall be part of an owner occupied residential structure and be operated by the property owner.

(b) No more than one non-resident shall be employed in the operation of the facility.

(c) The exterior appearance of the structure shall not be altered from its single-family residential character.

(d) The total number of guestrooms shall not exceed four in the R-3 and R-4 Zoning Districts and six in the LB Zoning District. All guest rooms shall be located within the principal structure.

(e) Separate kitchen facilities shall not be available for guests. Meals shall be prepared and served by the operator and shall be available to registered guests only.

(f) Guest stays shall be limited to no more than 14 consecutive days.

(g) Parking shall be accommodated on the property. Parking requirements for guests are in addition to those required for the principal residential use.

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

(i) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(10) Car wash.

(a) Water from the car wash shall not drain across any sidewalk or into any public right-of- way.

(b) Vacuum facilities shall be located in an enclosed structure or located at least 50 feet from any residential property line to avoid noise impacts.

(c) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(d) A sound study is required to determine the overall impact upon the surrounding properties and ensure compliance with performance standards and MPCA sound requirements.

(e) All new car washes must be located on a minimum of one acre of land.

(12) Concrete, asphalt, rock crushing operation.

(a) The use shall be located a minimum of 1,000 feet from any residentially-zoned property or any residential use.

(b) An air quality plan shall be submitted describing stationary and mobile source air emissions, their quantities and compositions, and indicating conformance with all applicable regulation.

(c) A dust management plan shall be submitted describing dust emissions sources, their quantities and compositions, how dust will be collected, managed and disposed of and indicating conformance with all applicable regulations.

(d) A sound attenuation plan shall be submitted describing sources of sound and indicating conformance with all applicable regulations.

(e) A vibration-dampening plan shall be submitted describing sources of vibration and indicating conformance with all applicable regulations.

(f) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(g) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(13) Community center.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(e) All accessory residential, school or day care uses shall be subject to the provisions of this article.

(14) Consignment/secondhand store.

(a) Consignment/secondhand stores shall be identified as stores whose primary existence is derived from more than 50% used, consigned, or secondhand merchandise. The use shall be located at least 3,000 feet from all existing consignment/secondhand stores, currency exchanges, pawnshops and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) Consignors shall not be paid for merchandise until the merchandise has been sold to a third party.

(f) An appointment or set hours shall be required for the acceptance of consignment or donated merchandise.

(g) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(h) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(15) Currency exchange.

(a) The use shall be located at least 3,000 feet from all existing currency exchanges, consignment/secondhand stores, pawnshops and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear of lightly tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(16) Day care center.

(a) The building and any exterior fenced areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(b) The play area shall be located away from the main entrance to day care, and shall be contained with a fence constructed of masonry, painted or treated wood or metal, at least five feet in height.

(c) For child day care facilities, at least 75 square feet of outside play area shall be provided for each child under care. If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility's care will be provided off-site within 1,500 feet of the facility. The City Manager, or his or her designee, is authorized to approve or deny this proposal.

(d) For adult day care facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided. If 150 square feet of outdoor is not available on the site, the property owner must submit a written proposal that demonstrates that recreational activities for adults under the facility's care will be provided off-site. The City Manager, or his or her designee, is authorized to approve or deny this proposal.

(e) The use shall provide a designated area for the short-term parking of vehicles engaged in loading and unloading of children or adults under care. The designated area shall be located as close as practical to the principal entrance of the building and shall be connected to the building by a sidewalk.

(f) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(h) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(i) Day care centers located in a school or religious institution building originally constructed for use as a school or religious institution shall be considered a permitted accessory use, provided the standards contained herein are met.

(j) Day care centers located within an existing commercial or industrial facility and used only by employees of the operation conducted on the site shall be considered a permitted accessory use, provided the standards contained herein are met.

(17) Day care, home.

(a) The building and any exterior fenced areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(b) The designated play area shall be contained with a fence constructed of masonry, painted or treated wood or metal, at least five feet in height.

(c) The exterior appearance of the structure shall not be altered from its single-family residential character.

(d) For child day care facilities, at least 50 square feet of outside play area shall be provided for each child under care.

(e) For adult day care facilities, at least 150 square feet of outdoor area for seating or exercise shall be provided for each adult under care.

(f) If there is not sufficient space for an outdoor play area on-site, then the property owner must submit a written proposal that demonstrates recreational activities for children under the facility's care will be provided off-site within 1,500 feet of the facility.

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

(h) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(18) Drive-up facility.

(a) The drive-up function shall be accessory to a conforming use.

(b) The use shall be served by a major collector or higher functional classification of roadway.

(c) The site shall accommodate vehicle stacking in accordance with the provisions of this article.

(d) Any speaker system shall not be audible from any residentially zoned property or any residential use.

(19) Drop-in facility.

(a) The use shall be located at least 3,000 feet from all existing drop-in facilities, consignment/secondhand stores, currency exchanges and pawnshops.

(b) The use shall conspicuously post legible signs at the public entrance advising patrons of the hours of operation of the facility and its meal service, if applicable.

(c) A waiting area for clients shall be provided which shall be available to clients one hour prior to the posted opening of the use and shall include toilet facilities.

(d) Trash receptacles shall be located at the public entrances.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(20) Employment agencies–temporary (day labor). The use shall be located at least 3,000 feet from all existing temporary employment agencies, consignment/secondhand stores, currency exchanges and pawnshops.

(21) Firearms dealer/shooting range.

(a) The use shall be located at least 300 feet from any residentially zoned property or any residential use.

(b) The use shall be located at least 500 feet from the following protected uses: licensed daycare facility; public or private educational facility classified as an elementary, middle or junior high or senior high school; public library; public park; or religious institution or place of worship.

(c) No firearms or ammunition shall be displayed in window areas or any area where they can be viewed from any public street or sidewalk.

(22) Food service, convenience (fast food).

(a) The use shall be served by a major collector or higher functional classification of roadway.

(b) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(c) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(d) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(e) Curb cuts shall be located no less than 50 feet from the intersecting right-of-way line on collector roadways and no less than 80 feet from the intersecting right-of-way line on arterial roadways.

(f) A drive-up facility shall also be subject to the standards for a drive-up facility.

(23) Freight terminal.

(a) Loading and unloading activities shall be located no less than 200 feet from any residential zoning district or residential use.

(b) Overnight facilities for drivers shall provide on-site management 24 hours a day. The name and telephone number of the on-site manager shall be filed with the city.

(24) Funeral home.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

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

(25) Greenhouses (residential).

(a) A residential greenhouse shall only be allowed for one- and two-family dwellings.

(b) A residential greenhouse structure shall not count against the total number of detached accessory structures allowed on a residential property.

(c) A residential greenhouse structure shall not count against the total allowable combined square footage of accessory structures allowed on a residential property.

(d) A residential greenhouse shall be allowed during the normal growing season only.

(e) When not in use, a residential greenhouse shall be dismantled.

(26) Hospital.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) Emergency vehicle access shall not be adjacent to or located across the street from any residential use.

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

(27) Multi-family in CBD.

(a) The residential use is secondary to and located above the ground floor commercial use.

(b) The maximum number of units allowed shall be limited to the area of the parcel divided by 2,000, times the number of floors above the ground floor commercial use.

(c) A minimum of one parking space shall be provided per residential unit within 400 feet of the most commonly used entrance.

(28) Nursing home.

(a) The use shall be served by a minor collector or higher functional classification of roadway.

(b) On-site services shall be for residents of the facility only.

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

(29) Outdoor sales/display.

(a) The outdoor sales/display use shall be accessory to a commercial use.

(b) All outdoor sales/display areas shall meet the setback requirements for a principal structure in the zoning district in which it is located.

(c) Outdoor sales/display areas within the public right-of-way are prohibited.

(d) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(e) All goods shall be displayed in a designated area that is hard-surfaced.

(f) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) The outdoor sales/display area shall not reduce the amount of off-street parking provided on-site below the level required for the principal use.

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

(30) Outdoor storage.

(a) The outdoor storage area shall be accessory to a commercial or industrial use.

(b) Outdoor storage within the public right-of-way is prohibited.

(c) All outdoor storage areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(d) Outdoor storage areas shall be located in rear yards or in the side yard behind the front building line of the principal structure.

(e) The storage area shall be fenced and screened from adjacent uses and the public right- of-way. Required screening shall consist of a fence, wall, earth berming and/or vegetation no less than six feet in height and no less than 80% opaque on a year round basis.

(f) All goods, materials and equipment shall be stored on an impervious surface.

(g) All goods, materials and equipment shall be stored in an orderly fashion, with access aisles of sufficient width to accommodate emergency vehicles as needed.

(h) The height of materials stored, excluding operable vehicles and equipment, shall not exceed the height of the screening provided.

(31) Pawnshop.

(a) The use shall be located at least 3,000 feet from all existing pawnshops, currency exchanges, consignment/secondhand stores and precious metal dealerships.

(b) The window and door area of any existing first floor facade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor facade along a public street or sidewalk shall be windows or doors of clear or lightly-tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk shall be prohibited.

(e) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(f) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(32) Precious metal dealership.

(a) The use shall be located at least 3,000 feet from all existing precious metal dealerships, pawnshops, currency exchanges and consignment/secondhand stores.

(b) The window and door area of any existing first floor façade along a public street or sidewalk shall not be reduced, nor shall changes be made to such windows and doors that block views into and out of the building at eye level.

(c) For new construction, at least 30% of the first floor façade along a public street or sidewalk shall be windows or doors of clear or lightly-tinted glass that allows views into and out of the building at eye level.

(d) The use of bars, chains or similar security devices that are visible from a public street or sidewalk is prohibited.

(e) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

(33) Recreational vehicle sales.

(a) The use shall be served by a major collector or higher classification of roadway.

(b) Outdoor vehicle display areas shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(c) Outdoor vehicle display areas within the public right-of-way are prohibited.

(d) A landscape buffer with a minimum depth of ten feet shall be installed and maintained along all abutting public rights-of-way.

(e) Outdoor vehicle display shall be within a designated area that is hard-surfaced.

(f) Outdoor vehicle display shall be in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) Outdoor vehicle display shall not reduce the amount of off-street parking provided on site below the level required for the principal use.

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

(j) Fuel pumps for the purpose of retail sale and dispensing of fuel to the general public shall be prohibited. If the use includes dispensing of fuel for the automobiles maintained on site, the use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor-tight fittings to eliminate the escape of gas vapors.

(k) All new recreational vehicle sales facilities must be located on a minimum of one acre of land.

(34) Recreational facility, indoor.

(a) The use shall be served by a minor collector or higher classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(35) Recreational facility, outdoor.

(a) The use shall be served by a minor collector or higher classification of roadway.

(b) The site shall be no less than five acres in size.

(c) The principal use of the site shall be the outdoor recreation facility, except for athletic fields that are accessory to an educational or community facility.

(d) The use shall be situated in such a way as to minimize the effects of lighting and noise on surrounding properties.

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

(f) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(36) Religious institution/place of worship.

(a) The facility shall be served by a minor collector or higher functional classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(e) All accessory residential, school or day care uses shall be subject to the provisions of this article.

(37) Residential care facility.

(a) If serving more than six residents, the use shall be located at least 1/4 mile (1,320 feet) from all existing residential care facilities or correctional residential care facilities, regardless of the licensing status of such facilities. Residential care facilities serving six or fewer residents shall be exempted from the distance radius and zoning regulations except as otherwise required by law.

(b) The use shall not be located in a two-family or multiple-family dwelling unless it occupies the entire structure.

(c) The facility shall be located on a parcel meeting the minimum lot size for a single- family dwelling plus an area of 300 square feet for each resident over six. The maximum number of residents may be specified as a condition of the conditional use permit in order to meet this requirement.

(d) On-site services shall be for residents of the facility only.

(e) The building and any exterior fenced areas shall meet the setback requirements of the zoning district in which the use in located.

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

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

(h) The primary purpose of the facility cannot be to treat juveniles who have violated criminal statutes relating to sex offenses or who have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses.

(i) The facility shall not provide accommodations to treat persons whose tenancy would constitute a direct threat to the health and safety of other individuals.

(j) The facility shall not accept court ordered referrals for treatment in lieu of incarceration without adequate security.

(k) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(l) If the size, location, licensing or purpose of the facility changes, a new or amended conditional use permit may be required.

(38) Residential care facility, correctional.

(a) The use shall be located at least 1/4 mile (1,320 feet) from all existing residential care facilities and correctional residential care facilities, regardless of the licensing status of such facilities measured from property line to property line.

(b) The use shall only be located in the I-1, Light Industrial District and the I-2, General Industrial District parcels throughout the city.

(c) The use shall not be located in a two-family or multiple-family dwelling unless it occupies the entire structure.

(d) The facility shall be located on a parcel meeting the minimum lot size for single-family dwelling plus an area of 300 square feet for each resident over two. The maximum number of residents shall not exceed four.

(e) On-site services shall be for residents of the facility only.

(f) The building and any exterior fenced areas shall meet the setback requirements of the zoning district in which the use in located.

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

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

(i) The facility shall meet all applicable housing, building and fire codes and be licensed as required by the State of Minnesota.

(j) If the size, location, licensing or purpose of the facility changes, a new or amended conditional use permit may be required.

(39) Salvage operation/transfer station.

(a) The use shall be located at least 500 feet from any residentially zoned property or any residential use.

(b) The use must comply with the minimum standards for operation, safety, storage and all waste management as identified in the most current version of MPCA Motor Vehicle Salvage Facility Environmental Compliance Manual or successor manual.

(c) The use must be served by a minor collector or higher functional classification of roadway.

(d) Buildings, parking areas, loading areas and any exterior storage shall meet the setback requirements for a principal structure in the zoning district in which the use is located.

(e) No vehicles or vehicle parts may be placed within the public right-of-way or on public property.

(f) Exterior storage shall be limited to a maximum height of 12 feet and shall be fully screened so that items stored do not exceed the height of the screening provided.

(g) An environmental management plan, including a storm water management and drainage plan, shall be submitted to address the impact of the facility on the environment.

(h) The salvage facility operator shall maintain a written record of all vehicles received, including the date received, date when fluids were removed and date removed from the facility. The record shall also include the vehicle identification number, make and model and shall be initiated on the date the vehicle is received at the facility.

(i) All fluids, including but not limited to motor oil, transmission and/or transfer case lubricants, differential lubricants, fuel, antifreeze, refrigerants and window washing fluids shall be removed from the vehicle within three days of receipt.

(j) All lead acid batteries, mercury containing devices and other hazardous materials shall be removed from the vehicle within three days of receipt.

(k) On-site burning of trash, refuse, garbage or other waste materials is prohibited.

(l) Salvage of materials by fire, burning, explosives or chemical decomposition is prohibited.

(40) School, K-12.

(a) The use shall include a regular course of study accredited by the State of Minnesota.

(b) The site shall be served by a major collector or higher classification of roadway.

(c) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(41) School, vocational/business.

(a) The site shall be served by a minor arterial or higher classification of roadway.

(b) The parcel upon which the use is located shall have a lot area no less than four times the area of the building footprint.

(c) A master plan shall be submitted that describes proposed physical development for the next five years and for the following five years. Said plan shall include a description of proposed development phases and plans, development priorities, the probable sequence of proposed development, estimated dates of construction and the anticipated interim use of property waiting to be developed.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) New construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(42) School, performing/visual/martial arts.

(a) The site shall be served by a minor collector or higher classification of roadway.

(b) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(c) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(43) Shopping center.

(a) Only uses that are allowed within the zoning district in which the shopping center is located, shall be allowed in the shopping center.

(b) Uses that require a conditional use permit, site plan review or other land use approval shall comply with all review and approval requirements of this article.

(c) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet shall be inspected regularly for purposes of removing any litter found thereon.

(44) Smoke shops.

(a) The smoke shop must have an entrance door opening directly to the outdoors.

(b) Greater than 90% of the business's gross revenue must be from the sale of tobacco, tobacco products or smoking related accessories.

(c) A tobacco department or section of any individual business establishment with any type of liquor, food or restaurant license shall not be considered a smoke shop.

(d) The total number of city-issued smoke shop licenses shall at no time exceed five.

(e) Any existing smoke shops at the time of the passage of Ord. 1570 shall comply fully with the ordinance by December 31, 2010.

(45) Transitional/emergency housing.

(a) Transitional/emergency housing shall be located at least 1/4 mile from all existing transitional/emergency housing.

(b) The maximum number of persons served shall not exceed 32.

(c) On-site services shall be for residents of the facility only, except where part of a regimen of scheduled post-residential treatment/service.

(d) To the extent practical, all new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(46) Two-family and twinhome dwellings.

(a) Street-facing garage doors must be recessed behind either the front facade of the living area portion of the dwelling or a covered porch, measuring at least six feet by eight feet, by at least five feet.

(b) If located on a corner lot, each unit of the duplex or twinhome shall have its address and entrance oriented to a separate street frontage.

(c) Vehicle access to a lot must be from an alley if the lot abuts an alley.

(47) Brewer taprooms and brew pubs.

(a) All malt liquor production shall be within a completely enclosed structure.

(b) Mechanical equipment shall be placed and/or screened so as to minimize the visual impact on adjacent properties and from public streets.

(c) In zoning districts where off-street parking is required, a transportation management plan shall be submitted to address off-street parking, bus and freight loading, and traffic control.

(d) Loading areas shall not be oriented toward a public street, nor shall loading docks be located on the side of any building facing an adjacent lot that is zoned residential. Where these districts or streets abut all sides of the property, the loading areas shall be screened by a solid wall or opaque fence with a minimum height of six feet, in addition to any required landscape buffer.

(e) Trash and/or recycling collection areas shall be enclosed on at least three sides by an opaque screening wall or fence no less than six feet in height. The open side of the enclosure shall not face any public street or the front yard of any adjacent property.

(f) By-products and waste from the production of malt liquor shall be properly disposed of off the property.

(g) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing litter found thereon.

(h) The facility shall meet all applicable building and fire codes, and shall be licensed as required by the state or county.

(48) Banquet halls.

(a) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings, and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(c) The facility shall meet all applicable building and fire codes, and shall be licensed as required by the state or county.

(d) A transportation management plan shall be submitted to address off-street parking, bus loading and unloading, traffic control, and the impact of the facility on surrounding roadways.

(e) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within 100 feet of the use shall be inspected regularly for the purposes of removing any litter found thereon.

(f) Music or amplified sounds shall not be audible from adjacent residential uses and must meet the requirements of city ordinances, to ensure consistent enforcement by the Police Department.

(49) Health/fitness clubs in LB, Limited Business districts.

(a) The health/fitness club shall not exceed 4,000 gross square feet in area.

(b) The use shall be served by a minor collector or higher classification roadway.

(c) To the extent practical, new construction or additions to existing buildings shall be complementary and compatible with the scale and character of the surroundings and exterior materials shall be compatible with those used in the immediate neighborhood.

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

(e) The parking supply requirements of § 9.105(L)(10) shall be satisfied via off-street parking or a combination of off-street parking and off-site parking. Off-site parking shall be located no more than 400 feet from the main entrance of the use being served.

(f) The City Council may establish limited business hours as a means of ensuring compatibility with surrounding uses.

(56) Seasonal Sales Stands

(a) The fireworks tent, display area, access aisles, and surrounding area shall be reviewed by the Community Development Department and the Fire Department and sale of fireworks shall meet all requirements of Chapter 24 of the Fire Code and NFPA Chapter 1124.

(c) Seasonal sales stands shall be accessory to a commercial use.

(d) Seasonal sales stands located within the public right-of-way are prohibited.

(e) All goods shall be displayed on a designated impervious surface area.

(f) All goods shall be displayed in an orderly fashion, with access aisles provided as needed.

(g) Music or amplified sounds shall not be audible from adjacent residential properties.

(h) The seasonal sales stand shall not reduce the amount of off-street parking provided one-site below the level required for the principal use.

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

(j) Signage shall be limited to two professionally made signs, with a combined square footage not exceeding 48 square feet.

(k) Seasonal sales stands may be allowed for a maximum of 90 days per calendar year.

Section 4

The following language for Commercial Districts is added, amended and deleted as provided in Section 9.110 of the City Code of 2005, is hereby established to read as follows:

(A) Purpose. The commercial districts are established to provide for a wide range of goods and services in locations throughout the community; provide employment opportunities; and enhance the livability of the community by providing convenient access to goods and services.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in a commercial district after the effective date of this article shall comply with all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within a commercial district shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in a commercial district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Development Standards.

(5) Compliance with specific development standards. Any use established, expanded or modified in a commercial district after the effective date of this article shall comply with the applicable provisions of § 9.107, Specific Development Standards.

(6) Prohibited uses. Any use not listed as either permitted, conditional or accessory in a particular district or any use not determined by the Zoning Administrator to be substantially similar to a use listed as permitted, conditional or accessory shall be prohibited in that district.

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the commercial districts shall be as specified in the following table.

	LB	***GB***	***CBD***
Minimum Lot Area	6,000 sq. ft.	6,000 sq. ft.	
Minimum Lot Width	50 ft.	40 ft.	20 ft.

	LB	***GB***	***CBD***
	LB	***GB***	***CBD***
Minimum Lot Depth			
Lot area per dwelling unit			
Single-family dwelling	6,500 sq. ft.		
Multiple-family dwelling			
Efficiency	1,200 sq. ft.		1,200 sq. ft.
One bedroom	1,800 sq. ft		1,800 sq. ft.
Two bedroom	2,000 sq. ft.		2,000 sq. ft.
Three bedroom	2,500 sq. ft.		2,500 sq. ft.
Additional bedroom	400 sq. ft.		400 sq. ft.
Congregate living units	400 sq. ft.		400 sq. ft.
Hotel or motel	400 sq. ft.		
Hospital	600 sq. ft.		
Building Setback Requirements			
Nonresidential/mixed-use front yard	none		
Residential front yard	5 ft.		
Front yard		15 ft.	none
Side yard	15 ft.	none	none
Corner side yard	10 ft.	15 ft.	1 ft.
Rear yard	20 ft.	20 ft.	10 ft.
Parking Setback Requirements			
Front yard	12 ft.	15 ft.	1 ft.
Side yard	5 ft.	5 ft.	none
Corner side yard	12 ft.	15 ft.	1 ft.
Rear yard	5 ft.	5 ft.	5 ft.

Maximum Building Height	35 ft.	35 ft.	none
Maximum Structure Height	35 ft. unless specified elsewhere	35 ft. unless specified elsewhere	none, unless specified elsewhere
Maximum Lot Coverage			
Floor area ratio		1.0	6.0

(D) LB, Limited Business District.

(1) Purpose. The purpose of the LB, Limited Business District is to provide appropriate locations for limited retail sales and services for the convenience of adjacent residential neighborhoods. These areas are located along collector or arterial roadways in close proximity to residential neighborhoods, arranged and designed to be a functional and harmonious part of the neighborhood, and accessible by public sidewalks or trails as well as by roadways.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the LB, Limited Business District:

(a) Multiple-family dwelling.

(b) Government office.

(c) Government protective service facility.

(d) Public park and/or playground.

(e) Clinic, medical or dental.

(f) Clinic, veterinary.

(g) Funeral home.

(h) Office

(i) Studio, professional

(j) Service, professional.

(h) Retail sales

(i) Food service, limited (coffee shop/deli)

(j) Museum/gallery

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the LB, Limited Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

(a) School, vocational or business.

(b) School, performing/visual/martial arts.

(c) Licensed day care facility, child or adult.

(d) Government maintenance facility.

(e) State licensed residential care facility.

(f) Congregate living facility, including rooming houses, group living quarters, nursing homes, senior housing, assisted living facility, traditional housing and emergency housing.

(g) Bed and breakfast home, when accessory to a single-family dwelling.

(h) Community center.

(i) Recreational facility, indoor.

(j) Recreational facility, outdoor.

(k) Single-family dwelling, when accessory to a commercial use.

(l) Hospital.

(m) Hotel or motel.

~~(n) Fences greater than six feet in height.~~

(n) Brewer taproom, not exceeding 2,000 barrels of malt liquor a year.

(o) Brew pub, not exceeding 2,000 barrels of malt liquor a year.

(p) Health/fitness clubs, not exceeding 4,000 gross square feet in area.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the LB, Limited Business District:

(a) Private garages, parking spaces and loading areas.

(b) Accessory buildings.

(c) Private swimming pools, tennis courts and other recreational facilities operated for the sole use and convenience of the residents of the principal use and their guests.

(d) Landscaping and other horticultural uses.

(e) Temporary construction buildings.

(f) Signs as regulated by § 9.106.

(g) Fences greater than six feet in height.

(E) GB, General Business District.

(1) Purpose. The purpose of the GB General Business District is to provide appropriate locations for general retail sales, services and other commercial developments that benefit from their proximity to other

commercial uses. These areas are located away from residential neighborhoods, along arterial roadways and are accessible primarily by automobile.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the GB, General Business District:

(a) Government office.

(b) Government protective service facility.

(c) Public park and/or playground.

(d) School, vocational or business.

(e) School, performing/visual/martial arts.

(f) Auditorium/place of assembly.

(g) Automobile convenience facility.

~~(h) Automobile and motorcycle repair, minor.~~

(h) Billiards hall.

(i) Bowling alley.

~~(k) Car wash.~~

(j) Clinic, medical or dental.

(k) Clinic, veterinary.

(l) Day care facility, adult or child.

(m) Financial institution.

(n) Food service, convenience (fast food).

(o) Food service, limited (coffee shop/deli).

(p) Food service, full service (restaurant/nightclub).

(q) Funeral home.

(r) Greenhouse/garden center.

(s) Health or fitness club.

(t) Hotel/motel.

(u) Laboratory, medical.

(v) Liquor store, off-sale.

(w) Museum or gallery.

(x) Office.

(y) Retail sales.

(z) Service, professional.

(aa) Shopping center.

(bb) Studio, professional.

(cc) Studio, radio and television.

(dd) Theater, live performance.

(ee) Theater, movie.

(ff) Motor vehicle parts store.

(gg) Brewer taproom.

(hh) Brew pub.

(ii) Arcade.

(jj) Parking ramp

(kk) Printing/Publishing

(ll) Club or lodge

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the GB, General Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

(a) Community center.

(b) Recreational facility (indoor and outdoor).

(c) Banquet hall.

(d) Government maintenance facility.

(e) Automobile and motorcycle sales/rental, new.

(f) Automobile and motorcycle sales, used (in building).

(g) Recreational vehicle sales, new.

(h) Recreational vehicle sales, used (in building).

(i) Firearms Dealer/Shooting range.

(j) Hospital.

(k) Outdoor sales or display.

(l) Outdoor storage

(m) Assembly, manufacturing and/or processing.

(n) Consignment/secondhand store.

(o) Currency exchange.

(p) Pawnshop.

(q) Drop-in facility.

(r) Animal kennel and/or shelter.

(s) Precious metal dealerships.

(t)Automobile and motorcycle repair, minor.

(u) Car wash.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the GB, General Business District:

(a) Private garages, parking spaces and loading areas.

(b) Accessory buildings.

(c) Landscaping and other horticultural uses.

(d) Incidental repair or processing necessary to conduct the permitted principal use, provided the accessory use does not exceed 30% of the floor area.

(e) Temporary construction buildings.

(f) Signs as regulated by § 9.106.

(g) Seasonal sales stands

(F) CBD, Central Business District.

(1) Purpose. The purpose of the CBD, Central Business District is to provide for the development and redevelopment of the established downtown core, including a mix of retail, financial, office, service and entertainment uses. Residential units are allowed within this district when located above a first floor commercial use.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the CBD, Central Business District:

(a) Multiple-family residential, when located above a first floor commercial use.

(b) Government offices.

(c) Government protective services facility.

(d) Public parks and/or playgrounds.

(e) School, vocational or business.

(f) School, performing/visual/martial arts.

(g) Auditorium/place of assembly.

(h) Billiards hall.

(i) Bowling alley.

(j) Clinic, medical or dental.

(k) Clinic, veterinary.

(l) Licensed day care facility, adult or child.

(m) Financial institution.

(n) Food service, convenience (fast food).

(o) Food service, limited (coffee shop/deli).

(p) Food service, full service (restaurant/nightclub).

(q) Health or fitness center.

(r) Hotel or motel.

(s) Laboratory, medical.

(t) Liquor store, off-sale.

(u) Museum or gallery.

(v) Office.

(w) Retail sales.

(x) Service, professional.

(y) Studio, professional.

(z) Studio, radio or televisions.

(aa) Theater, live performance.

(bb) Theater, movie.

(cc) Arcade

(dd) Parking ramp

(ee) Club or lodge

(ff) Printing/publishing

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the CBD, Central Business District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards

(a) Outdoor sales and/or display.

(b) Outdoor storage.

~~(c) Fences greater than six feet in height.~~

(c) Community center.

(d) Recreational facility (indoor/outdoor).

(e) Banquet hall.

(f) Brewer taproom.

(g) Brew pub.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the CBD, Central Business District:

(a) Private garages, parking spaces and loading areas.

(b) Landscaping and other horticultural uses.

(c) Incidental repair or processing necessary to conduct the permitted principal use, provided the accessory use does not exceed 30% of the floor area.

(d) Temporary construction buildings.

(e) Signs as regulated by § 9.106.

(f) Seasonal sales stand

(g) Fences greater than six feet in height.

(6) Off-street parking. The CBD, Central Business District, shall be considered an off-street parking district in which off-street parking is not required for nonresidential land uses. Residential uses, including those in mixed-use buildings, shall meet the parking requirements of § 9.106.

Section 5

The following language for Industrial Districts is added, amended and deleted as provided in Section 9.111 of the City Code of 2005, is hereby established to read as follows:

(A) Purpose. The industrial districts are established to enhance the community's tax base; provide employment opportunities; and accommodate industrial development while maintaining compatibility with surrounding areas.

(B) General provisions.

(1) Compliance with applicable regulations. Any use established in an industrial district after the effective date of this chapter shall comply will all applicable local, state and federal standards for such uses.

(2) Administration. The administration and enforcement of this section shall be in accordance with the provisions of § 9.104, Administration and Enforcement.

(3) Nonconformities. Nonconforming uses, structures, lots and signs within an Industrial District shall be subject to the provisions of § 9.105, Nonconformities.

(4) Compliance with general development standards. Any use established, expanded or modified in an industrial district after the effective date of this article shall comply with the applicable provisions of § 9.106, General Development Standards.

(5) Compliance with specific development standards. Any use established, expanded or modified in an industrial district after the effective date of this chapter that is identified in § 9.107, Specific Development Standards, shall comply with the applicable provisions of that section.

(6) Prohibited uses. Any use not listed as either permitted, conditional or accessory in a particular district or any use not determined by the Zoning Administrator to be substantially similar to a use listed as permitted, conditional or accessory shall be prohibited in that district.

(C) *Lot dimension, height, and bulk requirements.* Lot area, setback, height and lot coverage requirements for uses in the industrial districts shall be as specified in the following table:

	I-1	***I-2***
	I-1	***I-2***
Minimum Lot Area	10,000 sq. ft.	10,000 sq. ft.
Minimum Lot Width	80 ft.	80 ft.
Minimum Lot Depth		
Building Setback Requirements		
Front yard	20 ft.	20 ft.

Side yard	12 ft.	12 ft.
Corner side yard	15 ft.	15 ft.
Rear yard	24 ft.	24 ft.
Parking Setback Requirements		
Front yard	20 ft.	20 ft.
Side yard	5 ft.	5 ft.
Corner side yard	20 ft.	20 ft.
Rear yard	5 ft.	5 ft.
Maximum Height		
Maximum Lot Coverage		
Floor Area Ratio	1.0	1.0

(D) I-1, Light Industrial District.

(1) Purpose. The purpose of the I-1, Light Industrial District is to provide appropriate locations for industrial enterprises engaged in activities such as assembly, storage, warehousing and light manufacturing and further processing of materials first handled by general industry. These areas are located with easy access to arterial roadways and should be separated from residential uses by natural or manmade barriers.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the I-1, Light Industrial District:

(a) Community center.

(b) Government office.

(c) Government maintenance facility.

(d) Government protective service facility.

(e) Public park and/or playground.

(f) Recreational facility, indoor.

(g) Recreational facility, outdoor.

~~(h) Automobile and motorcycle repair, major.~~

~~(i) Automobile and motorcycle repair, minor.~~

(h) Laboratory, medical.

(i) Office.

(j) Studio, radio or television.

(k) Assembly, manufacturing and/or processing.

(l) Freight terminal.

(m) Maintenance facility.

(n) Office/showroom.

(o) Office/warehouse.

(p) Printing and/or publishing.

(q) Self-service storage facility.

(r) Warehousing and/or distribution.

(s) Pawnshops.

(t) Tattoo shops.

(u) Body piercing shops.

(v) Motor vehicle parts store.

(w) Brewer taproom.

(x) Retail Sales

(y) Parking ramp

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the I-1, Light Industrial District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

(a) Outdoor sales and/or display.

(b) Outdoor storage.

(c) Concrete, asphalt or rock crushing operation.

(d) Salvage operation/transfer station.

(e) Adult entertainment use.

(f) State licensed residential care facility, correctional.

(g) Barbed wire fences.

(h) Animal kennel and/or shelter.

(i) Automobile and motorcycle repair, major.

(j) Automobile and motorcycle repair, minor.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the I-2, Light Industrial District:

(a) Off-street parking and loading areas.

(b) Landscaping and other horticultural uses.

(c) Temporary construction buildings.

(d) Signs as regulated by § 9.106.

(e) Caretaker's residence

(f) Fences greater than seven feet in height.

(E) I-2, General Industrial District.

(1) Purpose. The purpose of the I-2, General Industrial District is to provide appropriate locations for industrial enterprises engaged in activities such as manufacturing, processing, assembly, storage and warehousing, which, because of their size and/or nature, require isolation from non- industrial uses. These areas are located with easy access to arterial roadways or railroads and should be separated from non-industrial uses by natural or manmade barriers.

(2) Permitted uses. Except as specifically limited herein, the following uses are permitted within the I-2, General Industrial District:

(a) Community center.

(b) Government office.

(c) Government maintenance facility.

(d) Government protective service facility.

(e) Public park and/or playground.

(f) Recreational facility, indoor.

(g) Recreational facility, outdoor.

~~(h) Automobile and motorcycle repair, major.~~

~~(i) Automobile and motorcycle repair, minor.~~

(h) Laboratory, medical.

(i) Office.

(j) Studio, radio or television.

(k) Assembly, manufacturing and/or processing.

(l) Freight terminal.

(m) Maintenance facility.

(n) Office/showroom.

(o) Office/warehouse.

(p) Printing and/or publishing.

(q) Self-service storage facility.

(r) Warehousing and/or distribution.

(s) Pawnshops.

(t) Tattoo shops.

(u) Body piercing shops.

(v) Motor vehicle parts store.

(w) Brewer taproom.

(x) Retail sales.

(y) Parking ramp

(3) Conditional uses. Except as specifically limited herein, the following uses may be allowed in the I-2, General Industrial District, subject to the regulations set forth for conditional uses in § 9.104, Administration and Enforcement, and the regulations for specific uses set forth in § 9.107, Specific Development Standards:

(a) Outdoor sales and/or display.

(b) Outdoor storage.

(c) Concrete, asphalt or rock crushing operation.

(d) Salvage operation/transfer station.

(e) Adult entertainment use.

(f) State licensed residential care facility, correctional.

~~(g) Fences greater than seven feet in height.~~

(g) Barbed wire fences.

(h) Automobile and motorcycle repair, major.

(i) Automobile and motorcycle repair, minor.

(4) Permitted accessory uses. Except as specifically limited herein, the following accessory uses shall be permitted in the I-2, Light Industrial District:

(a) Off-street parking and loading areas.

(b) Landscaping and other horticultural uses.

(c) Temporary construction buildings.

(d) Signs as regulated by § 9.106.

(e) Caretaker's residence

(f) Fences greater than seven feet in height.

Section 6

This Ordinance shall be in full force and effect from and after 30 days after its passage.

Offered by:
Seconded by:
Roll Call:

Second Reading:
Offered by:
Seconded by:
Roll Call:

Date of Passage:

Amáda Márquez Simula, Mayor

Attest:

Sara Ion, City Clerk/Council Secretary