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*This UDC, while not amending them, also needs to include the Flood Regulations – adopted in 2024), Traffic Impact Study Guidelines adopted in 2010, Building Design Guidelines adopted in in 2010 and Building Regulations – ~~CityCity~~ Code Chapter 150))

**Can an “Index” be added?

SECTION 1 TITLE, PURPOSE, AND INTENT

§ 1.001 TITLE

- (A) This ordinance shall be known, cited and referred to as the New Prague ~~Unified Development Code~~~~Zoning Ordinance~~, except as referred to herein, where it shall be known as this ordinance.

§ 1.002 INTENT AND PURPOSE

- (A) This Ordinance is adopted for the purpose of:
- (1) Protecting the public health, safety, comfort, convenience and general welfare.
 - (2) Dividing the area in the ~~cityCity~~ into zones and districts regulating therein the location, construction, reconstruction, alteration and use of structures and land.
 - (3) Promoting orderly development of the residential, business, industrial, recreational and public areas.
 - (4) Regulating the subdivision or platting of land in the ~~CityCity~~ of ~~new-New~~ Prague which is located in Scott County and Le Sueur County, Minnesota. The Minnesota Statutes authorize municipalities to regulate the subdivision and platting of land pursuant to Minnesota Statutes Section 462.358.
 - (5) Safeguarding the best interests of the ~~cityCity~~ and to assist a subdivider in harmonizing a subdivider’s interests with those of the ~~cityCity~~ at large.
 - (6) Provide for and guide the orderly, economic and safe development of land and urban services and facilities;
 - (7) Encourage well planned, efficient, and attractive subdivisions by establishing adequate standards for design and construction;
 - (8) Facilitate adequate provision for streets, transportation, ~~cityCity~~ water, ~~cityCity~~ sewer, storm drainage, schools, parks, playgrounds, and other public services and facilities;
 - (9) Assure that a reasonable portion of any proposed subdivision is dedicated to the public or preserved for public use as streets; parks; roads; sewers; electric, gas and water facilities; storm water drainage and holding areas or ponds; and similar utilities and improvements;

Commented [EG1]: Inconsistencies noted throughout the entire document, likely just due to age of the writing and how many iterations it’s been through:
- Use or disuse of the Oxford comma
- Standardization of proper nouns (ex, City, Conditional Use Permit)
- Standardization of Zoning Administrator, Planner, etc
- Number standardization. Sometimes its ten (10), sometimes 10, sometimes ten. There’s also a discrepancy with measurements, ex ten (10) inches vs ten inches (10”).
- Lists end inconsistently. Sometimes each statement ends with a period, sometimes each ends with a ;. Can be seen in 1.002(A)
- Some things are stated multiple times but worded differently (I specifically jotted down that everytime that a 6-month extension request is possible, it’s worded slightly differently)

Commented [FN2R1]: Did my best to update details

- (10) Assure that public improvements are constructed to adequate standards;
- (11) Place the cost of improvements against those benefiting from their construction;
- (12) Secure the rights of the public with respect to public land and waters;
- (13) Assure that new subdivisions are consistent with the comprehensive plan and overall development objectives of the cityCity;
- (14) Achieve a more secure tax base;
- (15) Set the minimum requirements necessary to protect the public health, safety, and general welfare.
- (16) Conserving and developing the natural resources in the cityCity.
- (17) Providing for the compatibility of different land uses and the most appropriate use of land throughout the cityCity.
- (18) Providing for the administration of this ordinance and defining the powers and duties of the administrating officer as provided hereinafter.
- (19) Prescribing penalties for the violation of the provisions in this ordinance or any amendment thereto.

SECTION 2 GLOSSARY AND RULES OF INTERPRETATION

§ 2.001 RULES AND DEFINITIONS

Rules

- (A) The language set forth in the text of this Ordinance shall be interpreted in accordance with the following rules of construction:
 - (1) The singular number includes the plural, and the plural the singular.
 - (2) The present tense includes the past and future tenses, and the future the present.
 - (3) The word "building" includes structure and dwelling.
 - (4) The word "person" includes individual, corporation, co-partnership, and association.
 - (5) The word "shall" is mandatory, and the word "may" is permissive.
 - (6) All measured distances expressed in feet shall be to the nearest tenth of a foot.
 - (7) In the event of conflicting provisions, the more restrictive provisions shall apply.

- (8) In the event that there is a word contained in this Ordinance which does not have a corresponding definition contained in Section 2.001 of this Ordinance, then the definition as stated in the Black's Law Dictionary shall prevail as the definition.

Definitions

Access Way - A public or private right-of-way across a block or within a block to provide non-vehicular access, to be used by the general public.

Accessory Dwelling Unit (ADU) - A smaller, independent residential dwelling unit located on the same lot as a single-family or two-family dwelling.

ADU, Attached - An accessory dwelling unit which involves an addition to the principal structure on a property to allow for the new secondary unit.

ADU, Detached - An accessory dwelling unit which is separate from the principal structure.

Accessory Use or Structure - A use or structure, or portion of a structure, subordinate to and serving the principal use or structure on the same lot.

Adjacent - To be separated by common property lines, lot lines, or an alley; abutting, adjoining, contiguous, or touching.

Agriculture - The term "agricultural" means the art or science of cultivating the soil and activities incident thereto; the growing of soil crops in the customary manner on open tracts of land; the accessory raising of livestock and poultry; farming. The term shall include incidental retail selling by the producer of products raised on the premises, provided that space necessary for parking of vehicles of customers shall be furnished off the public right of way.

Alley - Any dedicated public way affording a secondary means of vehicular access to abutting property, and not intended for general traffic circulation.

Alterations - Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as "altered" or "reconstructed".

Commented [EG3]: Inconsistent formatting throughout - I'm sure this will be fixed for final draft(s), just wanted to note it. Some have 2 lines between definitions, some only 1. Few different ways that the words are listed:
Access Way, definition
Access Way- definition
Access Way - definition
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Antenna - Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

Applicant - Any person or representative who wishes to obtain a building permit, zoning, or subdivision approval, or a permit to allow land-disturbing activities. Applicant also means that person's agents, employees, and others acting under this person's direction. Consent shall be required from the fee owner of the premises.

Assisted Living Facility — A residential facility with individualized services, which may include the following services: the provision of supervision and minimal assistance with independent living skills such as social and recreational opportunities, assistance with transportation, arranging for meetings and appointments, arranging for medical and social services, providing reminders to residents to take medications that are self-administered or providing storage for medications if requested, provision of assistance in the preparation and administration of medications other than injectables, the provision of therapeutic diets, taking vital signs, or providing assistance in dressing, grooming, bathing or with walking devices. Such facilities may also provide other services such as transportation, routine health and wellbeing services including but not limited to medical care and counseling, 24 hour oversight and providing living and sleeping facilities, meal preparation, laundry services, and room cleaning.

Automobile Repair, Major — Engine rebuilding or major reconditioning of worn or damaged motor vehicles or trailers; collision services including body, frame of fender straightening or repairs; and overall painting of vehicles.

Automobile Repair, Minor — The replacement of any part or repair of any part which does not require the removal of the engine head or pan, engine transmission or differential, incidental body and fender work, minor painting and upholstering service when said service above stated is applied to passenger automobiles and trucks not in excess of ~~twelve thousand~~ (12,000) pounds gross weight.

Barrel - A cylindrical container that can store approximately 31.5 U.S. liquid gallons.

Basement - A portion of a building located partly underground but having half or more of its floor to ceiling height below the average grade of the adjoining ground.

Bed and Breakfast Home - ~~—~~A house, or portion thereof, where short-term lodging rooms and meals are provided. The operator of the home shall live on the premises.

Bed and Breakfast Inn ~~—~~ A house, or portion thereof, where short-term lodging rooms and meals are provided. A resident manager must occupy the site when guests are present.

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 the degradation of surface water, including 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. Techniques proven to be effective in controlling runoff, erosion and sedimentation including those documented in the Minnesota Construction Site Erosion and Sediment Control Planning Handbook (BWSR, 1988); Protecting Water Quality in Urban Areas (MPCA, 2000); the Minnesota Urban Small Sites BMP Manual (Metropolitan Council 2001); and other sources as approved by the ~~City~~City as such documents may be amended, revised or supplemented.

Block - An area of land within a subdivision that is entirely bounded by streets or by streets and the exterior boundary or boundaries of the subdivision or by a combination of the above with a river, lake or park.

Bluff - A topographical feature such as a hill, cliff, or embankment in which the average grade of any portion of the slope is ~~thirty (30) percent~~30% or greater and there is at least a 25-foot rise in elevation.

Bluff Face - The area between the toe of the bluff and the top of the bluff.

Bluff Impact Zone - A 25-foot zone at the top of a bluff.

Bluff Overlay District - The Overlay District shown on the map: "Bluff Overlay District of the Scott WMO" where potential bluffs exist. This map is located in the office of the Scott WMO.

Bluff, Toe of - The lower side of a bluff where the average slope levels off to ~~188 percent~~ 18 percent or less.

Bluff, Top of - The point on a bluff where there is, as visually observed, a clearly identifiable break in the slope, from steeper to gentler slope above. If no break in slope is apparent, the top of the bluff shall be determined as the highest end of a ~~fifty (50-)~~ foot segment that exceeds ~~eighteen 18% (18-) percent~~ 18 percent slope.

Boarding House (Rooming or Lodging) - A building other than a motel or hotel where, for compensation and by prearrangement for definite periods, meals or lodgings are provided for ~~threethree (3)~~ three (3) or more persons, but not to exceed ~~twenty (20) 20~~ 20 persons.

Board - The Board of Zoning Appeals.

Boulevard - A portion of the street right-of-way between the curb line and the property line.

Brewery - A facility that annually produces more than 20,000 but less than 250,000 barrels of malt liquor.

Brewpub - A restaurant (as that term is defined in Minnesota Statutes, Section 340A.101) operated on the same premises as a Small Brewery whose malt liquor on- or off-sale retail sales per calendar year may be limited by MN State Statute but in no case exceeds 3,500 barrels annually. A Brewpub is not a Drinking Establishment.

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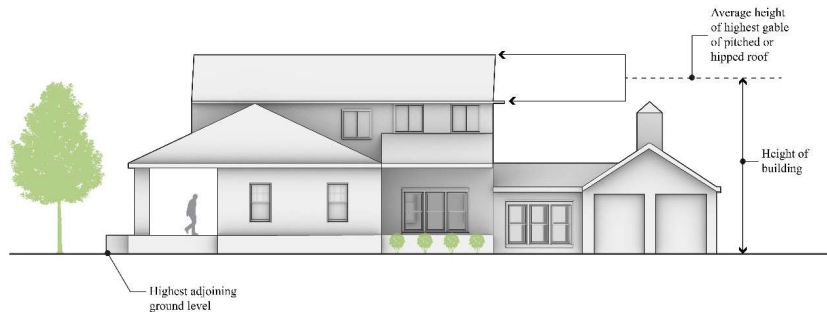
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Buffer - Land area used to visibly separate one (1) area from another or to shield or block noise, lights or other nuisances or an area of natural, unmaintained, undisturbed vegetated ground cover abutting or surrounding a watercourse, public waters wetland, or wetland.

Buildable Land - The net land area available for development determined by taking the gross land area in its pre-development condition and subtracting all delineated wetlands, rights-of-way, easements and floodplain areas.

Building - Any structure, either temporary or permanent, having a roof, and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind. This shall include tents, awnings or vehicles situated on private property and used for purposes of a building.

Building Height - The vertical distance measured from the established grade to the highest point of the roof surface for flat roofs, to the deck line of mansard roofs and to the average height between eaves and ridge for gable, hip and gambrel roofs.



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Building Line - A line parallel to the street right of way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right of way line.

Building, Main or Principal - A building in which is conducted the principal use of the lot on which it is situated.

Building Setback Line - A line parallel to the street right-of-way line at any story level of a building and representing the minimum distance which all or any part of the building is set back from said right-of-way line.

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

BWSR - The Minnesota Board of Water and Soil Resources.

Cannabis Business - has the same meaning as M.S. §342.01.

Cannabis Cultivation Business - a business with a cannabis cultivator license, medical cannabis cultivator license, or cultivation endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Delivery Business - a business with a cannabis delivery service license or delivery service endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Event Organizer - a business with a cannabis event organizer license or event organization endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Manufacturing Business - a business with a cannabis manufacturer license, or manufacturing endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Retail Business - a business with a cannabis retailer license, medical cannabis retailer license, lower-potency hemp edible retailer license, or retail endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Testing Business - a business with a cannabis testing facility license or testing endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Transportation Business - a business with a cannabis transporter license or transportation endorsement from the State of Minnesota Office of Cannabis Management.

Cannabis Wholesaling Business - a business with a cannabis wholesaler license or wholesaling endorsement from the State of Minnesota Office of Cannabis Management.

Car Wash -- A building or area that provides facilities for washing and cleaning motor vehicles, which may use production line methods with a conveyor, blower, or other mechanical devices, and which may employ some hand labor.

Cellar - That portion of a building having more than one-half (~~1/2~~^{1/2}) of the floor-to-ceiling height above the average grade of the adjoining ground. The cellar shall not be counted as a story for purposes of height limitations.

Certificate of Survey - A document prepared by a licensed professional engineer or licensed professional land surveyor which precisely describes area, dimensions and locations of a parcel or parcels of land.

Charging Level. The standard electrical service and equipment required to meet the charging level standards outlined in this ordinance.

Level 1 (L1). Electrical service and charging equipment operating on 120v outlets.

Level 2 (L2). Electrical service and charging equipment operating on 208/240v outlets.

Direct current fast charger (DCFC). Electrical service and charging equipment operating at greater than 240 volts.

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CityCity - The CityCity of New Prague.

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Clear-Cutting - The entire removal of a stand of vegetation.

Clinic -- Any establishment where human patients are examined, diagnosed or treated by licensed practitioners, and does not involve overnight stays. For this purpose, a licensed practitioner includes physicians, dentists, osteopaths, chiropractors, optometrists, psychologists, therapists, and physical therapists.

Commercial Wireless Telecommunication Services - Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobilized radio (ESMR), paging and similar services that are marketed to the general public.

Commissioner - The Commissioner of the Department of Natural Resources or Department of Public Safety. Appointed members of the Watershed Board or the Watershed Planning Commission.

Common Interest Community (CIC) -- A method of allocating the ownership of land and structures in a development as regulated by the Minnesota Condominium Act (Minnesota Statutes Chapter 515).

Community Center - A place, structure, area, or other facility used for and providing religious, fraternal, social, or recreational programs generally open to the public and designed to accommodate and serve significant specific segments of the community.

Compensatory Storage - Excavated volume of material below the floodplain elevation required to offset floodplain fill.

Comprehensive Plan - A compilation of goals, policy statements, standards, programs and maps for guiding the physical, social and economic development of the ~~city~~City and its environs and includes any unit or part of such plan separately adopted and any amendment to such plan or parts thereof.

Concept Plan - A sketch drawing or map which depicts a proposed subdivision by showing proposed lots, streets, use, relationship to surrounding area, generalized natural features, easements, and any requested zoning change and other information required by this ~~Ordinance~~chapter for review by the ~~city~~City.

Conditional Use - A use classified as conditional generally may be appropriate or desirable in a specified zone, but requires special approval because if not carefully located or designed it may create special problems such as excessive height or bulk or traffic congestion.

Condominium - A form of individual ownership within a multi-family building with joint responsibility for maintenance and repairs of the common property. In a condominium, each apartment or townhouse is owned out-right and each owner also owns a share of the land and other common property.

Construction Activity - A disturbance to the land that results in a change in the topography, existing soil cover (both vegetative and non-vegetative), or the existing soil topography that may result in accelerated stormwater runoff, leading to soil erosion and the movement of sediment into surface waters or drainage systems.

Conveyance - The sale, trading, donation, or offer of sale or other transfer of land.

Cooperative - A multi-unit development operated for and owned by its occupants. Individual housing units are not owned outright as in a condominium, but owners own shares in a total enterprise.

County - Scott and Le Sueur Counties in Minnesota.

Curb Level - The grade elevation established per the approved utility plans of the curb in front of the center of the building. Where no curb level has been established, the ~~City~~City Engineer shall determine a curb level or its equivalent for the purpose of this Ordinance.

Day Care Facility: Any state licensed facility, public or private, which for gain or otherwise regularly provides one (1) or more persons with care, training, supervision, habitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than ~~twenty-four~~ (24) hours per day. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity centers, day treatment programs, and day services as defined by Minnesota Statutes Chapter 245A.

Day Care Facility, In-home: Any state licensed facility where child care is provided in the principal residence as regulated by Minnesota Statute.

Dead Storage - The permanent pool volume of a water basin, or the volume below the runout elevation of a water basin.

Design Standards - The specifications to landowners or subdividers for the preparation of preliminary plans indicating, among other things, the optimum, minimum or maximum dimensions of such features as right-of-way and blocks as set forth in this ~~chapter~~Ordinance.

Detention Basin - Any natural or manmade depression for the temporary storage of stormwater runoff.

Development - The construction of any public improvement project, infrastructure, structure, street, or road, or the subdivision of land.

Dewatering - The removal of water for construction activity.

Distillery - A facility that produces ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use.

Drain or Drainage - Any method for removing or diverting water from waterbodies, including excavation of an open ditch, installation of subsurface drainage tile, filling, diking, or pumping.

Drainage Course - A water course or surface area for the drainage or conveyance of surface water, including channels, creeks, ditches, drains, rivers, and streams.

Drinking Establishment — A commercial establishment that derives the majority of its gross sales from the sale and dispensing of alcoholic beverages which are consumed on the premises.

Drive-thru Business — An establishment that, by design of physical facilities or by service or packaging procedures, encourages or permits customers to receive a service or obtain a product while in a motor vehicle on the premises.

Driveway - An area designed to provide vehicular access to a parking area or structure contained on the subject property.

Dwelling, Attached — A dwelling unit which is joined to another dwelling or building at one (1) or more sides by a party wall or walls.

Dwelling, Detached — A dwelling unit which is entirely surrounded by open space on the same lot with no common party walls.

Dwelling Unit - A residential building or portion thereof intended for occupancy by a single family but not including hotels, motels, boarding or rooming houses or tourist homes. There are two (2) principal types, single-family and multiple family which are grouped into two-family, duplex, twinhome, townhouse, and apartment groups.

Single-Family - A building in which a single housekeeping unit is maintained or intended to be maintained. A state licensed residential facility or assisted living facility serving six (6) or fewer persons, a licensed day care facility serving 12 or fewer persons, and a licensed group family day care facility to serve 14 or fewer children shall be considered a permitted single family residential use of property for the purposes of zoning in accordance with Minnesota Statutes 462.357 Subd 7.

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Two Family Dwelling or Duplex - A building in which two (2) housekeeping units are maintained or intended to be maintained.

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Twinhome -- A building designed exclusively for or occupied exclusively by no more than two (2) families living independently of each other with each unit located on a separate, single parcel of record, with the party wall separating the units acting as a dividing line.

Townhouse - A residential building containing two (2) or more dwelling units with at least one (1) common wall, each unit so oriented as to have all exits open to the outside.

Apartment or Multi-Family -- A room or suite of rooms with cooking facilities available which is occupied as a residence by a single family, or a group of individuals living together as a single family unit. This includes any unit in buildings with more than ~~two~~ two (2) dwelling units. --A state licensed residential facility serving from seven (7) through 16 persons or a licensed day care facility serving from 13 through 16 persons shall be considered a permitted multifamily residential use of property for purposes of zoning.

Easement - A grant by an owner of land for a specific use to persons or agencies other than the owner.

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ECS - Erosion and Sediment Control.

Efficiency Unit (Studio) - A dwelling unit with one (1) primary room which functions as a living room, kitchen, and bedroom.

Electric Vehicle Charging Station. Public or private battery charging station equipment with the primary purpose of transferring electric energy to a battery intended to operate an electric vehicle.

Energy Dissipation - Methods employed at pipe outlets or along pipe alignments to prevent erosion including but not limited to: concrete aprons, riprap, collars, splashguards, and gabions

Engineer - The person or persons, individual or corporate, designated from time to time by the CityCity Council as the CityCity Engineer.

Entertainment and Amusement Facilities — A facility which is designed for the entertainment of people, in which the audience may participate either passively as in watching, or actively, in an activity. Examples of entertainment and amusement facilities include movie theatres, bowling alleys, art galleries, comedy clubs, and museums. This would not include uses as defined in this Ordinance as Physical Recreation or Training, or Commercial Recreation uses.

Equal-Degree of Encroachment - A method of determining the location of floodway boundaries so that flood plain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

Erosion - The progressive wearing away of the ground surface as a result of wind, flowing water, ice movement, or land disturbing activities.

Erosion Control - Methods employed to prevent erosion. Examples include soil stabilization practices, horizontal slope grading, temporary or permanent cover, and construction phasing.

Essential Services - The erection, construction, alteration, or maintenance by private or public utilities, or municipal departments of underground, surface, or overhead services such as telephone, gas, electrical, steam, hot water, communication, water and sewage transmission and collection systems, and the equipment, appurtenances and related structures necessary for furnishing of adequate service by such private or public utilities or municipal departments. Essential services does not include personal wireless service antennas or support structures.

Excavation - Any breaking of ground, except common household gardening and ground care.

Exterior Storage (Includes Open Storage) - The storage of goods, materials, equipment, manufactured products and similar items not fully enclosed by a building. It shall also include

the keeping of recreational vehicles or recreational equipment for personal use of the property owner or resident in a residential zoning district.

Fall Zone - The area on the ground within a prescribed radius from the base of a personal wireless facility. The fall zone is the area within which there is a potential hazard from falling debris. Examples of this could be ice or collapsing material. The fall zone is hereby defined as 50-percent% of the height of the tower.

Family - An individual, or ~~two~~two (2) or more persons related by blood, marriage or adoption, or a group of not more than ~~four~~four (4) persons not so related, living together as a single housekeeping unit using common cooking and kitchen facilities.

Farm - A tract of land which is principally used for agricultural activities such as the production of cash crops, livestock or poultry farming. Such farms may include agricultural dwelling and accessory buildings and structures necessary to the operation of the farm.

Farm Animals — Those animals commonly associated with a farm or performing work in an agricultural setting. Farm animals include, but are not limited to members of the equestrian family (horses, mules), bovine family (cows, bulls), sheep, poultry (chickens, roosters, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees and other animals associated with a farm, ranch or stable.

Farm Implement Dealer — A retail business specializing in the sale of agricultural machinery and equipment.

Fence - Any partition, structure, wall or gate erected as a divider marker, barrier or enclosure and located along the boundary, or within the required yard.

Fill - The deposit of soil or other earth material by artificial means.

Final Plat - The final map, drawing, or chart on which the subdivider's plan of subdivision is

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presented to the ~~City~~City Council for approval and which, if approved and properly executed, will be submitted to Scott County or LeSueur County (depending on the jurisdiction) for recording in public records.

Financial institution - Any building wherein the primary occupation is concerned with such federal or state-regulated businesses as banking, savings and loans, loan companies, and investment companies

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Flood - A temporary rise in stream flow or stage that results in inundation of normally dry areas.

Flood Frequency - The average frequency, statically determined, for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

Flood Fringe - That portion of the flood plain outside of the floodway. Flood fringe is synonymous with the term "floodway fringe" used in the Flood Insurance Study for the ~~City~~City of New Prague.

Flood Plain - The areas adjoining a watercourse which have been or hereafter may be covered by the regional flood.

Flood-Proofing - A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.

Floodway - The channel of the watercourse and those portions of the adjoining flood plain which are reasonably required to carry and discharge the regional flood.

Floor Area - The sum of the horizontal areas of each story of the building measured from the exterior faces of the exterior walls. The floor area measurement is exclusive of areas of basements, unfinished attics, attached garages, breezeways and enclosed and unenclosed porches.

Frontage - That boundary of a lot which abuts an existing or dedicated public street.

Frontage Road - A local road or street auxiliary to and located on the side of a highway for service to abutting property and adjacent areas and for control of access.

Fuel Station — An establishment where the principal use is the sale of gasoline or any other automobile engine fuel (stored only in underground tanks), propane, kerosene, motor oil, lubricants, grease, electric energy for electric vehicles or minor accessories, directly to the public on the premises. In addition, household and convenience items, food or other miscellaneous retail goods commonly associated with the same also may be sold.

Funeral Home — A business that provides burial and funeral services for the deceased and their family members. These services may include a prepared wake and funeral, and the provision of a chapel for the funeral, but do not include any cremation services.

Garage, Private - An accessory building or accessory portion of the principal building which is intended for and used to store the private passenger vehicles of the family or families resident upon the premises.

Garage, Public - Any building or premises, except those used as a private or storage garage, used for equipping, repairing, hiring, selling or storing motor driven vehicles.

Governing Body - ~~City~~City Council of New Prague.

Grade - The average of the finished level at the center of the exterior walls of the building or the slope of a road, street, or other public way, specified in percentage terms.

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Hardship, Undue -As set forth in Minnesota Statutes Section 462.357, Subdivision 6.

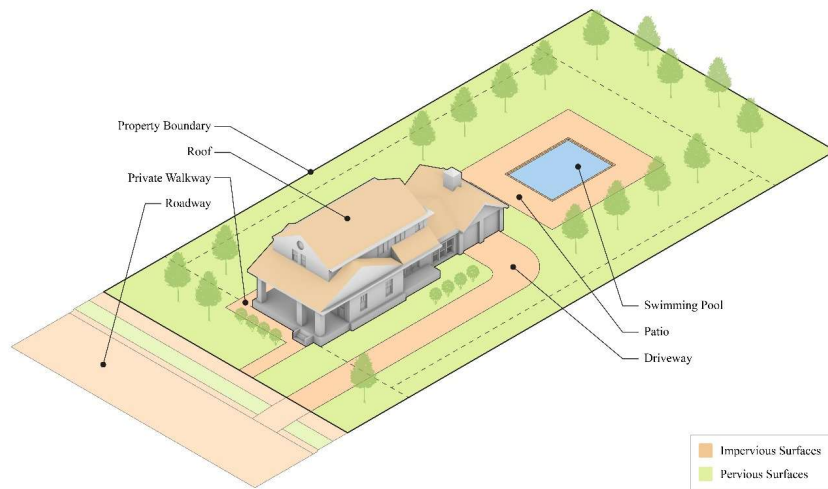
Health Care Facility — An institution providing health services primarily for human in-patient medical or surgical care for the sick and injured and including related facilities such as laboratories, out-patient, departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

~~Highly Susceptible Wetland Type—A wetland characterized as a sedge meadow; open or coniferous bog; calcareous fen; low prairie; coniferous or hardwood swamp; or seasonally flooded wetland.~~

Home Occupation - Any gainful occupation or profession engaged in by the occupant of a dwelling at or from the dwelling when carried on within a dwelling unit that is clearly a customary, incidental, and secondary use of the a residential dwelling unit and does not alter the exterior of the property or affect the residential character of the neighborhood. Such uses include professional offices, minor repair services, photo or art studios, dressmaking, barber shops, beauty shops, or similar uses, but does not include automotive repair.

Hotel - A building which provides a common entrance, lobby, halls and stairway and in which ~~twenty (20)~~20 or more people can be, for compensation, lodged with or without meals.

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, but are not limited to, rooftops, sidewalks, patios, driveways, parking lots, storage areas, concrete, asphalt, or gravel roads.



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Indoor Athletic Facility - An indoor facility, without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities.

Indoor Firing Range - A totally enclosed building that is equipped for the practice of shooting firearms at targets, including archery, where no activity associated with shooting is conducted outside the building and which is designed so that projectiles fired from firearms at targets are prevented, by means of backstops, berms or other barriers from going beyond the walls of the facility.

Industry, Heavy — A use engaged in the basic processing and manufacturing of materials or products predominately from extracted or raw materials.

Industry, Light — A use engaged in the manufacture, predominately from previously prepared materials, of finished products or parts.

Infiltration Area - A stormwater retention method for the purpose of reducing the volume of stormwater runoff by transmitting a flow of water into the ground through the earth's surface.

Infrastructure - The system of public works for a county, state, or municipality including, but not limited to, structures, roads, bridges, culverts, sidewalks; stormwater management facilities, conveyance systems and pipes; pump stations, sanitary sewers and interceptors, hydraulic structures, permanent erosion control and stream bank protection measures, water lines, gas lines, electrical lines and associated facilities, and phone lines and supporting facilities.

Interim Use — A temporary use of property until a particular date, until the occurrence of a particular event, or until zoning regulations no longer permit it.

Junk Yards/Salvage Yards - An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires and bottles.

Kennel, Commercial - Any lot or premises on which more than three (3) dogs, cats or other household pets are either permanently or temporarily boarded, bred or sold.

Land Disturbing or Development Activities - Any change of the land surface including removing vegetative cover, excavating, filling, grading, stockpiling soil, and the construction of any structure that may cause or contribute to erosion, or the movement of sediment into water bodies. The use of land for new and continuing agricultural activities shall not constitute a land disturbing activity under this Ordinance.

Landlocked Basin - A basin that does not have a natural outlet at or below the existing 100-year flood design elevation as determined using the Simplified Hydrologic Yield Method or other acceptable hydrologic analysis method identified in the Surface Water Management Plan, as amended.

Landscaping - ~~Planting trees, shrubs, and turf covers such as grasses and shrubs.~~ Landscaping shall also include native landscapes as defined by Minnesota Statutes 412.925.

Least Susceptible Wetland Type - A wetland characterized as a gravel pit, cultivated hydric soil, dredged material or fill, or material disposal site.

Loading Space - An off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

Local Government Unit (LGU) - The ~~City~~City of New Prague, Minnesota.

Local Water Plan - The ~~City~~City of New Prague's Surface Water Management Plan, as amended.

Lot - A parcel or portion of land in a subdivision or plat of land, separated from other parcels or portions by description as on a subdivision or record of survey map, for the purpose of sale or lease or separate use thereof.

Lot of Record - Any lot which is one (1) unit of a plat heretofore duly approved and filed, or ~~one~~ one (1) unit of an auditor's Subdivision or a Registered Land Survey that has been recorded in the office of the County Recorder.

Lot Area - The area of a lot in a horizontal plane bounded by the lot lines.

Lot, Corner - A lot situated at the junction of, and abutting on ~~two-two~~ (2) or more intersecting streets.

Lot Ceoverage - The area of the lot occupied by the principal buildings and accessory buildings.

Lot Depth - The mean horizontal distance between the front lot line and the rear lot line of a lot.

Lot, Double Frontage - An interior lot having frontage on ~~two-two~~ (2) streets.

Lot Line - The property line bordering a lot except that where any portion of a lot extends into the public right of way shall be the lot line for purposes of this Ordinance.

Lot Line, Front - That boundary of a lot which abuts an existing or dedicated public street, and in the case of a corner lot it shall be the shortest dimension on a public street. If the dimensions of a corner lot are equal, the front line shall be designated by the owner and filed with the County Recorder.

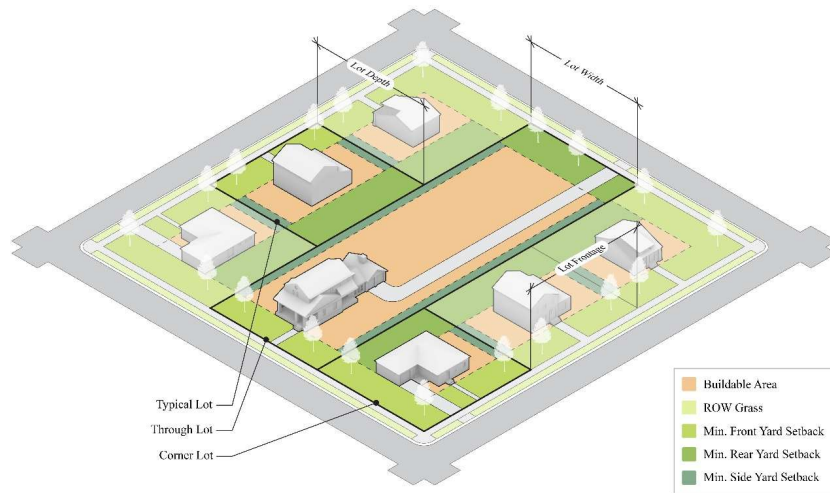
Lot Line, Rear - That boundary of a lot which is opposite the front lot line. If the rear line is less than ~~ten~~(10) feet in length, or if the lot forms a point at the rear, the rear lot line shall be a line ~~ten~~(10) feet in length within the lot, parallel to, and at the maximum distance from the front lot line.

Lot Line, Side - Any boundary of a lot which is not a front lot line or a rear lot line.

Lot, Substandard - A lot or parcel of land for which a deed has been recorded in the office of the County Recorder upon or prior to the effective date of this Ordinance which does not meet the minimum lot area, structure setbacks or other dimensional standards of this Ordinance.

~~Lot, Through - Any lot other than a corner lot that abuts more than (1) street or street right-of-way. On a through lot, all property lines abutting the street right-of-way shall be considered the front lines.~~

Lot Width - The horizontal distance measured at the front building setback line of a lot.



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Low Floor Elevation - The finished surface elevation of the lowest floor of a structure.

Lower-Potency Hemp Edible Retailer - a business with a lower-potency hemp edible retailer license from the Office of Cannabis Management.

Lower-Potency Hemp Edible Manufacturer - a business with a lower-potency hemp edible manufacturer license from the Office of Cannabis Management.

Mail Services - A commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S.Postal and private service), and provides mailboxes for lease.

Major Watershed - ~~One~~ one (1) of the 87 major watershed units delineated by the map titled State of Minnesota Watershed Boundaries, 1979, produced by the Minnesota Department of Natural Resources as included in the Wetland Conservation Act Minnesota Part Rules Chapter 8420.

Malt Liquor - ~~any~~ Any beer, ale, or other beverage made from malt by fermentation and containing not less than one-half of 1%~~one percent~~ alcohol by volume.

Manufactured/Modular Home -- A factory built, single-family structure that is manufactured under the authority of the Federal Manufactured Construction and Safety Standards, is transportable in ~~one~~ one (1) or more sections, and is used as a place of human habitation, but is not constructed with a permanent hitch or other device allowing transport of the unit other than for the purpose of delivery to a permanent site, and which does not have wheels or axles permanently attached to its body or frame.

Manufactured/Modular Home Park - Any site, lot, field or tract of land under single ownership, designated, maintained or intended for the placement of two (2) or more occupied homes. It shall include any buildings, structures, vehicles, or enclosures intended for use as part of the equipment of such mobile/manufactured home park.

Manufacturing, Light -- Fabrication, processing or assembly employing substantially noiseless and inoffensive power sources, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas, fumes, smoke, cinders, flashing or excessively bright lights, excessive refuse matter, electromagnetic radiation, heat or vibration.

Manufacturing, Heavy -- All manufacturing, compounding, processing, packaging, treatment or assembly of products and materials that may emit objectionable and offensive influences beyond the lot on which the use is located. Such uses include, but are not limited to the following: sawmill, refineries, commercial feedlots, acid, cement, explosives, flour, seed and grain milling or storage, meat packing, slaughter houses, coal or tar asphalt distillation, rendering of fat, grease, lard or tallow, alcoholic beverages, poisons, exterminating agents, glue or size, lime, gypsum, plaster or parts, tanneries, automobile parts, paper and paper products, glass, chemicals,

plastics, crude oil and petroleum products, including storage, electric power generation facilities, vinegar works, junkyard, auto reduction yard, foundry, forge, casting of metal products, rock stone, cement products.

Metes and Bounds Description - A description of real property which is not described by reference to a lot or block shown on a map, but is described by starting at a known point and describing the bearing and distances of the lines forming the boundaries of the property or delineates a fractional portion of a section, lot or area by describing lines or portions thereof.

Micro-distillery - A facility that produces Ethyl Alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, or other distilled spirits, including all dilutions and mixtures thereof, for nonindustrial use not to exceed 40,000 proof-gallons per calendar year.

Mini Storage/Self-Service Storage Facility — A building consisting of individual, small, self-contained units that are leased or owned for the storage of business or household goods.

Mining - The extraction of sand, gravel, rock, soil or other material from the land in the amount of 1,000 cubic yards or more and the removal thereof from the site. The only exclusion from this definition shall be removal of materials associated with construction of a building, provided such removal is an approved item in the building permit.

Minnesota Pollution Control Agency (MPCA) - The State organization responsible for the NPDES/SDS permitting system.

Moderately Susceptible Wetland Type - A wetland characterized as shrub-carr, alder thicket; fresh wet meadow not dominated by reed canary grass; or shallow or deep marsh not dominated by reed canary grass, cattail, giant reed, or purple loosestrife.

Motel - A building or group of detached, semi-detached, or attached buildings containing guest rooms or dwellings, with garage or parking space conveniently located to each unit, and which is designed, used or intended to be used primarily for the accommodation of automobile transients.

Motor Home or Recreation Vehicle - Any vehicle mounted on wheels and for which a license would be required if used on highways, roads or streets, and so constructed and designed as to permit occupancy thereof for dwelling or sleeping purposes and used for recreational purposes.

Motor Vehicle and Recreational Equipment Sales — The sale of new or used automobiles, trucks, motorcycles, recreational vehicles and equipment, boats and marine sales, that involve open and outdoor sales and display areas.

MSL - Mean Sea Level. It represents the average 19-year height of the surface of the sea for all stages of the tide.

Natural Waterway - A natural passageway on the surface of the earth so situated and having such a topographical nature that surface or percolating water flows through it from other areas before reaching a final ponding area.

Non-Conforming Lot — A lot of record, lawfully existing on the effective date of this ordinance, which does not comply with ~~one~~ one (1) or more of the lot area or lot width regulations applicable in the zoning district in which it is located because of the adoption of or an amendment to the regulations set forth in this Ordinance.

Non-Conforming Structure — A structure, or portion thereof, lawfully existing on the effective date of this Ordinance, which currently is not allowed, or which does not comply with ~~one~~ one (1) or more of the regulations applicable in the zoning district in which it is located because of the adoption of or an amendment to the regulations set forth in this Ordinance.

Non-Conforming Use — A use of land or structures, lawfully existing on the effective date of this ordinance, which currently is not allowed, or which does not comply with ~~one~~ one (1) or more of the regulations applicable in the zoning district in which it is located because of the adoption of or an amendment to the regulations set forth in this Ordinance.

Non-Point Source - Nutrient and pollution sources not discharged from a single point e.g. runoff from agricultural fields, feedlots or urban streets.

Normal Water Level (NWL) - For a reservoir with a fixed overflow, the NWL is the lowest crest level of that overflow. For a reservoir whose outflow is controlled wholly or partly by movable gates, siphons or other means, it is the maximum level to which water may rise under normal operating conditions, exclusive of any provision for flood storage. For a closed depression wetland, it is the maximum level to which the water may rise under normal precipitation conditions exclusive of any provision for flood storage.

NPDES/SDS - National Pollutant Discharge Elimination System (NPDES)/State Disposal System (SDS). This permitting system is managed by the Minnesota Pollution Control Agency (MPCA).

NRCS - The Natural Resource Conservation Service.

NURP - The Nationwide Urban Runoff Program developed by the Environmental Protection Agency to study storm water runoff from urban development.

Nursery, Landscape - A business growing and selling trees, flowering and decorative plants and shrubs and which may be conducted within a building or without, for the purpose of landscape construction.

Nursing Home - A building with facilities for the care of children, the aged, infirm, or place of rest for those suffering bodily disorder. Said nursing home shall be licensed by the Minnesota Department of Health.

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

Office Use — A facility in which the handling of information or the performing of administrative services is conducted as a principal building use. This includes services provided to persons both on-site and off-site on a walk-in or appointment basis.

Off-Sale - The sale of alcoholic beverages in original packages for consumption off the licensed premises only.

On-Sale - The sale of alcoholic beverages by the glass for consumption on the licensed premises only.

Ordinary High Water Mark (“OHW”) - A mark delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape. The ordinary high water mark is commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial.

Open Sales Lot (Exterior Storage) - Any land used or occupied for the purpose of buying and selling any goods, materials, or merchandise and for the storing of same under the open sky prior to sale.

Outdoor Seating - A commercial seating area for business patrons which is not located in an “Indoor Area” as defined by Minnesota Statute Section 144.413 Subdivision 1a.

Outdoor Wood-Fired Boiler — A fuel burning device designed: (1) to burn primarily wood by hand-firing; (2) not to be located inside structures ordinarily occupied by humans; and, (3) to heat spaces or water by the distribution through pipes of a fluid heated in the device, typically water. Examples of common uses of outdoor wood-fired boilers include: residential or commercial space heating, heating of domestic hot water, and heating of water for swimming pools, hot tubs or whirlpool baths.

Outlot - A lot remnant or parcel of land that is part of a larger unified development that is intended to remain as open space or as another use not containing buildings or structures. No building permits will be issued by the ~~City~~City for a lot or parcel meeting this definition.

Owner- Any individual, firm, association, partnership, corporation, trust or any other legal entity having proprietary interest in the land.

Parcel- A parcel of land designated by plat, metes and bounds, registered land survey, auditors subdivision, or other accepted means and separated from other parcels or portions by its designation.

Parking Space - A suitably surfaced and permanently maintained area on privately owned property either within or outside of a building of sufficient size to store ~~one~~ one (1) standard automobile.

Parks, Playgrounds, and Open Space - Public lands and local open spaces in the ~~city~~City dedicated and owned by the ~~city~~City that are reserved for recreation or conservation purposes.

Partially Land-locked Basin- A stormwater storage area that discharges only for events larger than the two-year design event. The two-year design event is a 24-hour rainfall using type II distribution.

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

Percentage of Grade on Street Centerline - The distance vertically (up or down) from the horizontal in feet and tenths of a foot for each 100 feet of horizontal distance.

Permittee- The person or political subdivision in whose name a permit is issued pursuant to these Ordinances

Person- Any individual, trustee, partnership, unincorporated association, limited liability company, or corporation.

Personal Wireless Services - Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

Physical Recreation or Training - A business that provides physical exercise, training or recreation equipment or space for use on site. Health and fitness centers and clubs, dance studios, karate facilities and gymnastics facilities shall be considered examples of such use. Training or self-improvement shall be an important component of the activity, which is differentiated from commercial recreation uses, where sports are the predominate activity.

Planning Commission - The Planning Commission of New Prague appointed by the City Council.

Planned Unit Development — A development of land that is under unified control and is planned and developed as a whole in a single development operation or programmed series of development stages. The development may include streets, circulation ways, utilities, buildings, open spaces, and other site features and improvements.

Plat - The drawing or map of a subdivision prepared for filing of record pursuant to Minnesota Statutes Chapter 505 and containing all elements and requirements set forth in applicable local regulations adopted pursuant to Minnesota Statutes Section 462.358 and Chapter 505.

Plat, Ghost - A subdivision or resubdivision concept plan illustrating possible future lot layout, street networks, and utility systems for oversized lots, outlots or undeveloped land adjoining a plat.

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Political Subdivision- A county, city, town, school district, or other local government jurisdiction to which the state provides state aids or on which the state imposes state mandates.

Preliminary Plat - The preliminary map, drawing or chart indicating the proposed layout of the subdivision to be submitted to the Planning Commission and the City Council for their consideration, including required data.

Principal Structure or Use - One which determines the predominant use as contrasted to accessory use or structure.

Property Line - The legal boundaries of a parcel of property which may also coincide with a right of way line or a road, cartway, and the like.

Property Owner - Any person, association or corporation having a freehold estate interest, leasehold interest extending for a term or having renewal options for a term in excess ~~1 of one~~ year, a dominant easement interest, or an option to purchase any of same, but not including owners of interests held for security purposes only.

Public Building ~~—~~ Any building held, used, or controlled exclusively for public purposes by any department or branch of government, state, county, or municipal without reference to the ownership of the building or the realty upon which it is situated. A building belonging to or used by the public for the transaction of public or quasi-public business. For the purposes of this definition, a public building does not include a building located within a ~~city~~City park.

Protective Covenant - A contract entered into between private parties which constitutes a restriction of the use of a particular parcel of property.

Public Health and General Welfare - As defined in Minnesota Statutes, Section 103D.011, Subdivisions 23 and 24.

Public Improvement Project - A public road or utility project that provides a common benefit to the community (such as, but not limited to, collector and arterial roads, and trunk stormwater facilities) and is included in an approved Capital Improvement Plan or Transportation Plan.

Public Land - Land owned or operated by municipal, school district, county, state or other governmental units.

Public Utility - Any person, firm or corporation, municipal department, board or commission duly authorized to furnish and furnishing under Federal, State or Municipal regulations to the public: gas, steam, electric~~ity~~City, sewage disposal, communication, transportation or water, including buildings used by said persons, municipal entities or corporations.

Public Waters Wetlands - All Type 3, 4, and 5 wetlands, as defined in United States Fish and Wildlife Service Circular No. 39 (1971 edition), not included within the definition of public waters, that are ~~10~~^{ten} or more acres in size in unincorporated areas or two and one half (2-1/2) or more acres in incorporated areas.

Quasi Public Organization — A service organization that is established to provide the community and its residents with supplemental services and needs. Examples of these organizations include but are not limited to Kiwanis, Rotary, Elks, Masons, VFW, and Woman's Club.

Reach - A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or man-made obstruction. In an urban area, the segment of a stream or river between ~~two~~^{two} (2) consecutive bridge crossings would most typically constitute a reach.

Recreation, Commercial - Includes all uses such as tennis courts, ball fields, picnic areas, and the like that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a private enterprise for the purpose of providing recreation.

Recreation, Public - Includes all uses such as tennis courts, ball fields, picnic areas, and the like, including accessory structures, that are commonly provided for the public at parks, playgrounds, community centers, and other sites owned and operated by a unit of government for the purpose of providing recreation.

Recreational Equipment — Recreational equipment shall include, but not be limited to boats, boat trailers, boat lifts and rail systems, general purpose trailers, travel trailers, camping trailers, truck toppers, fish houses, utility trailers, jet skis, all-terrain vehicles, motorbikes, go-carts and snowmobiles. Recreational equipment does not include recreational vehicles as defined by this ordinance.

Recreational Vehicle — A motor vehicle self-propelled on its own chassis and designed or used for recreational, amusement or sporting purposes. The term recreational vehicle includes, but is not limited to motor homes and converted trucks or busses, but excluding motor vehicles designed for commercial, industrial or agricultural use.

Recycling Center — A facility that is not a junkyard and in which recoverable resources, such as newspapers, glassware, and metal cans are collected, stored, flattened, crushed, or bundled, within a completely enclosed building.

Redevelopment- The rebuilding, repair or alteration of a structure, land surface or facility that creates less than ~~one~~ one (1) acre of new impervious surface, involves greater than ~~one~~ one (1) acre of land disturbance, and for which over 50 ~~percent~~ % of the parcel involved is disturbed by a land disturbing activity. For the purposes of this Ordinance, if an activity creates more than ~~one~~ one (1) acre of new or additional impervious surface, the activity is considered new development and exceptions in this Ordinance for redevelopment do not apply to the increased (new) impervious surface.

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

Registered Land Survey - A survey map of land as described by a duly registered land surveyor by the State of Minnesota.

Regulatory Flood Protection Elevation - An elevation no lower than ~~one~~ one (1) foot above the elevation of the regional flood plus any increases in flood elevation caused by encroachments in the flood plain that result from designation of a floodway.

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

Research Facility — A facility where the primary activity is the discovering, interpreting and the development of methods and systems for the advancement of human knowledge on a wide variety of scientific matters.

Restaurant — Restaurants are divided into ~~three~~^{three (3)} classes. If a restaurant offers services which cause it to meet the definition of more than ~~one~~^{one (1)} restaurant class, the restaurant shall be classified as the highest classification, regardless of the amount of the various uses involved.

Class I (Fast Food) — An establishment that offers quick food service of items already prepared, prepackaged or quickly served. Orders are not generally taken at the customer's table but at an order/pickup counter or at a drive-thru window. Food may be consumed on site or carried out.

Class II (Sit Down Without Liquor/Entertainment) — An establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customers consume these foods while seated at tables or counters located within the building, and which does not serve alcoholic beverages or provide live entertainment.

Class III (Sit Down With Liquor/Entertainment) - An establishment whose principal business is the selling of unpackaged food to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customers consume these foods while seated at tables or counters located within the building, and which does serve alcoholic beverages / on-sale liquor or provide live entertainment.

Retail and Service Establishment — Stores and shops selling personal services or goods for final consumption or the provision of services to the general public that produces minimal off-site impacts.

Retail Center (Strip Mall) — A commercial area containing ~~one~~^{one (1)} or more retail establishments with a total building in excess of 5,000 square feet.

Is the parenthesis how synonyms should be designated? I'm thinking specifically efficiency apartments should have studio apartments listed as a synonym/another term for clarity.

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Retention- The prevention of direct discharge of stormwater runoff into receiving water or conveyance networks; examples include systems that discharge through percolation, exfiltration, infiltration and evaporation processes that generally have residence times of less than ~~3~~three days.

Right-of-Way — An area or strip of land, either public or private, on which an irrevocable right of passage has been recorded for the use of vehicles or pedestrians or both. Right-of-way includes the driving surface of a street and adjacent boulevard.

Runoff- Rainfall, snowmelt, or irrigation water flowing over the ground surface.

Satellite Dish Antenna - A device incorporating a reflective surface that is solid, open mesh, or bar configured and is in the shape of a shallow dish, cone, horn or cornucopia. Such device is used to transmit or receive radio or electromagnetic waves between terrestrially and orbitally based uses. This definition shall include, but not be limited to, what are commonly referred to as satellite earth stations, TVROs (television, receive only) and satellite microwave antennas.

School - A building used for the purpose of elementary or secondary education, which meets all the requirements of compulsory education laws of the state of Minnesota, and not providing residential accommodations.

School, Private - Any building or group of buildings, not operated by a public agency or unit of government, the use of which meets compulsory education laws of the state of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which use does not secure the major part of its funding directly from any governmental source.

School, Public - Any building or group of buildings, the use of which meets compulsory education laws of the state of Minnesota, for elementary school, middle school (junior high school), secondary (senior high school), or higher education and which secures all or the major part of its funding from governmental sources and is operated by a public agency or governmental unit.

Scott SWCD- The Scott Soil and Water Conservation District.

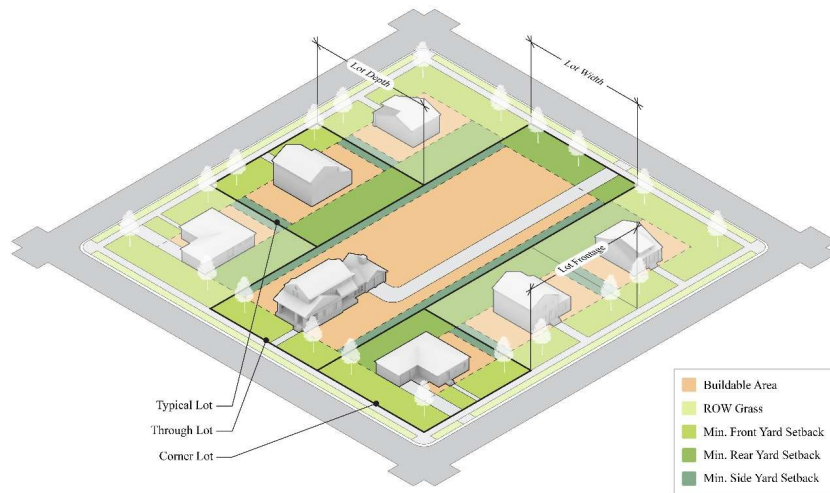
Screening -- A device or materials used to conceal ~~one~~ one (1) element of a development from other elements or from adjacent or contiguous development. Screening may include ~~one~~ one (1) or a combination of the following materials -- walls, berms, or plantings.

Seasonal Produce Stand -- A temporary use for the purposes of selling seasonal produce.

Sediment- The solid mineral or organic material that is in suspension, is being transported, or has been moved from its original location by erosion and has been deposited at another location.

Sedimentation- The process or action of depositing sediment.

Setback - The minimum distance between the building line and related front, side and rear setback lines.



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Setback Line — The setback line shall be measured from the property line.

Shoreland District- Consists of land located within a floodplain, within 1,000 feet of the OHW of a public water or public waters wetland, or within 300 feet of a stream or river.

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Short-Term Rental. A rental dwelling or rental dwelling unit that is offered to transient guests for a period of less than 30 consecutive days.

Sign - Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of advertisement, announcement, message, or visual communication, whether painted, posted, printed, affixed or constructed, including all associated brackets, braces, supports, wires and structures, which is displayed for informational or communicative purposes.

Sign, Banner - A temporary sign typically made of cloth, plastic or vinyl materials. Banner signs shall not be considered as permanent signage.

Sign, Billboard - A sign structure with a surface area over ~~one hundred~~ (100) square feet per surface that identifies or communicates a commercial or non-commercial message.

Sign, Building — A sign attached to the outside of a building wall, roof, canopy or awning.

Sign, Commercial Speech — Speech or graphics advertising a business, profession, commodity, service or entertainment.

Sign, Electronic Variable Message — Signs whose message may be changed at reasonable intervals as determined by this ordinance by electronic process or remote control and whose movement is the periodic changing of information against a solid, colorless background, engineered for maximum legibility and readability, and having a constant light level and glare reduced screens.

Sign, Freestanding — A sign supported by ~~one~~ one (1) or more upright poles, columns, or braces, placed in or on the ground and not attached to any building or structure.

Sign, Monument — Any freestanding sign with its sign face mounted on the ground or mounted on a base at least as wide as the sign and solid from the grade to the top of the sign structure and is typically encased or supported by masonry materials.

Sign, Non-Commercial Speech — A sign that contains a non-commercial message. Examples of non-commercial messages include, but are not limited to, messages concerning political, religious, social, ideological, public service and informational topics.

Sign, Off-Premise — A commercial speech sign which directs the attention of the public to a business not on the same lot or site where such a sign is located.

Sign, Portable - A non-permanent sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; balloons used as messages, umbrellas used for messages; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicles are used in the normal day-to-day operations of the business. This definition does not include those defined in this Ordinance as sandwich boards.

Sign, Projecting — A sign that projects from the wall of a face of a building or structure, including an awning, canopy or marquee.

Sign, Readerboard — A sign having a message not permanently affixed to the sign face and the copy is manually changed.

Sign, Sandwich Board - A freestanding temporary sign, with no moving parts or flashing lights, no larger than eight (8) square feet total sign size per side (no taller than ~~four~~four (4) feet from grade); displayed outside an establishment during business hours. It is not intended as permanent business signage.

Sign, Temporary — A non-permanent sign erected, affixed, or maintained on-premise for a limited period of time.

Site - A lot, or group of adjacent lots intended, designated or approved to function as an integrated unit, that is proposed for development in accordance with the provisions of this Ordinance and is in a single ownership or has multiple owners, all of whom execute a joint application for development. The joint application for development includes but is not limited to ~~Conditional Use Permit~~Conditional Use Permit Applications and Planned Unit Development Applications.

~~Slightly Susceptible Wetland Type - A wetland characterized as a floodplain forest; fresh wet meadow dominated by reed canary grass; or a shallow or deep marsh dominated by reed canary grass, cattail, giant reed, or purple loosestrife.~~

Commented [K05]: Is there a way to keep the “slightly” and “highly” susceptible wetland types under a “wetland type” heading so they aren’t pages apart?

Small Brewery - A facility that annually produces no more than 20,000 barrels of malt liquor.

Solar Structure - A structure designed to utilize solar energy as an alternate for, or supplement to, a conventional energy system.

Stabilized- The exposed ground surface that has been covered by staked sod, erosion control blanket, riprap, mulch, wood fiber blanket or other material that prevents erosion from occurring. Grass seeding alone is not stabilization.

Standard- A preferred or desired level of quantity, quality, or value.

Stormwater Detention Pond- A natural or created ponding area that provides temporary storage of excess stormwater for the purpose of attenuating the peak rate of runoff by controlling the rate of pond discharge. Ponding areas that drain completely between storm events are dry detention ponds. Ponding areas that provide temporary storage in combination with a permanent wet pool are wet detention ponds.

Stormwater Management Plan- A plan for the permanent management and control of runoff prepared and implemented in accordance with the standards set forth in this Ordinance.

Stormwater Pollution Prevention Plan (SWPPP) - A plan of BMPs or equivalent measures designed to control runoff and erosion and to retain and control sediment on site during the period of land disturbing activities in accordance with the standards set forth by the MPCA and this Ordinance.

Stormwater Quality Pond- A created ponding area per W. W. Walker (1987) criteria that provides a permanent pool for the purpose of sediment and pollutant removal to reduce water quality impacts of urban development.

Stormwater Retention Pond- A natural or created ponding area that provides permanent storage of excess stormwater for the purpose of attenuating the peak volume of runoff, from which the only release of flow is by infiltration or evaporation.

Story - That portion of a building included between the surface of any floor and the surface of the floor next above, including below ground portions of earth sheltered buildings.

Story, Half - A story under a gable, hip, or gambrel roof, the wall plates of which on at least ~~two~~ two (2) opposite exterior walls are not more than ~~two~~ (2) feet above the floor of such story.

Street - A public right of way which affords primary means of access to abutting property, and shall also include avenue, highway, road or boulevard.

Street, Arterial (Minor) — A street that has a primary function of carrying larger volumes of traffic at higher speeds, typically from one part of the city to another, or from one city to another, and is intended to provide for the collection, distribution and mobility of traffic. Access is limited to this type of street in order to preserve the mobility function.

Street, Arterial (Principal) — A street that has a primary function of carrying large volumes of traffic from one city to another, that typically serves longer trips, and is intended to provide for the mobility of traffic and not land access; hence direct access to property is not intended and regulation of access is limited in order to preserve the ability of the roadway to accommodate the mobility function. Access is typically provided by grade separated interchanges or ramps.

Street, Collector — A street that carries traffic from local streets to minor arterials and serves a dual function of providing both mobility and land access. Collector streets provide principal access to residential neighborhoods and development centers, and may also serve land access to

commercial developments. Access spacing is limited in order to balance the street's function of providing both mobility and land access.

Street, Cul-de-Sac — A local street with only ~~one~~ one (1) outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

Street, Half - A public right-of-way having only half the required width.

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Street, Local — A street which is used primarily for access to abutting properties and for local traffic movement. Local streets generally connect to collector streets or other local streets.

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Street Pavement - The wearing or exposed surface of the roadway used by vehicular traffic.

Street, Private — A street serving as vehicular access to ~~two~~ two (2) or more parcels of land which is not dedicated to the public and is owned and maintained by ~~one~~ one (1) or more private parties.

Street Width - The width of the right-of-way, measured at right angles to the centerline of the street.

Structure - Anything constructed, the uses of which requires permanent location on the ground, or attached to something having a permanent location on the ground.

Structural Alteration - Any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any change in the roof or in any exterior walls.

Subdivide - The division of a lot, parcel, or tract of land by dividing it into ~~two~~ two (2) or more parcels or the adjustment of lot lines by the relocation of a common boundary.

Subdivider - Any individual, firm, association, syndicate, partnership, corporation, trust or other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under this ~~chapter~~Ordinance.

Subdivision - The division or re-division of a lot, tract, or parcel of land into two (2) or more lots either by plat or by metes and bounds description.

Surface Water- All streams, lakes, ponds, marshes, wetlands, reservoirs, spring, rivers, drainage systems, waterways, watercourses, and irrigation systems whether natural or artificial, public or private.

Surface Water Management Plan - The ~~City~~City of New Prague's Surface Water Management Plan which was prepared to meet requirements of the Scott Watershed Management Organization. Adopted and implemented in accordance with Minnesota Statutes, Section 103B.231 and Minnesota Rules Chapter 8410 for Local Water Management.

Swimming Pool — Any outdoor permanent or temporary structure located in or above ground intended for swimming, wading or recreational bathing and contains, or is capable of containing water over 24 inches at any point or has a surface area exceeding 150 square feet (14 foot diameter).

Tangent - A straight line which is perpendicular to the radius of a curve at a point on the curve.

Taproom - An area for the on-sale consumption of malt liquor produced by the brewer for consumption on the premises of or adjacent to ~~one~~ one (1) brewery location owned by the brewer. A taproom may also include sales for off-premises consumption of malt liquor produced at the brewery location or adjacent to the taproom and owned by the brewer for off-premises consumption, packaged subject to MN Statute 340A.301, subdivision 7(b), or its successor. A Taproom is not a Drinking Establishment.

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

Commented [K06]: We've had question about what cities are considering in the definition of pools...some people argue this is too small of a pool, particularly when above ground to trigger pool requirements for permitting, etc.

Commented [FN7R6]: Most ordinances I have seen do not call out the square area of the pool in the definition

Tower, Multi-User - A tower which is designed to accommodate the antennas of more than ~~one~~ one (1) personal wireless service provider or governmental entity.

Tower, Single User: A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this ordinance.

Tract - A defined area of land, similar to a lot or parcel, that is occupied or will be occupied by a building and its accessory buildings, together with such open spaces as are required under the provisions of the current ~~city~~City zoning regulations, having not less than the minimum area required by said zoning regulations for a building site in the district in which such lot is situated and having its principal frontage on a street.

Undue Hardship- As defined in Minnesota Statutes Section 462.357, Subdivision 6.

Unit Lots - Lots created from the subdivision of a two-family dwelling, multi-family dwelling or common interest community having different minimum lot size requirements than the conventional base lot within the zoning district.

Unlicensed Wireless Services: The offering of telecommunications services using duly authorized devices, which do not require individual licenses; direct-to-home satellite services are excluded from this definition.

Use - The purpose or activity for which the land or building thereon is designated, arranged, or intended, or for which it is occupied, utilized, or maintained.

Use, Accessory - A use subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.

Use, Non-Conforming - Use of land, buildings, or structures legally existing at the time of adoption of this Ordinance which does not comply with all the regulations of this Ordinance or any amendments hereto governing the zoning district in which such use is located.

Use, Permitted - A public or private use which of itself conforms with the purposes, objectives, requirements, regulations, and performance standards of a particular zoning district.

Use, Principal - The main use of land or buildings as distinguished from subordinate or accessory use. A principal use may be either permitted or conditional.

Use, Temporary - A building permitted to exist during periods of construction of the main building or use, or for special events.

Useable Open Space - The open space required to be provided for Multiple Family Buildings in the RM and RH District. Such open space must not have a least dimension in any case less than 30 feet. That required portion of a lot at ground level, unoccupied by buildings, and available to all the occupants of the building. This space of minimum prescribed dimensions shall not be devoted to service driveways or off-street parking space and/or loading berths but shall be usable for greenery, recreational space, and other leisure activities normally carried on outdoors.

~~Variance~~ **Variance** - A modification or variation of the provisions of this Ordinance where it is determined that by reason of unique circumstances relating to a specific lot, that strict application of the Ordinance would cause practical difficulties.

Veterinary Clinic — A clinic operated by a licensed veterinarian exclusively for the diagnosis, treatment, correction, relief, or prevention of animal disease, deformity, defect, injury, or other physical or mental conditions; the performance of obstetrical procedures for animals, including determination of pregnancy and correction of sterility or infertility; and the rendering of advice or recommendations with regard to any of the above.

Warehouse and Distribution — A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, but excluding bulk storage of materials that are flammable or explosive or that create hazardous or commonly recognized offensive conditions.

Water Basin- An enclosed natural depression with definable banks capable of containing water that may be partly filled with public waters

Water Body- All surface waters, water basins, watercourses, and wetlands as defined in this Ordinance.

Watercourse- Any natural or improved stream, river, creek, ditch, channel, culvert, drain, gully, swale, or wash in which waters flow continuously or intermittently in a definite direction.

Waters of the State- All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Wellhead Protection Plan- A document that provides for the protection of a public water supply, submitted to the Minnesota Department of Health, is implemented by the public water supplier, and complies with: A) the wellhead protection elements specified in the Federal Safe Drinking Water Act, United States Code, title 42, Chapter 6A, subchapter XII, Part C, section 300h-7; and B) Minnesota Rules Parts 4720.5200 to 4720.5290.

Wetland- Any wetland as defined in Minnesota Statutes Section 103G.005, subdivision 19.

Wetland Conservation Act (WCA)- The Minnesota Wetland Conservation Act of 1991.

Wetland Types

Highly Susceptible Wetland Type - A wetland characterized as a sedge meadow; open or coniferous bog; calcareous fen; low prairie; coniferous or hardwood swamp; or seasonally flooded wetland.

Slightly Susceptible Wetland Type- A wetland characterized as a floodplain forest; fresh wet meadow dominated by reed canary grass; or a shallow or deep marsh dominated by reed canary grass, cattail, giant reed, or purple loosestrife.

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Yard - A required open space on a lot which is unoccupied and unobstructed by a structure from its lowest level to the sky except as permitted in this Ordinance. The yard extends along the lot

line at right angles to such lot line to a depth or width specified in the setback regulations for the zoning district in which such lot is located.

Yard, Rear - The portion of the yard on the same lot with the principal building located ~~between~~ the rear line of the building and the rear lot line and extending for the full width of the lot, and on a corner lot located opposite the front yard with the narrowest frontage.

Commented [K08]: Clarify that rear yard is opposite the front yard with narrowest frontage on a corner lot (see definition for "lot line, front").

Yard, Side - The yard extending along the side lot line between the front yard and rear yard to a depth or width required by setback regulations for the zoning district in which such lot is located.

Yard, Front - A yard extending along the full width of the front lot line between side lot lines and extending from the abutting street right-of-way line to depth required in the setback regulations for the zoning district in which such lot is located. For lots that abut more than ~~one~~ one (1) street such as corner and through lots, there may be more than ~~one~~ one (1) front yard for purposes of calculating setbacks of setbacks. Front yard setbacks shall apply to all yard spaces adjacent to a street right-of-way.

Zero Lot Line - A type of residential development that allows ~~one~~ one (1) of the sides of the principal structure to be located immediately adjacent to the side lot line.

Zoning Administrator - The duly appointed person charged with enforcement of this Ordinance.

Zoning Amendment - A change authorized by the city either in the allowed use within a district or in the boundaries of a district.

Zoning District - An area or areas within the limits of the city for which the regulations and requirements governing use are uniform as defined by this Ordinance.

Zoning Ordinance - The Zoning Ordinance controlling the use of land, as adopted by the City of New Prague, including the Official City Zoning Map.

SECTION 3 ADMINISTRATION

§ 3.001 GENERAL PROVISIONS

(A) Application of this Ordinance

- (1) This Ordinance shall be applicable to all lands and waters within the corporate limits of New Prague, Minnesota.
- (2) In their interpretation and application, the provisions of this Ordinance shall be held to the minimum requirements for the promotion of the public health, safety and welfare.
- (3) No part of the yard or open space required for a given building shall be included as a part of the yard or other space required for another building, and no lot shall be used for more than ~~one~~ one (1) principal building.
- (4) Each new occupied building shall be required to connect to the ~~city~~City utilities.
- (5) Where the conditions imposed by any provision of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution, or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.
- (6) Except as in this Ordinance specifically provides, no structure shall be erected, converted, enlarged, reconstructed, or altered; and no structure or land shall be used for any purpose or in any manner which is not in conformity with this Ordinance. Temporary buildings that are used in conjunction with construction work, including trailers and manufactured/mobile homes used as offices and for tool storage, may be permitted in any district during the period that construction is taking place, but such temporary buildings shall be removed within 30 days after completion of construction work.
- (7) No building permit for new developments including new standalone structures shall be issued on land described by metes and bounds. This shall not apply to building expansions or remodels.
- (8) All international, federal, state, county and other official monuments, benchmarks, triangulation points, and stations shall be preserved in their precise locations; and it shall be the responsibility of the applicant to insure that these markers are maintained in good condition during the following construction and development. All section, 1/4 section and 1/16 section corners shall be duly described and tied.

Commented [K09]: Should it be clarified what "new development" is exactly? We've interpreted this that any new structure would not be eligible for a building permit until land is platted, but have allowed expansions, remodels, etc. on unplatted property if there's existing structures with proposed work.

- (9) Where adjoining structures existing at the time of adoption of this Ordinance have a different setback from that required, the front setback of a new structure shall conform to the average prevailing setback in the immediate vicinity as determined by the Zoning Administrator. ~~The Planning Commission shall determine the necessary front yard setback in such cases subject to approval by the City Council.~~
- (10) A 50-~~percent~~% increase in height over the requirements of the zoning district is permitted for barns, silos, and other structures on farms; to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flag poles; public and semipublic utility facilities; transmission towers of commercial and private radio broadcasting stations; television antennae; and grain elevators. Uses exceeding the district height limitation by more than 50-~~percent~~% shall require a ~~Conditional Use Permit~~ Variance.
- (11) No cellar, garage, tent, trailer, basement with unfinished structure above, or accessory building (not including ADUs) shall at any time be used as a dwelling unit in excess of 14 fourteen (14) days. ~~not including ADUs.~~
- (12) In the event that land is annexed into the ~~City~~City, the ~~City~~City shall assign a zoning district consistent with the Comprehensive Land Use Plan. In the event land not identified in the Comprehensive Plan is annexed, the Planning Commission shall review and provide recommendation to the Council who shall approve an appropriate zoning district through the rezoning procedure established in Section 3.002 (D).

(B) Separability

It is hereby declared to be the intention that several provisions of this Ordinance are separable in accordance with the following:

- (1) If any court of competent jurisdiction shall judge any provisions of this Ordinance to be invalid, such judgment shall not affect any other provisions of this Ordinance not specifically included in said judgment.
- (2) If any court of competent jurisdiction shall judge invalid the application of any provision of this Ordinance to a particular property, building, or structure, such judgment shall not affect other property, buildings, or structures.

(C) Nonconforming Uses and Structures

It is the intent of this Ordinance to permit legal nonconforming lots, structures or uses to continue until they are removed but not to encourage their survival.

It is recognized that there exists within the district established by this Ordinance and subsequent amendments, lots, structures and uses of land and structures which were

Commented [KO10]: We've never really used this provision as if we are going to the Planning Commission/Council, it's basically the same thing as what a variance would go through so we just have everyone apply for a variance. I'd be ok with a better defined administrative process to leave out the need for Planning Commission / Council review.

Commented [FN11R10]: Changed to ZA authority

Commented [KO12]: I would think a variance and not a CUP would be the appropriate land use permit process here.

Commented [KO13]: Via a rezoning process?

Commented [FN14R13]: A public hearing a required for a rezone. Since the comp plan already goes thru a public hearing for adoption and any land use map changes also go thru public hearing, a public hearing to assign a zone consistent with the land use seems redundant. Recommend keeping as is.

Commented [KO15]: Via a comp. plan amendment / rezoning process?

Commented [FN16R15]: In this case, rezone process and public hearing would not be redundant. Added reference to rezone process

lawful before this Ordinance was passed or amended, which would be prohibited, regulated or restricted under the terms of this Ordinance or future amendments.

Such uses are declared by this Ordinance to be incompatible with permitted uses in the districts involved. It is further the intent of this Ordinance that nonconformities shall not be enlarged upon, expanded or, extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- (1) Any nonconforming use of a structure, a nonconforming use of land or a nonconforming use of a structure and land existing at the time of the adoption of this ordinance may be continued including through repair, replacement, restoration, maintenance, or improvement but not including expansion. “Expansion” shall be defined as any structural alteration, change or addition that is made outside of the original building or any change in the building’s occupancy ~~capacity~~ or parking demand except those required by law or ordinance).
- (2) Nothing in this Ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Inspector.
- (3) When any lawful nonconforming use of any structure or land in any district is discontinued for a period of more than ~~1 one (1)~~ year or is changed to a conforming use, any future use of said structure or land shall be in conformity with the provisions of this Ordinance.
- (4) When any lawful nonconforming use of any structure or land in any district is damaged by wind, fire, flood, explosion, earthquake, war, riot or other similar peril to the extent of greater than 50-~~percent~~% of its estimated market value as indicated in the records of the County Assessor at the time of the damage and no building permit has been applied for within 180 days of the date of when the property is damaged, it shall not be reconstructed except in conformity with the provisions of this Ordinance. When a nonconforming structure in the shoreland district with less than 50-~~percent~~% of the required setback from the water is destroyed by fire or other peril to greater than 50-~~percent~~% of its estimated market value, as indicated in the records of the county assessor at the time of damage, the structure setback may be increased if practicable and reasonable conditions are placed upon a zoning or building permit to mitigate created impacts on the adjacent property or water body. In the event that a building permit is applied for within 180 days of the date of destruction, the ~~City~~City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties or water bodies.
- (5) A lawful nonconforming use of a structure or parcel of land may not be changed to a similar nonconforming use or to a more restrictive nonconforming use.

- (6) Alterations may be made to a building containing lawful nonconforming residential units in a non-residential district when they will improve the livability thereof, provided they will not increase the number of dwelling units or extend outside of the original building with the exception of a garage or a free standing deck in instances where none previously existed.
- (7) Expansion of an existing principal building found to be nonconforming only by reason of height and yard setback in which a permitted use is conducted may be allowed provided the expansion does not create a new nonconformance. Furthermore, expansions in these instances shall not be allowed to any part of the building that is within a setback that is not currently being met.
- (8) Shoreland Lots. Nonconforming shoreland lots of record shall be regulated by the **CityCity** as set forth in Minnesota Statutes Section 462.357, Subdivision 1e (e)(f).

(D) Nonconforming Lots

- (1) Buildable conditions. Any property which does not conform with the lot area, lot depth or lot width requirements of the zoning district in which the property is located shall not be a buildable lot unless the property qualifies under one of the provisions in this section. The requirements outlined herein are intended to define the conditions under which a nonconforming property may be developed without a Variance. Development on nonconforming property which does not comply with these criteria may only be considered after application for, and approval of, appropriate Variances.
- (2) Purpose. The purpose of regulating development on substandard property is to coordinate development to ensure environmentally sensitive development, ensure compatibility with surrounding existing development and to allow for combination of property to the extent possible.
- (3) Existing structure. A parcel which does not conform with the lot area or lot width requirements of the zoning district in which the parcel is located shall not be a buildable lot unless the parcel already contains an occupiable structure.
- (4) Combine lots. A structure on a parcel which does not meet the area or width requirement of this Ordinance shall not be expanded or enlarged unless the parcel is combined with one (1) or more abutting lots or parcels to create a lot meeting the requirements of this Ordinance.
- (5) Lot of record; generally. A lot of record is buildable only subject to the following requirements:
 - (a) A lot of record as of the adoption of the Ordinance, in the R-1, R-2, or R-3 district which does not meet the area or the width requirements of this Ordinance may be utilized for single-family detached dwelling purposes if

Commented [KO17]: This language seems most relatable to small lots on lakes...so it's use may be limited here. Just a note and I have no problem with keeping it in here.

the dimensions of its area and width are at least 67% of the requirements of this Ordinance.

- (b) Any single-family detached dwelling which exists as of the effective date of the ordinance from which this section is derived, on any nonconforming lot located in the R-1, R-2, or R-3 district which is later destroyed by fire or other natural disaster may be rebuilt if a building permit for reconstruction is issued within 180 days of its destruction and if the building otherwise conforms with the provisions of this Ordinance. This provision allows a structure to be rebuilt as long as it meets setback, lot coverage, impervious surface and other applicable provisions. If the structure does not meet these standards, a Variance will be required.
- (c) Two (2) or more contiguous nonconforming lots of record under single ownership shall be considered to be one (1) parcel for the purpose of this Ordinance, and no portion of the parcel shall be used or sold separately unless each separate parcel can meet the lot area and lot width requirements.
- (d) Two (2) or more nonconforming lots of record under single ownership separated by a private road or driveway may be combined and used as a single buildable lot under the following circumstances:
1. The property owner must apply to the City for approval of a lot combination.
 2. The property owner must file a deed restriction or covenant with the county recorder in a form acceptable to the City attorney. This deed restriction or covenant must include provisions that restrict the resubdivision of the lot.
 3. There must be an existing principal structure on one (1) lot.
 4. The location of the principal structure on the lot must preclude the ability to construct a legal accessory structure on that lot.
 5. Any structures on the combined lots must meet the minimum setbacks of the use district in which it is located.
 6. In those cases where a detached accessory structure is to be located on the portion of the lot which is separated from the principal structure by the private road or driveway and there are existing residential structures adjacent to or in close proximity to the proposed structure, the Planning Commission shall hold a public hearing on the request upon receipt of an application and following the notice requirements for a Variance pursuant to this Ordinance.

Commented [KO18]: Why 365 days? Statute for nonconformities speaks to 6 months/180 days so why not use that?

In evaluating the application, the Planning Commission shall not apply the criteria for Variances but instead shall determine whether the design and location of the detached accessory structure is compatible with the surrounding properties in terms of architecture, buildings materials and placement on the lot.

~~In any district in which single family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Ordinance, a single family dwelling and customary accessory buildings may be erected on any single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district; provided that yard dimensions and other requirements not involving area or width, or both, of the lot, shall conform to the regulations for the district in which such lot is located.~~

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§ 3.002 ADMINISTRATION

(A) Enforcing Officer

The ~~City~~City Council shall appoint a Zoning Administrator. The Zoning Administrator shall enforce this Ordinance and shall perform the following duties:

- (1) Determine if applications comply with the terms of this Ordinance.
- (2) Conduct inspections of buildings and use of land to determine compliance with the terms of this Ordinance.
- (3) Maintain permanent and current records of this Ordinance, including but not limited to, maps, amendments, ~~Conditional Use Permit~~Conditional Use Permits, ~~Interim Use Permit~~Interim Use Permits, ~~variance~~Variances, appeals and applications.
- (4) Receive, file and forward all applications for appeals, ~~variance~~Variances, ~~Conditional Use Permit~~Conditional Use Permits, ~~Interim Use Permit~~Interim Use Permits, and amendments to the designated official bodies.
- (5) Institute in the name of the ~~City~~City of New Prague any appropriate actions for proceedings against a violator as provided for in this Ordinance.

(B) Appeals and the Board of Adjustment and Appeals

- (1) A Board of Adjustment and Appeals shall be established for the ~~City~~City of New Prague.

- (2) The Board of Adjustment and Appeals shall consist of the New Prague ~~City~~City Council. The Board shall provide for a record of its proceedings, which shall include the minutes of its meetings, its findings, and the action taken on each matter heard by it, including the final order.
- (3) The Board shall act upon all questions as they may arise in the administration of this Ordinance, including the interpretation of zoning maps, and it shall hear and decide appeals from and review any order, requirement, decision, or determination made by an administrative official charged with enforcing this Ordinance. Such appeal may be taken by any person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state.
- (4) Hearings by the Board of Adjustment and Appeals shall be held within a reasonable time and upon such notice to interested parties as is provided in this Ordinance. The Board shall make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. Any party may appear at the hearing in person or by agent or attorney.
- (5) The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision, or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the officer from whom the appeal was taken and may issue or direct the issuance of a permit. The reasons for the Board's decision shall be stated. The decision of the Board shall be final.

(C) Planning Commission

- (1) The ~~City~~City Council shall establish a Planning Commission, pursuant to M.S. Chapter 462 and City Code Chapter 30, which shall consist of five (5) members appointed by the ~~City~~City Council from the citizens. The ~~City~~City Council shall appoint ~~one-one (1)~~ of its members and may appoint up to ~~two-two (2)~~ Council Members to serve on the Commission with voting privileges. The ~~two-two (2)~~ Council members shall only be considered for appointment when citizen applicants are not available. When citizen applicants become available during times in which ~~two-two (2)~~ council members have been appointed, the most recently appointed council member will relinquish their seat.
- (2) The Commission shall elect a chairperson from among its members and may create and fill such other offices as it may determine is necessary to conduct business. The ~~City~~City shall provide a secretary for the purpose of taking minutes.
- (3) The Commission shall hold a regular meeting each month and adopt rules for the transaction of business along with keeping public records of any resolutions, transactions, findings and recommendations of the Commission.

- (4) The Planning Commission shall provide recommendation to the ~~City~~City Council and Zoning Administrator in the administration of this Ordinance and the recommendation of the Planning Commission shall be advisory in nature. Specifically, the Planning Commission shall review, hold public hearings, and make recommendations to the ~~City~~City Council on all applications for zoning amendments, ~~variance~~Variances, ~~Conditional Use Permit~~Conditional Use Permits, and ~~Interim Use Permit~~Interim Use Permits using the criteria in Section 3.002 (E), (F), and (G)s ~~504, 505, 506 and 507~~ of this Ordinance. The Planning Commission shall also review and provide recommendation to the ~~City~~City Council on Comprehensive Plan amendments.

Commented [FN19]: Update

(D) Zoning Amendments

- (1) Criteria for Granting Zoning Amendments.

The ~~City~~City Council may adopt amendments to this Ordinance and zoning map in relation both to land uses within a particular district or to the location of a district line. Such amendments shall not be issued indiscriminately, but shall only be used as a means to reflect changes in the goals and policies of the ~~City~~City as reflected in the Comprehensive Plan or changes in conditions in the ~~City~~City.

- (2) Types of Amendments.

- (a) A change in a district's boundary (rezoning);
- (b) A change in a district's regulations; and
- (c) A change in any other provision of this Ordinance.

- (3) Initiation of Proceedings.

Proceedings for amending this Ordinance shall be initiated by at least ~~one~~ one (1) of the following ~~three~~ three (3) methods:

- (a) By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulation changes are proposed;
- (b) By recommendation of the Planning Commission; or
- (c) By action of the ~~City~~City Council.

- (4) Required Exhibits for Rezoning or District Regulation Changes Initiated by Property Owners.

- (a) A preliminary building, site development plan, and boundary survey of the property.
- (b) Evidence of ownership or enforceable option on the property.

~~(b)~~(c) Additional information as required by the Zoning Administrator.

(5) Procedure.

The procedure for a property owner to initiate a rezoning or district regulation change applying to his or her property is as follows:

- (a) The property owner or his or her agent shall meet with the Zoning Administrator to explain the situation, learn the procedures, and obtain an application form.
- (b) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the ~~City~~City Council.
- (c) The Zoning Administrator shall transmit the application and required exhibits to the Planning Commission and shall notify all property owners within the affected zone and within ~~three hundred fifty (350)~~350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
- (d) The Zoning Administrator shall set the date for a public hearing and shall have notices of such hearing published in the legal newspaper at least once, not less than ~~10~~ten days and not more than 30 days prior to said hearing. The ~~City~~City Council may waive the mailed notice requirements for a ~~city~~City-wide amendment to the Unified Development Code zoning ordinance initiated by the Planning Commission or ~~City~~City Council.
- (e) The Planning Commission shall hold the public hearing and then shall recommend to the ~~City~~City Council within 30 days, ~~one-one (1)~~ of ~~three~~three (3) actions -- approval, denial or conditional approval.
- ~~(f)~~ The ~~City~~City Council shall act upon the application within 30 days after receiving the recommendation of the Planning Commission.
 - 1. In the event the proposed rezoning is from residential to either commercial or industrial, the zoning amendment shall require the affirmative vote of two-thirds of the members of the ~~City~~City Council.
 - ~~(f)2.~~ Other rezonings shall require a majority vote of the members of the ~~City~~City Council.
- (g) No application of a property owner for an amendment to the text of the ordinance or the zoning map shall be considered by the Planning Commission within the ~~one~~(1) year period following a denial of such

Commented [KO20]: I thought the 2/3 majority was only applicable for rezoning from residential to either commercial or industrial - all other rezoning is allowed via majority vote per state statute.

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request, except the Planning Commission may permit a new application, if in the opinion of the Planning Commission, new evidence or a change of circumstances warrant it.

- (h) An amendment to this ordinance or the zoning map shall be construed as an amendment to the Comprehensive Plan and its map.

(E) ~~Conditional Use Permit~~Conditional Use Permits

The purpose of a ~~Conditional Use Permit~~Conditional Use Permit is to provide the ~~City~~City with a reasonable degree of discretion in determining the suitability of certain designated uses upon the general welfare, public health and safety. In making this determination, whether or not the conditional use is to be allowed, the ~~City~~City may consider the nature of the adjoining land or buildings, the effect upon traffic into and from the premises, or on any adjoining roads, and all other or further factors as the ~~City~~City shall deem a prerequisite of consideration in determining the effect of the use on the general welfare, public health and safety.

(1) Criteria for Granting ~~Conditional Use Permit~~Conditional Use Permits

In granting a ~~conditional use permit~~Conditional Use Permit, the ~~City~~City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed use on the Comprehensive Plan and upon the health, safety, and general welfare of occupants of surrounding lands. Among other things, the ~~City~~City Council shall make the following findings where applicable.

- (a) The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.
- (b) The use will be sufficiently compatible or separated by distance or screened from adjacent residentially zoned or used land so that existing homes will not be depreciated in value and there will be no deterrence to development of vacant land.
- (c) The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
- (d) The use, in the opinion of the ~~City~~City Council, is reasonably related to the overall needs of the ~~City~~City and to the existing land use.
- (e) The use is consistent with the purposes of the ~~Unified Development Code zoning ordinance~~and the purposes of the zoning district in which the applicant intends to locate the proposed use.
- (f) The use is not in conflict with the Comprehensive Plan of the ~~City~~City.
- (g) The use will not cause traffic hazards or congestion.

- (h) Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.

(2) Additional Conditions

The CityCity Council may consider a ~~conditional use permit~~ Conditional Use Permit for a use which is not specifically listed in this Ordinance as a conditional use within the affected District and may grant a permit provided such new use, after careful review by the Planning Commission and the CityCity Council, is found to otherwise meet the criteria for granting a conditional use within the affected District.

In permitting a new conditional use or in the alternative of an existing conditional use, the CityCity Council may impose, in addition to these standards and requirements expressly specified by this Ordinance, additional conditions which the CityCity Council considers necessary to protect the best interest of the surrounding area or the community as a whole. These conditions may include, but are not limited to the following:

- (a) Increasing the required lot size or yard dimension.
- (b) Limiting the height, size or location of buildings.
- (c) Controlling the location and number of vehicle access points.
- (d) Increasing the street width.
- (e) Increasing the number of required off street parking spaces.
- (f) Limiting the number, size, location or lighting of signs.
- (g) Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
- (h) Designation sites for open space.

The Zoning Administrator shall maintain a record of all ~~conditional use permit~~ Conditional Use Permits issued including information on the use, location, and conditions imposed by the CityCity Council; time limits review dates, and such other information as may be appropriate.

(3) Special Conditions for Public and Institutional Uses

Because of the potential for neighborhood impacts, a CUP shall not be issued for any proposed use that will result in the loss of ~~one-one~~ (1) or more single-family homes unless the CityCity determines that the new use will have minimal adverse impact on and will be compatible with the neighborhood. Uses which propose to

remove single-family dwellings shall be subject to all of the following requirements:

- (a) Setbacks. Where a facility abuts a residential use and there is no intervening street, the side yard setback shall be at least twice that required for the residential use. Where the use shares frontage with single-family residences on the same side of the street, the front-yard setback shall be the same or greater than the established residential setback.
- (b) Traffic increase. A traffic study shall be required at the discretion of the ~~City~~City.
- (c) Neighborhood compatibility. The removal of single-family homes shall not change the character of the neighborhood. Wherever housing is removed it shall be replaced by a use that is compatible in size, scale, orientation (e.g. orientation to the street), and architectural character with immediately adjacent properties. Properties which are directly across the street from housing shall be replaced by a building or buildings that are architecturally compatible, in scale with and oriented consistent with existing housing units (if the housing faces the street, the replacement use must also orient to the street). If a park or open space is adjacent or across the street, green space, yards and even landscaped parking lots may be acceptable (a parking lot across the street from established homes would not be acceptable because neighborhood patterns would be significantly altered.).
- (d) Landscaping and buffering. Wherever a parking lot abuts or is across the street from a residential area, there shall be a landscaped buffer yard at least 15 feet in width. Screening and buffering shall be required in accordance with Section ~~6.002 (A)707~~ of this ordinance except that fences shall not be permitted along street frontages.
- (e) Other impacts. Exterior lighting, noise or drainage impacts on adjoining properties which are significantly greater than the pre-existing use.
- (f) Comprehensive Plan consistency. The project shall be consistent with the ~~City~~City's Comprehensive Plan.
- (g) Neighborhood involvement. Uses which propose to remove single-family dwellings shall require neighborhood involvement.
 - 1. After the formal application is submitted and accepted as complete for review by the City, but before the request is reviewed by the Planning Commission, the City requires the applicant to hold a neighborhood informational meeting. The applicant shall initiate

Commented [EG21]: Change?

~~neighborhood meetings for residents within 350 feet of the subject property.~~

2. ~~The applicant shall schedule the meeting and send out meeting notices to property owners and their tenants within 350 feet of the property proposed for development.~~

~~(e)3.~~ The applicant shall send out meeting notices to property owners and their tenants at least 10 days prior to the scheduled meeting date.

Commented [KO22]: We have never actually required a developer to have a "neighborhood meeting" ahead of a formal public hearing that is organized by the City. Is this unusual to require? I'd just as soon take it out or change the language to clarify when it would need to be done by, etc.

Commented [FN23R22]: This requirement would only apply if the CUP results in a loss of a single family home. Added some language to make that more clear

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(4) Required Exhibits for ~~Conditional Use Permit~~ Conditional Use Permits.

~~(a)~~ A certificate of survey of the property, ~~if required by the Zoning Administrator.~~

~~(b)(a)~~ A preliminary site development plan which includes a utility plan, grading and erosion control plan, a lighting plan, a signage plan, and a landscaping plan.

~~(e)(b)~~ Evidence of ownership or enforceable option on the property.

~~(d)(c)~~ A noise or traffic study may be required at the discretion of the ~~City~~City.

~~(d)~~ Proposed building elevations may be required at the discretion of the ~~City~~City.

(e) Additional information as required by the Zoning Administrator.

(5) Procedure

~~The procedure for obtaining a Conditional Use Permit is as follows:~~

(a) The property owner or his agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.

(b) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the ~~City~~City Council.

(c) The Zoning Administrator shall transmit the application to the Planning Commission and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.

- (d) The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than 1010 days and not more than 3030 days prior to said hearing.
- (e) The Planning Commission shall hold the public hearing and then shall study the application to determine possible adverse effects of the proposed Conditional Use and to determine what additional requirements may be necessary to reduce such adverse effects. The Planning Commission shall recommend ~~one one (1)~~ of ~~three three (3)~~ actions to the ~~CityCity~~ Council within 30thirty (30) days after holding the public hearing - approval, denial, or conditional approval.
- (f) The ~~CityCity~~ Council shall take appropriate action on the request for a ~~Conditional Use Permit~~Conditional Use Permit after receiving the recommendations by the Planning Commission. If it grants the ~~conditional use permit~~Conditional Use Permit, the ~~CityCity~~ Council may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.

~~(g) Revocation of Conditional Use Permit. The City Council may revoke a conditional use permit in the event any of the conditions set forth in the permit are violated. The property owner shall be provided with notice of the City Council's intention to revoke a conditional use permit at least 30 days prior to revocation in order to allow him or her to bring the property into compliance or respond to the violations.~~

~~(g)~~ No application of a property owner for a conditional use shall be considered by the within a 1 a one year period following a denial for such a request, except the ~~CityCity~~ may permit a new application if in its opinion new evidence or a change in circumstances warrant it.

(6) Termination of Conditional Use

(a) An approved Conditional Use Permit shall terminate upon the occurrence of any of the following events:

1. Any violation of the conditions under which the conditional use was approved.
2. A change in this Ordinance which would render the conditional use non-conforming.
3. The conditional use has been discontinued for at least 1 year.

(7) Suspension or Revocation

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- (a) The City Council may suspend or revoke a Conditional Use Permit upon the failure of the permittee, owner, operator, tenant or user to comply with the provisions of this Code, state or federal laws or regulations, or any condition established at the time of approval of the Conditional Use Permit.
- (b) The City Council may suspend or revoke a Conditional Use Permit 1 year after approval if the proposed use has not commenced or a building permit for a structure to support the conditional has not been issued. An applicant and/or owner may apply to the Zoning Administrator for no more than one (1) time extension of up to 6 months for an unused Conditional Use Permit.
- ~~(b)~~(c) A suspension or revocation of a Conditional Use Permit must be preceded by written notice to the permittee and a hearing. The notice must provide at least 10 days' notice of the time and place of the hearing and must state the nature of the violations.

(F) ~~Interim Use Permit~~Interim Use Permits

Purpose. An interim use is a use not currently allowed by this Ordinance, which may be allowed as a temporary use of property until an established date, until the occurrence of a particular event, or until the zoning regulations no longer allow it. The ~~City~~City Council may approve an interim use of property as defined and authorized by Minnesota Statutes Section 462.3597.

(1) Criteria for Granting ~~Interim Use Permit~~Interim Use Permits

The ~~City~~City Council may consider an ~~interim use permit~~Interim Use Permit for a use which is not specifically listed in this Ordinance as an interim use within the affected district and may grant a permit provided such interim use, after review by the Planning Commission and the ~~City~~City Council, is found to otherwise meet the criteria for granting an ~~interim use permit~~Interim Use Permit within the affected district. The ~~City~~City Council shall make the following findings in order to approve an interim use:

- (a) The proposed interim use will utilize property where it is not reasonable to utilize it in a manner provided for the ~~City~~City's Comprehensive Plan and Unified Development Code~~Zoning Ordinance~~.
- (b) The proposed interim use is presently acceptable but, given anticipated development, will not be acceptable in the future.
- (c) The proposed use will not hinder permanent development of the site.
- (d) The proposed use will not adversely impact implementation of the Comprehensive Plan for the area.

- (e) The proposed use will not be injurious to the surrounding neighborhoods or otherwise harm the public health, safety and welfare.
- (f) The use will not create an excessive burden on existing parks, schools, streets and other public facilities which serve or are proposed to serve the area.
- (g) Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
- (h) The date or event that will terminate the use has been identified with certainty.
- (i) Permission of the use will not impose additional costs on the public if it is necessary for the public to take the property in the future.

(2) Conditions

In permitting a new interim use, the CityCity Council may impose, in addition to the standards and requirements expressly specified by this Ordinance, additional conditions which the CityCity Council considers necessary to protect the best interest of the surrounding area or the community as a whole. Any CityCity Council approval of an interim use shall be subject to the following conditions:

- (a) Except as otherwise authorized by this section, an interim use shall conform to this Ordinance as if it were established as a conditional use.
- (b) The date or event that will terminate the interim use shall be identified with certainty. The CityCity Council may require the applicant to deposit a cash amount with the CityCity, or provide some other form of security, to ensure compliance.
- (c) In the event of a public taking of property after the interim use is established, the property owner shall not be entitled to compensation for any increase in value attributable to the interim use.
- (d) Other conditions as the CityCity Council deems reasonable and necessary to protect the public interest and to ensure compliance with the standards of this Ordinance and policies of the Comprehensive Land Use Plan.

(3) Procedure

- (a) The property owner or his agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.

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- (b) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the City Council.
- (c) The Zoning Administrator shall transmit the application to the Planning Commission and shall notify all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.
- (d) The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than 10 days and not more than 30 days prior to said hearing.
- (e) The Planning Commission shall hold the public hearing and then shall study the application to determine possible adverse effects of the proposed Interim Use and to determine what additional requirements may be necessary to reduce such adverse effects. The Planning Commission shall recommend one (1) of three (3) actions to the City Council within 30 days after holding the public hearing - approval, denial, or conditional approval.
- (f) The City Council shall take appropriate action on the request for a Interim Use Permit after receiving the recommendations by the Planning Commission. If it grants the Conditional Use Permit, the City Council may impose conditions it considers necessary to protect the public health, safety and welfare and such conditions may include a time limit for the use to exist or operate.
- ~~(4) No application of a property owner for an interim use shall be considered by the within a 1 year period following a denial for such a request, except the City may permit a new application if in its opinion new evidence or a change in circumstances warrant it. Any person having a legal or equitable interest in a property may file an application to use such land for one or more interim uses. An application for interim use shall be filed with the Planning Department on an approved form and shall be accompanied by such information as is requested by the City Planner to facilitate review.~~
- ~~(5) The Planning Director may request special studies when there is evidence that the proposed use may negatively impact public infrastructure, the environment or adjacent land uses. Such studies may include but are not limited to traffic, environmental, wetland, and utility studies.~~
- ~~(6) The Planning Director shall transmit the application to the Planning Commission and shall notify all property owners within three hundred fifty (350) feet of the outer boundaries of the property in question;~~

however, failure of any property owner to receive such notification shall not invalidate the proceedings.

- (7) ~~The Planning Director shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than ten (10) days and not more than thirty (30) days prior to said hearing.~~
- (8) ~~The Planning Commission shall hold a public hearing on each valid and complete application for an interim use as provided in Section 505 for conditional use permits. After the close of the hearing on a proposed interim use, the Planning Commission shall make findings and shall submit the same together with its recommendations to the City Council.~~
- (9) ~~The City Council shall make the final decision regarding all applications for interim use permits. Approval shall require a simple majority vote of the City Council.~~
- (a)(g) ~~If an interim use permit application is denied, an applicant may not submit a subsequent interim use permit application for the same use on the same site until one year has passed.~~

Commented [EG24]: Amend

Commented [EG25]: The CUP section specifies that they can reapply sooner if the Zoning Admin thinks that the circumstances have changed enough to warrant that. Do we want to add that here, too?

~~(10)~~(4) Termination of Interim Use

An approved ~~interim use permit~~Interim Use Permit shall terminate upon the occurrence of any of the following events:

- (a) The termination date or termination event specified in the ~~interim use permit~~Interim Use Permit.
- (b) Any violation of the conditions under which the interim use was approved.
- (c) A change in this Ordinance which would render the interim use non-conforming.
- (d) The interim use has been discontinued for at least ~~one~~ year.
- (e) ~~Unused interim use permits expire, without further action from the Planning Commission or City Council, one year after approval if the proposed use has not commenced or a building permit for a structure to support the interim use has not been issued. An applicant and/or owner may apply to the Planning Director for no more than one time extension of up to six months for an unused interim use permit.~~

Commented [KO26]: Similar to variances, we have been advised by our city attorney in the past that there's no legal method to simply say CUP's or Interim uses expire if not used and the only way to remove the approval is to go through a revocation process. Thoughts?

~~(11)~~(5) Suspension or Revocation

- (a) ~~The City~~City Council may suspend or revoke an ~~interim use permit~~Interim Use Permit upon the failure of the permittee, owner, operator, tenant or

Commented [FN27R26]: Added similar language but to revocation process below

user to comply with the provisions of this Code, state or federal laws or regulations, or any condition established at the time of approval of the ~~interim-use-permit~~Interim Use Permit.

(b) ~~The City Council may suspend or revoke an Interim Use Permit one year after approval if the proposed use has not commenced or a building permit for a structure to support the interim use has not been issued. An applicant and/or owner may apply to the Zoning Administrator for no more than one (1) time extension of up to 6 months for an unused Interim Use Permit.~~

(c) A suspension or revocation of an ~~interim-use-permit~~Interim Use Permit must be preceded by written notice to the permittee and a hearing. The notice must provide at least 10 days' notice of the time and place of the hearing and must state the nature of the violations.

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(G) ~~Variance~~Variances

(1) Criteria for Granting ~~Variance~~Variances

A ~~variance~~Variance to the provision of the ~~Unified Development Code Zoning Ordinance~~ may be issued by the Board of Adjustment to provide relief to the landowner in those cases where this Ordinance imposes practical difficulties to the property owner in the use of his or her land. Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems. No ~~variance~~Variances shall be granted that would allow any use that is not allowed in the zoning district in which the subject property is located. A ~~variance~~Variance may be granted only in the event that all of the following circumstances exist:

- (a) The ~~variance~~Variance is in harmony with the general purposes and intent of this Ordinance.
- (b) The ~~variance~~Variance is consistent with the comprehensive plan.
- (c) The applicant proposes to use the property in a reasonable manner not permitted by this Ordinance and the ~~City~~City Code.
- (d) Unique circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property since enactment of this Ordinance has had no control. The unique circumstances do not result from the actions of the applicant.
- (e) The ~~variance~~Variance does not alter the essential character of the neighborhood.

- (f) That the ~~variance~~Variance requested is the minimum ~~variance~~Variance which would alleviate the practical difficulties. Economic conditions alone do not constitute practical difficulties.
 - (g) The Board of Adjustment may impose such conditions upon the premises benefited by a ~~variance~~Variance as may be necessary to comply with the standards established by this Ordinance, or to reduce or minimize the effect of such ~~variance~~Variance upon other properties in the neighborhood, and to better carry out the intent of the ~~variance~~Variance. The condition must be directly related to and must bear a rough proportionality to the impact created by the ~~variance~~Variance. No ~~variance~~Variance shall permit a lower degree of flood protection than the Regulatory Flood Protection Elevation for the particular area or permit standards lower than those required by federal, state or local law.
- (2) Required Exhibits for ~~Variance~~Variances
- (a) A survey of the property ~~if required by the Zoning Administrator.~~
 - (b) A preliminary building / site development plan showing the location of proposed structures for which a ~~variance~~Variance is being requested.
 - ~~(c)~~ Evidence of ownership of the property or enforceable option to purchase the property.
 - ~~(d)~~ A narrative of the Variance request.
 - ~~(e)~~(c) Additional information as required by the Zoning Administrator.
- (3) Procedures
- The procedures for obtaining a ~~variance~~Variance from the regulations of this Ordinance are as follows:
- (a) The property owner or his or her agent shall meet with the Zoning Administrator to explain his or her situation, learn the procedures and obtain an application form.
 - (b) The applicant shall file the completed application form together with the required exhibits with the Zoning Administrator and shall pay a filing fee as established by the ~~City~~City Council.
 - ~~(c)~~ The Zoning Administrator shall transmit the application to the Planning Commission for review and recommendation and shall notify all property owners located adjacent to the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings. The Zoning Administrator shall transmit the application to the Planning Commission and shall notify

all property owners within 350 feet of the outer boundaries of the property in question; however, failure of any property owner to receive such notification shall not invalidate the proceedings.

- (d) The Zoning Administrator shall set the date for a public hearing and shall have notice of such hearing published at least once in the legal newspaper, not less than 10 days and not more than 30 days prior to said hearing.

~~(e)~~ —

- ~~(d)~~(e) The Board of Adjustment and Appeals shall make a decision after receiving the recommendation from the Planning Commission. It shall recommend ~~one-one (1)~~ of ~~three~~three (3) actions -approval, denial, or conditional approval.

- ~~(e)~~ —No application of a property owner for a Variance shall be considered by the within a 6 month period following a denial for such a request, except the City may permit a new application if in its opinion new evidence or a change in circumstances warrant it.~~No application by a property owner for a variance shall be submitted to the Board of Adjustment and Appeals within a six (6) month period following a denial of such a request, except the Board may permit a new application if, in the opinion of the Board, new evidence of change or circumstances warrant it.~~

(f) —

- (g) A violation of any condition set forth in granting a ~~variance~~Variance shall be a violation of this Ordinance and automatically terminates the ~~variance~~Variance.

(4) Suspension or Revocation

- (a) The City Council may suspend or revoke an approved Variance upon the failure of the permittee, owner, operator, tenant or user to comply with the provisions of this Code, state or federal laws or regulations, or any condition established at the time of approval of the Variance.

- (b) The City Council may suspend or revoke an approved Variance 1 year after approval if the proposed use has not commenced or a building permit for a structure to support the conditional has not been issued. An applicant and/or owner may apply to the Zoning Administrator for no more than one time extension of up to 6 months for an unused Variance.

- ~~(f)~~(c) A suspension or revocation of an approved Variance must be preceded by written notice to the permittee and a hearing. The notice must provide at least 10 days' notice of the time and place of the hearing and must state the nature of the violations.

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~~(g) Unless the variance is used within one year after being issued, it shall be null and void. If not used within one year, the applicant may request an extension of up to an additional 180 days by submitting a written request for extension to the Board of Adjustment.~~

(H) Enforcement

(1) Enforcing Officer

It shall be the duty of the Zoning Administrator and Building Inspector to cause the provisions of this Ordinance to be properly enforced through the proper legal channels.

(2) Building Permit

No person shall construct, alter, demolish or move any kind of structure or building or part thereof without first obtaining a building permit from the ~~city~~City.

(3) Surveys

No person shall construct a new dwelling unit or new commercial or industrial structure on a property without submitting a certificate of survey prior to the commencement of any construction. The survey shall be approved by the Zoning Administrator, shall be in conformance with any approved grading plans for the subdivision in which the property is located, and shall comply with all provisions of this Ordinance. The certificate of survey shall be prepared by a land surveyor licensed in the State of Minnesota, and shall include the following information: legal description, boundary lines of the property, lot dimensions, scale, north arrow, existing spot elevations around the perimeter of the property and within the property, location and elevation of proposed dwelling unit or commercial structure, proposed elevations of property, easements of record, location of wetlands, trees, all other existing and proposed conditions on the property, and any other information necessary to establish compliance with this Ordinance or the availability of adequate utility ~~capacity~~capacity.

No final foundation inspection will be performed or framing will be allowed by the ~~City~~City for a dwelling unit or commercial or industrial structure unless the building permit holder has submitted and the Building Official has approved written verification by a registered land surveyor that the actual foundation elevation matches the approved foundation elevation within the acceptable tolerances of -.2 feet and + .5 feet.

No final certificate of occupancy for a dwelling unit or commercial or industrial structure will be issued by the ~~City~~City unless written verification by a registered land surveyor that the final (or as-built) grades for the site are consistent with the approved grading plan that has been submitted to the Building Official for

Commented [KO28]: We have been advised by our City Attorney that variances do not expire and that we shouldn't have this provision in the ordinance in that the approval "runs with the land".

Commented [FN29R28]: Removed provision

Commented [EG30]: This part is written different then the part explaining that you can request a 6-month extension for the interim use permit. Both of those are also different than how this is explained regarding rebuilding a destroyed/disaster-ed nonconforming structure. Do we want these to all be made pretty much identical?

Commented [FN31R30]: Made conditional and interim use permit sections more alike in terms of structure

approval. The permit holder must also submit written verification to the Building Official that the subject site contains the amount of topsoil required under [Section 6.002 \(W\)736](#) of this Ordinance prior to issuance of a final certificate of occupancy. The topsoil amount verification need not be by a registered land surveyor.

Commented [K032]: Change reference as necessary

(4) Site Plans

A site plan shall be submitted with all building permit applications which result in an expansion of a structure, or for construction of any accessory building. The site plan shall be approved by the Zoning Administrator and shall comply with all provisions of this Ordinance. The site plan shall include the following information: legal description, boundary lines of the property, lot dimensions, north arrow, the size and location of existing structures, the size and location of proposed structures. In the event that the Zoning Administrator cannot verify all provisions of this Ordinance are being met based on the submitted site plan, the Zoning Administrator may require submittal of a certificate of survey to verify items such as setbacks.

(5) Review of Survey or Site Plan

Upon receipt of any survey or site plan, the Zoning Administrator shall review it to determine whether it is in proper form, contains all of the required information, shows compliance with this and all other Ordinances of the [CityCity](#) and demonstrates the adequacy of utility service. The [CityCity](#) shall inform the applicant as to any defect in form or required information, any violation of any provision of this or any other Ordinance or the inadequacy of any utility, and any changes which would make the plan acceptable.

(6) State and Federal Permits

Prior to the granting of a building permit, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

(7) Fees

- (a) The fees for a building permit, rezoning, ~~variance~~[Variance](#), amendment, ~~conditional-use permit~~[Conditional Use Permit](#), or ~~interim-use permit~~[Interim Use Permit](#) shall be established by the [CityCity](#) Council. The [CityCity](#) Council may review and revise the fee schedule periodically. The Zoning Administrator shall issue a building permit only after the fee has been paid and a determination has been made that the building plans, together with the application, comply with the terms of this Ordinance.
- (b) Any person filing a petition for an amendment to this Ordinance, requesting a ~~variance~~[Variance](#) or a change in regulations within any use

district shall pay the prescribed fees according to the fee schedule before any work proposed may commence. The fee is payable at the time of filing a petition and is not refundable.

- (c) Municipal corporations and the ~~City~~City of New Prague shall be exempt from the fee requirements as prescribed by this Ordinance.

(I) Planned Unit Development (PUD) Overlay District

- (1) Purpose. The purpose of the Planned Unit Development (PUD) district is to offer an alternative to development as outlined in the residential, commercial, and industrial zoning districts. The PUD district provides for greater flexibility in the development and redevelopment process as compared to development under the definitive and precise requirements of the conventional zoning districts. The PUD district requires that the particular land to be developed can offer greater value to the City and can better meet the City's health, welfare, and safety requirements as a PUD than if that same land were to be developed as a conventional development. The PUD process provides for a joint planning/design effort by developers and City officials. A PUD may be multipurpose in nature so that not only may it be residential, commercial, or industrial, but also it may contain a combination of these uses. It is not the intent of this division to allow for reductions or waivers to the standard zoning district requirements solely for the purpose of increasing overall density, allowing the use of private streets or allowing development that otherwise could not be approved, instead the purpose is to produce developments which provide additional benefits to the City.
- (2) Overlay. The PUD overlay district is a district that encompasses one (1) or more underlying zoning districts and that imposes additional requirements above that required by the underlying zoning district. All of the provisions of this Ordinance applicable to the original district within which the PUD is established shall apply to the PUD except as otherwise specifically provided in the approved final PUD plan.
- (3) Findings. The ~~city council~~City City Council finds that the City and its residents will benefit by creating a process which permits PUD developments which will allow for greater flexibility in the development of a parcel or property by tailoring the development to the site and neighborhood. Such benefits include, but are not limited to:
 - (a) Providing a flexible approach to development which is in harmony with the purpose and intent of the City's comprehensive plan and this Ordinance;
 - (b) More creative, efficient and effective use of land, open space and public facilities through mixing of land uses;

- (c) Creating a sense of place and provide more interaction among people;
 - (d) Increasing economic vitality and expand market opportunities;
 - (e) Supporting long-term economic stability by strengthening the tax base, job market and business opportunities;
 - (f) Increasing transportation options, such as walking, biking or busing;
 - (g) Providing opportunities for life cycle housing to all ages;
 - (h) Providing more efficient and effective use of streets, utilities, and public facilities that support high quality land use development at a lesser cost;
 - (i) Enhanced incorporation of recreational, public and open space components in the development which may be made more usable and be more suitably located than would otherwise be provided under conventional development procedures. The PUD district also encourages the developer to convey property to the public, over and above required dedications;
 - (j) Preserving and enhancing desirable site characteristics and open space and protection of sensitive environmental features, including, but not limited to, steep slopes, wetlands, and trees. Where applicable, the PUD may also encourage historic preservation, re-use and redevelopment of existing buildings;
 - (k) High quality of design compatible with surrounding land uses, including both existing and planned.
- (4) Flexibility. Approval of a PUD may allow the following:
- (a) Within a comprehensive site design concept, a mixture of land uses, housing types and densities.
 - (b) Sensitivity. Through the departure from the strict application of required setbacks, yard areas, lot sizes, minimum house sizes, minimum requirements, and other performance standards associated with traditional zoning, PUDs can maximize the development potential of land while remaining sensitive to its unique and valuable natural characteristics.
 - (c) Efficiency. The consolidation of areas for recreation and reductions in street lengths and other utility-related expenses.
 - (d) Density transfer. The project density may be clustered, basing density on number of units per acre versus specific lot dimensions.

Formatted: ____ (1) Level

- (c) District integration. The combination of uses which are allowed in separate zoning districts, such as:
1. Mixed residential allows both densities and unit types to be varied within the project.
 2. Mixed residential with increased density acknowledging the greater sensitivity of PUD projects, regulation may provide increased density on the property if a PUD is utilized.
 3. Mixed land uses with the integration of compatible land uses within the project.
- (5) Allowed Uses. Uses allowed within a PUD district are limited to those uses allowed in the underlying zoning, unless deviations are specifically set forth in the PUD plan. Performance standards for each PUD shall be as provided in the underlying zoning district unless deviations are specifically set forth in the PUD plan. All use and performance standard deviations shall become permitted upon approval of the final PUD plan by the ~~city council~~CityCity Council.
- (6) Review Standards. The City shall consider a proposed PUD district from the point of view of all standards and purposes of the comprehensive land use plan to achieve a maximum coordination between the proposed development and the surrounding uses, the conservation of woodland and the protection of health, safety and welfare of the City and residents of the PUD. To these ends, the ~~city council~~CityCity Council shall consider the location of the buildings, compatibility, parking areas and other features with respect to the topography of the area and existing natural features such as streams and large trees; the efficiency, adequacy and safety of the proposed layout of internal streets and driveways; the adequacy and location of green areas; the adequacy, location and screening of parking areas; and such other matters as the ~~city council~~CityCity Council may find to have a material bearing upon the stated standards and objectives of the comprehensive land use plan. In reviewing a PUD plan, the ~~city council~~CityCity Council must also consider the compatibility of the development with the shoreland and floodplain overlay district requirements.
- (7) Minimum PUD Eligibility Requirements.
- (a) Minimum size requirement. In order to utilize a PUD, the proposed site shall consist of a parcel or contiguous parcels of land in common ownership 10-(10) acres or more in size. An owner of a tract of land less than 10 acres may apply to the Planning Commission for an exception to the 10-(10) -acre requirement in subsection (b) below.
 - (b) Exception to 10-(10) -acre requirement. An applicant seeking an exception to the 10-(10) -acre requirement shall, prior to submission of a preliminary

Commented [K033]: Should it say here per the procedure outlined in the next section (b)?

Commented [FN34R33]: yes

PUD plan, submit a concept plan for review and approval by the Planning Commission pursuant to the procedure for concept plans set forth in this ordinance. The Planning Commission shall decide, based upon the criteria set forth below, whether to authorize the City staff to accept and process an application for a preliminary PUD plan for the proposed project:

1. The proposed project meets all other criteria for a PUD except the acreage requirement.
2. There are unique circumstances that prohibit the applicant from assembling 10(10) contiguous acres.
3. The proposed project is consistent with the goals and objectives of the comprehensive plan.
4. The applicant intends to provide for greater parks, open space, trails or public areas than required by this division.

(c) Additional requirements. The City may impose additional restrictions or requirements on land developed under the PUD process. The requirements shall be set forth in the final PUD plan approved by the ~~city council~~ City City Council. The ~~city council~~ City City Council shall make specific findings that the restrictions or requirements being imposed furthers, addresses, promotes or protects the general welfare, public safety, aesthetics, neighborhood character, environmental features or property values. These additional requirements may include, but are not limited to, traffic, traffic signals, parking, buffer yards, landscaping, noise, lighting, hours of operation, architectural design and off-site road and utility improvements.

(8) PUD Submission Requirements

(a) Concept Plan.

1. An applicant may choose to submit a concept plan to the Zoning Administrator prior to submission of a preliminary plat. The purpose of such a concept plan is to inform the applicant of the procedural requirements and minimum standards of this Ordinance, and the requirements or limitations imposed by this Unified Development Code or eCCity plans or policies. The Zoning Administrator, along with other eCCity staff, will review the concept plan and discuss any foreseeable problems or issues with the applicant. These discussions of the concept plan shall be advisory and are not binding in regard to any subsequent plat review. The Zoning Administrator, notably in the case of multi-phased plats, shall have the authority to refer the concept plan to

Commented [K035]: Instead of subdivision ordinance, should it say pursuant to the procedures for concept review of plats per this ordinance or something along those lines? I would assume the plat concept review fee would apply, correct?

Commented [FN36R35]: yes

Commented [K037]: Should we just say "zoning administrator" here?

Commented [FN38R37]: Yes

Commented [K039]: The zoning administrator

Commented [K040]: Zoning administrator

the Planning Commission or City Council for informal, nonbinding review and comment.

2. An application for review of a concept plan shall include, but not be limited to, the following:

- a. A completed application on the form provided by the City which shall include the name, address and telephone number of the subdivider and the property owner, the location of the property, a description of the proposed subdivision and a working name for the proposed subdivision.
- b. The required filing fees as established by the City Council and set forth in the City fee schedule.
- c. ~~Three copies~~A digital copy of the concept plan at a scale not less than one (1) inch equals 100 feet.
~~One digital copy of the concept plan.~~
- d. Concept plan showing the following:
 - i. Plat boundary.
 - ii. North arrow.
 - iii. Scale.
 - iv. Street layout on and adjacent to plat.
 - v. Designation of land use and current or proposed zoning.
 - vi. Significant topographical or physical features.
 - vii. General lot locations and layout.
 - viii. The City may request any other information deemed necessary to determine the impact of the proposed PUD on the health, safety and welfare of the property in the City and City residents.

(b) Preliminary PUD Plan

- 1. Required. A preliminary PUD plan is required before an applicant can apply for a final PUD plan and before the proposed development can proceed. The preliminary PUD plan shall show the basic intent and the general nature of the entire development.

2. Application for preliminary PUD plan approval. An application for preliminary PUD plan approval shall be on a form provided by the eCity and shall include all of the following information:
- a. The name, address, telephone number, and email address of the applicant and property owner, if different.
 - b. The comprehensive land use plan designation of the property in question.
 - c. The zoning districts in which the PUD is proposed to be located.
 - d. All information required for consideration and approval of a preliminary plat, if a plat is necessary.
 - e. A general development plan including the following:
 - i. Site conditions and existing development on the subject property and immediately adjacent properties.
 - ii. General location of residential and nonresidential land uses with approximate type and intensities of development
 - iii. Overall maximum PUD density range.
 - iv. The proposed type, size, and location of all dwelling units, if dwelling units are proposed.
 - v. The general size, location and use of any proposed nonresidential buildings on the site.
 - vi. All public streets, entrance and exit drives and walkway locations.
 - vii. Parking areas.
 - viii. Landscaped areas.
 - ix. Parks and open spaces, public plazas, and common areas.
 - x. Site dimensions.
 - xi. Generalized drainage and utility plans.
 - xii. Any other information the City may request to determine whether the proposed project meets the requirements of this division.

- xiii. A narrative explaining how the PUD will meet the stated purposes and objectives of this division.
 - f. Generalized phasing plan for the project, including the geographical sequence of construction and the number of dwelling units or square footage of nonresidential property to be constructed in each phase.
 - g. Traffic study (if required by the City's Traffic Impact Study Guidelines, as amended) containing, at a minimum, the total and peak hour trip generation from the site at full development, the effect of this traffic on the level of service of nearby and adjacent streets, intersections and total parking requirements.
 - h. A statement showing how the PUD will meet the stated purposes and objectives of this division.
 - i. A market study prepared within the 6 (6)-months prior to the application identifying the market area of the project and the demand trends within the area.
3. Procedure for approval of a preliminary PUD plan.
- a. The application shall be submitted to the zZoning eAdministrator. The application shall be reviewed by the eCity staff and a report concerning the application shall be submitted to the Planning Commission for its consideration within 30 days of receipt of all material required by this division for review of the application.
 - b. The pPlanning eCommission shall hold a public hearing. The pPlanning eCommission may continue the public hearing, if necessary. The pPlanning eCommission shall make a recommendation on the preliminary PUD plan to the eCity eCouncil within 60 days of the date a complete application, including all of the necessary submittals, was received by the City. If the pPlanning eCommission fails to make a recommendation within the 60-day period, the eCity eCouncil may then consider the preliminary PUD plan without the pPlanning eCommission's recommendation.
 - c. The eCity eCouncil may approve the preliminary PUD plan in whole or in part, may approve the preliminary PUD plan subject to conditions, may deny the preliminary PUD

plan, or may continue consideration of the preliminary PUD plan for further investigation at a later date.

d. The eCity eCouncil shall render a decision regarding the preliminary PUD plan application within 60 days of a complete application. The eCity eCouncil shall approved a resolution including findings of fact for the basis of its decision.

e. No application of a property owner for a preliminary PUD shall be considered by the within a 1 year period following a denial for such a request, except the City may permit a new application if in its opinion new evidence or a change in circumstances warrant it.

f. City Council Effect of approval by the city council City City Council of a preliminary PUD plan. City eCouncil approval of the preliminary PUD plan with or without modification shall constitute zoning approval as well as permission to file the application for a final plan or plans. The approved preliminary PUD plan shall serve as the basis for all future development within the project area unless substantially modified according to the same procedures required for initial approval; however, such preliminary PUD plan approval shall not constitute permission to initiate site improvement or building construction. Such activities must await final PUD plan and building permit approvals.

4. Zoning map amended. The official zoning map of the eCity shall be revised to incorporate the new PUD overlay designation.

(c) Final PUD Plan

1. Requirements. The final PUD plan conveys essentially the same information as the approved preliminary PUD plan in a more specific and complete manner. The approved final PUD plan is the permanent public record of the PUD, may consist of all or a portion of, but no more than, the area encompassed by the preliminary PUD plan, and shall include revisions of the preliminary PUD plan as directed by the Planning Commission or city council City City Council. The final PUD plan shall implement the development objectives established by the approved preliminary PUD plan and may be submitted in project stages with separate final PUD plans for portions of the PUD.

Commented [KO41]: Why would the typical 60 day rule not apply here which would be from date of application?

Commented [FN42R41]: Changed to complete application.

Commented [KO43]: Are you saying you approve PUD's by ordinance versus resolutions, due to the effect it has on basically rezoning the property? Particularly in this case, why would you approve an ordinance for a "preliminary" approval? This doesn't make sense to me. Seems this would be more appropriate at a "final" stage because if the project didn't move forward, you wouldn't want to have to go back and rezone or rescind the PUD for areas that haven't developed yet.

Commented [FN44R43]: I agree. Changed to resolution

Commented [EG45]: Also worded different than previous mentions of 6-month time to reapply

Commented [FN46R45]: changed

Commented [EG47]: Do we want to specify 'but not more'?

2. Application for a final PUD plan. The final PUD plan, consisting of the entire site or at a minimum the first phase of the total development, shall be submitted for approval within 12 months after ~~city council~~CityCity Council approval of a preliminary PUD plan unless a written request for a time extension is submitted by the applicant and approved by the City Council. The application for final PUD plan approval shall be on a form provided by the City and shall include all of the following information:
- a. The name, address, telephone number and email address of the applicant and property owner, if different.
 - b. A detailed site plan, drawn to scale and suitable for recording, showing the location of all structures, including their placement, size and type as well as streets, parking areas and stall arrangement, walkways and other pedestrian facilities, parking calculations, and open space, including plazas and commons. The site plan shall conform to the approved preliminary PUD plan.
 - c. A final plat which meets the requirements of the City subdivision regulations, if required.
 - d. A landscape plan showing the location, size and species of all plant materials, a landscaping irrigation system plan, and all other non-vegetative landscaped features.
 - e. A utility plan showing the location and size of all on-site utilities and easements as well as stormwater runoff calculations for both the predevelopment and post-development conditions of the site.
 - f. Building plans at a level of detail necessary to allow parking calculations to be made.
 - g. Building elevation drawings showing architectural details and proposed building materials.
 - h. Any deed restrictions, covenants, agreements and articles of incorporation and bylaws of any proposed homeowners' associations or other documents or contracts which control the use or maintenance of property covered by the final PUD plan.
 - i. A final phasing plan, if phasing is proposed, indicating the geographical sequence and timing of the development of

- the plan or portions thereof, including the estimated date of beginning and completion of each phase.
- j. Any other information which the City in its sole discretion may require to fully illustrate and document the intention and character of the final PUD plan.
3. Procedure for approval of a final PUD plan.
- a. The application shall be reviewed by the City staff and a report concerning the application shall be submitted to the City Council for its consideration.
- b. The ~~city council~~CityCity Council shall render a decision regarding the final PUD plan application. The City Council shall adopt a resolution including findings of fact for the basis of its ~~decision~~ within 60 days of a complete application.
4. Conditions of approval by the City Council for a final PUD plan.
Any final PUD plan approved by the ~~city council~~CityCity Council is deemed a conditional approval and shall not be valid until all of the following requirements are met:
- a. Development agreement. The City and developer of a PUD shall execute a development agreement which shall incorporate the resolution approving the final PUD plan and all conditions set forth in the resolution approving the final PUD plan. The development agreement shall require the developer to provide an irrevocable letter of credit provided by a financial institution licensed in the State of Minnesota and ~~licensed in the State~~as approved by the ~~City~~City Attorney (use same language as found in the platting regulations). ~~The irrevocable letter of credit shall be subject to approval by the City.~~ The letter of credit shall reference the development agreement and be in an amount sufficient to ensure the provision or development of improvements called for by the development agreement.
- b. Operating and maintenance requirements for common areas. If certain land areas or structures within the PUD are designated for recreational use, public plazas, open areas or service facilities, the owners of such lands shall execute appropriate documents in a form acceptable to the City which ensure the continued operation and maintenance of

Commented [K048]: I take this comment as noting that the Planning Commission's involvement ends at the Preliminary PUD review, unless major changes are requested?

Commented [FN49R48]: Correct

Commented [K050]: I would assume the 60 day law would apply to final PUD approval? Or is this a grey area as it also involves subdivision of land?

Commented [FN51R50]: Added deadline of 60 days within complete app

such areas or facilities. These common areas may be placed under the ownership and control of the property owner; or of homeowners' association, if all of the following conditions are met:

- i. The homeowners' association must be established prior to the sale of any property in the PUD.
- ii. Membership must be mandatory for each owner and successive buyer.
- iii. The open space restrictions must be permanent.
- iv. The association must be responsible for liability insurance, taxes and maintenance.
- v. The landowner must pay its pro rata share of an assessment levied by the association and that share if unpaid must become a lien on the property owned by the landowner.
- vi. The association must be able to adjust the assessment to meet changed needs.

5. Effect of approval by the City Council of a final PUD plan.

- a. Effect of final PUD approval. Except if an amendment has been approved as set forth in Section 3.002 (I) (8) (d), no building permit shall be issued nor shall any development occur on land which does not conform to the approved final PUD plan.
- b. Review. If substantial development has not occurred within 12 months after approval of the final PUD plan, the City Council may instruct the Planning Commission to initiate rezoning to the original zoning district. It shall not be necessary for the City Council to find that the rezoning to the PUD overlay district was in error. The applicant may submit a request for a time extension in writing. The City Council may suspend or revoke a final PUD 1 year after approval if the proposed use has not commenced or a building permit for a structure to support the final PUD has not been issued. An applicant and/or owner may apply to the Zoning Administrator for no more than one (1) time extension of up to 6 months for an unused Variance. ~~City Council~~

Commented [EG52]: Might have to be changed when numbers are finalized etc. Also, is this how we reference other sections?

Commented [EG53]: Another 6-month extension worded differently

Commented [FN54R53]: changed

- c. Changes in official controls. Upon approval by the City Council of a final PUD plan, the subject area shall be governed by the conditions, provisions and restrictions of the approved final PUD plan and development agreement. For 2 years following final PUD plan approval, unless the developer and the City agree otherwise, no amendment to the City's comprehensive plan, Ordinance or subdivision regulations shall apply to or affect the use, development density, lot size, lot layout, or dedication required or permitted by the approved final PUD plan.
- (d) Amendments. Development of land which does not conform to the approved preliminary or final PUD plan shall only be allowed after one (1) of the following occurs:
 - 1. Minor amendments.
 - a. Minor amendments to a preliminary or final PUD plan include, but are not limited to:
 - i. Increases in conformity with this division's requirements;
 - ii. Decreases in residential density, leasable floor area, building height, impervious surface or required parking, provided such decreases have a minimal impact on the overall character of the approved final PUD plan as determined by the Zoning Administrator;
 - iii. Minor building additions and floor plan modifications that do not increase parking requirements or reduce usable open space; and
 - iv. Changes that are specified as minor amendments in the approved development agreement.
 - b. Minor amendments to a preliminary or final PUD plan require approval by the eCity Council. Minor amendments may be authorized administratively if the Zoning Administrator determines the amendments will have a minimal impact on the overall character of the approved final PUD plan and does not require the adjustment or relocation of property lines.
 - 2. Major amendments.

- a. Major amendments to a preliminary or a final PUD plan include, but are not limited to:
 - i. Changes in approved use classifications;
 - ii. Changes to the approved final plat;
 - iii. Increases in residential density, leasable floor area, building height, or required parking;
 - iv. Reductions in usable open space; and
 - v. Any changes that are anticipated to result in off-site impacts as determined by the zoning administrator.
- b. Major amendments to a preliminary or a final PUD plan may be made only after a public hearing conducted by the Planning Commission which must be preceded by notice to all property owners within five hundred (500) feet of the subject property. Major amendments become effective only after adoption by the City Council by ordinance and recording as amendments to the final PUD plan. The development agreement may also be amended if necessary.
- (e) Vote approving PUD. The approval of a preliminary PUD plan, a final PUD plan, and minor or major amendments shall require an affirmative vote of two-thirds of all the members of the ~~city council~~CityCity Council. The approval of minor amendments which the zoning administrator has determined to require the approval of the City Council will require a majority vote of all the members of the ~~city council~~CityCity Council.
- (f) Fees and reimbursements for City costs. Fees for a PUD shall be set by the City Council in the City fee schedule. PUDs shall also be subject to reimbursements for City costs, including enforcement, engineering, consulting and legal fees.

(1) ~~Purpose:~~

~~The purpose of this section is:~~

- (a) ~~To encourage a more creative and efficient development of land and its improvements than is possible under the more restrictive application of zoning requirements such as lot sizes and building setbacks, while at the same time meeting the standards and purposes of the Comprehensive Plan and preserving the health, safety, and welfare of the citizens of the City.~~

Commented [K055]: Why 500' versus 350'?

Commented [FN56R55]: PUD has larger impact than CUP/variance

Commented [K057]: Why require 2/3 vote requirement when state statute only requires such a voting requirement in certain rezoning situations?

Commented [FN58R57]: Changed to majority

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~~(b) To allow for a mixture of uses in an integrated and well planned area.~~

~~(c) To ensure concentration of open space into more usable areas, and the preservation of the natural resources of the site including wetlands, woodlands, steep slopes, and scenic areas.~~

~~(d) To facilitate the economical provision of streets and public utilities.~~

~~(2) Permitted Uses.~~

~~(a) Residential Dwellings~~

~~(b) Commercial and Office Uses~~

~~(c) Industrial Uses~~

~~(d) Public, Recreational, and Utility Uses~~

~~(3) General Requirements.~~

~~A Conditional Use Permit shall be required of all planned unit developments. The City may approve the planned unit development only if it is found that the development satisfies all the following standards:~~

~~(a) The proposed planned unit development is in conformance with the Comprehensive Plan. At a minimum, the City shall find that the planned unit development does not conflict with the Comprehensive Plan with regards to the following:~~

- ~~1. The use will not create an excessive burden on existing parks, schools, streets, and other public facilities and utilities which serve or are proposed to serve the area.~~
- ~~2. The use is reasonably related to the overall needs of the City and is compatible with the surrounding land use.~~
- ~~3. The planned unit development is an effective and unified treatment of the development possibilities on the project site and the development plans provide for the preservation of unique natural amenities such as streams, stream banks, wooded cover, rough terrain, and similar areas.~~
- ~~4. The uses proposed will not have an undue and adverse impact on the reasonable enjoyment of neighborhood property, and will not be detrimental to surrounding uses.~~

~~(b) The planned unit development meets or exceeds the following development criteria:~~

- ~~1. A minimum of two principal structures are proposed.~~
 - ~~2. The minimum size of the tract is one-half (1/2) acre in developed areas and two (2) acres in undeveloped areas.~~
- ~~(c) The use is consistent with the requirements of this Ordinance.~~
 - ~~(d) The planned unit development can be planned and developed to harmonize with any existing or proposed development in the areas surrounding the project site.~~
 - ~~(e) Each phase of the proposed development is of sufficient size, composition, and arrangement so that its construction, marketing, and operation are feasible as a complete unit, and that provision for and construction of dwelling units and common open space are balanced and coordinated. In addition, the total development is designed in such a manner as to form a desirable and unified environment within its own boundaries.~~
 - ~~(f) Financing is available to the applicant on conditions and in an amount which is sufficient to assure completion of the planned unit development. To evidence this finding, a written statement of financial feasibility which is accepted by the City shall be submitted by the applicant.~~
 - ~~(g) One (1) individual has been designated by the property owner(s) to be in control of the development.~~
 - ~~(h) It is reasonable to anticipate that the entire planned unit development will be fully platted in final form within five (5) years of approving the preliminary development plan.~~
- ~~(4) Density Transfer.~~
- ~~(a) In order to encourage the protection of natural resources, to allow limited development in an area with unusual building characteristics due to subsoil characteristics or to encourage creative land use, a density transfer system may be allowed whereby lot sizes smaller than that normally required in a district will be allowed on the developable land in return for leaving the natural resource areas open from development. The number of dwelling units proposed for the entire site shall not exceed the total number permitted under the density indicated in the Comprehensive Plan where the land is located.~~
 - ~~(b) If the planned unit development incorporates residential uses and is in more than one density area, the number of allowable dwelling units must be separately calculated for each portion of the planned unit development that is in a separate area according to the underlying zoning district, and~~

~~must then be combined to determine the number of dwelling units allowable in the entire planned unit development.~~

- ~~(e) The Zoning Administrator shall determine the number of dwelling units which may be constructed within the residential portion of the planned unit development by dividing the gross acreage of the project area by the maximum allowable density as set forth in Section VI, Zoning Districts and Provisions.~~

~~(5) Coordination with Subdivision Provisions.~~

- ~~(a) It is the intent of this Ordinance that subdivision review under this Ordinance be carried out simultaneously with the review of a planned unit development under this Section.~~
- ~~(b) The plans required under this Section must be submitted in a form which will satisfy the requirements of this Ordinance for the preliminary and final plats required under this Ordinance.~~

~~(6) Pre Application Meeting.~~

~~Prior to the submission of any plan to the Planning Commission, the applicant shall meet with the Zoning Administrator and, if necessary, with the Planning Commission to discuss the contemplated project relative to community development objectives for the area in question and to learn the procedural steps and exhibits required. This includes the procedural steps for a Conditional Use Permit and a preliminary plat. The applicant may submit the simple sketch plat at this stage for informal review and discussion. The applicant is urged to avail himself or herself of the advice and assistance of the planning staff to facilitate the review of the preliminary development plan and preliminary plat.~~

~~(7) Preliminary Development Plan.~~

- ~~(a) An applicant shall make an application for a Conditional Use Permit following the procedural steps as set forth in Section 505.4 of this Ordinance.~~
- ~~(b) In order to grant approval of a Conditional Use Permit as required by this Section, or to grant approval to a preliminary development plan, the City Council shall find that the planned unit development complies with the requirements as established in Section 505 of this Ordinance.~~
- ~~(c) Preliminary Development Plan Documentation.~~

~~The following exhibits shall be submitted by the applicant as part of the application for a Conditional Use Permit, as required by the Zoning Administrator and the Planning Commission.~~

1. ~~An explanation of the character and need for the planned unit development and the manner in which it has been planned to take advantage of the planned development regulations.~~
2. ~~A statement of proposed financing of the planned unit development.~~
3. ~~A statement of the present ownership of all of the land included within the planned development and a list of property owners within three hundred fifty (350) feet of the outer boundaries of the property.~~
4. ~~A general indication of the expected schedule of development including sequential phasing and time schedules.~~
5. ~~A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street rights of way, utilities, and buildings for the property, and for the area 350 feet beyond.~~
6. ~~Natural features map or maps of the property and area 350 feet beyond showing contour lines at no more than two foot intervals, drainage patterns, wetlands, vegetation, soil and subsoil condition.~~
7. ~~A map indicating proposed land uses including housing units and types, vehicular and pedestrian circulation, and open space uses.~~
8. ~~Full description as to how all necessary governmental services will be provided to the development including sanitary sewers, storm sewers, water systems, streets and other public utilities.~~
9. ~~An engineering report presenting results of a soils review of the site. If conditions warrant, soil borings of the site may also be required.~~
10. ~~Any additional information requested by the Planning Commission and City Council that may be required for clarification of the proposed project.~~

~~(d) Preliminary Plat.~~

~~The applicant shall also submit a preliminary plat and all the necessary documentation of all or that portion of the project to be platted as required under this Ordinance. For purposes of administrative simplification, the public hearings required for the Conditional Use Permit and Preliminary Plat may be combined into one hearing or may be held concurrently.~~

~~(8) — Final Development Plan.~~

- ~~(a) — Within 60 days of City Council approval of the preliminary development plan and the preliminary plat, the applicant shall file with the Zoning Administrator a final development plan and the final plat shall contain those changes as recommended by the Planning Commission and approved by the City Council during the preliminary review process.~~
- ~~(b) — The Zoning Administrator shall submit the final development plan and the final plat to the Planning and Zoning Commission for review.~~
- ~~(c) — The Commission shall review the final development plan and final plat and make its recommendation to the City Council within 60 days of receiving the final development plan and Final Plat.~~
- ~~(d) — The City Council shall review the final development plan and act on the final plat after sixty (60) days of receiving the recommendation of the Planning Commission. The City Council shall give notice and provide opportunity to be heard on the final development plan to any person who has indicated to the City Council in writing that he or she wishes to be notified.~~
- ~~(e) — If the final development plan is approved by the City Council, the Zoning Administrator shall issue a Conditional Use Permit for the total development to the applicant. Said permit to include any and all conditions as required by the preliminary development plan and the final development plan.~~
- ~~(f) — Once the final development plan and the final plat have been approved, the final plat shall be filed with the County Recorder's office.~~
- ~~(g) — A building permit may thereafter be issued for the area which is in compliance with the approved plans without further review of the plans by the City.~~

~~(9) — Enforcing Development Schedule.~~

~~The construction and provision of all of the common open spaces and public and recreational facilities which are shown on the final development plan must proceed at the same rate as the construction of dwelling units. At least once every six (6) months following the approval of the final development, the Zoning Administrator shall review all of the building permits issued for the planned development and examine the construction which has taken place on the site.~~

~~If the Zoning Administrator finds that the rate of construction of dwelling units is faster than the rate at which common open space and public and recreational facilities have been constructed and provided, he shall forward this information to~~

the City Council, which may revoke the Conditional Use Permit. If the applicant fails to complete the open spaces and recreation areas within 60 days after the completion of the remainder of the project, the City may complete the open space and public and recreational facilities and assess the cost back to the developer or landowner.

~~(10) — Conveyance and Maintenance of Common Open Space.~~

~~(a) — All land shown on the final development plan as common open space must be conveyed under one of the following methods at the discretion of the City:~~

- ~~1. — It may be conveyed to a public agency which will agree to maintain the common open space and any buildings structures or improvements which have been placed on it.~~
- ~~2. — It may be conveyed to a corporation, developer, homeowner association (incorporated or non-incorporated) or trustee provided in an indenture establishing association or similar organization for the maintenance of the planned development. The common open space must be conveyed to the party involved subject to covenants approved by the City Council which restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended space.~~

~~(b) — If the common open space is conveyed to a private party and is not maintained properly to standards established by the City, the City shall have the authority to maintain the property and assess the costs incurred back to the land benefited by the improvement.~~

~~(11) — Standards for Common Open Space.~~

~~No open area may be accepted as common open space under the provisions of this Ordinance unless it meets the following standards:~~

- ~~(a) — The location, shape, size and character of the common open space must be suitable for the planned unit development.~~
- ~~(b) — Common open space must be used for amenity or recreational purposes. The uses authorized for the common open space must be appropriate to the scale and character of the planned development, considering the size, density, expected population, topography, and the number and type of dwellings to be provided.~~
- ~~(c) — Common open space must be suitably improved for its intended use, but common open space containing natural features worthy of preservation~~

~~may be left unimproved. The buildings, structures and improvements which are permitted in the common open space must be appropriate to the uses which are authorized for the common open space and must conserve and enhance the amenities of the common open space having regard to its topography and unimproved condition.~~

~~(12) —Planned Unit Development Review and Amendments~~

~~(a) —Annual Review:~~

~~The Zoning Administrator and Planning Commission shall review all Planned Unit Developments within the City by March 1 of each year and shall make a report to the City Council on the status of the development in each of the Planned Unit Developments. If the Commission finds that development has not occurred within one year after the original approval of the conditional use permit for the Planned Unit Development, the Commission may recommend that the City Council revoke the Conditional Use Permit as set forth in Section 505 of this Ordinance.~~

~~(b) —Revision to the Planned Unit Development:~~

- ~~1. —Changes in the location, placement, and heights of buildings or structures may be authorized by the Zoning Administrator if required by engineering or other circumstances not foreseen at the time the Final Plan was approved.~~
- ~~2. —Approval of the Planning and Zoning Commission and City Council shall be required for other changes such as rearrangement of lots, blocks and building tracts. These changes shall be consistent with the purpose and intent of the approved final development plan.~~

~~(c) —Amendments to the Planned Unit Development:~~

~~Any amendment to the Planned Unit Development shall require the same procedures as for the application for a Conditional Use Permit as set forth in Section 505 of this Ordinance.~~

(J) Traffic Impact Studies

Traffic Impact Studies are used to evaluate the interaction between existing transportation infrastructure and proposed land development projects. The basic premise is that land development generates new traffic that will travel on the adjacent roadway systems and that the amount of traffic and the relative impact to the system is predictable.

The need for a Traffic Impact Study for a proposed development will be determined based on the [city's](#) adopted Traffic Impact Study Guidelines and Process, [as](#)

amended. This document identifies trigger points at which a Traffic Impact Study will be required, and if required, what steps must be included in the analysis. Proposed development that will impact the surrounding transportation system below an unacceptable level of service may be denied by the ~~City~~City or mitigation measures may be required which will improve the level of service to an acceptable level.

(K) Administrative Permits

(1) An administrative permit ~~may~~shall be required for the following activities:

- (a) Fences
- (b) Accessory structures under 200 square feet
- (c) Solar energy system that does not require a building permit
- (d) ~~Other~~ activities as identified by this Unified Development Code

(2) An application for an administrative permit shall be filed with the Zoning Administrator and shall include the following:

- (a) Complete application form
- (b) Application fee
- (c) Project description. A written summary of the proposed use or activity.
- (d) Proposed site plan
- (e) Other information as required by the Zoning Administrator

(3) Review and Approval

- (a) The Zoning Administrator shall review the application for completeness and conformance with applicable zoning requirements.
- (b) The Zoning Administrator may approve, approve with conditions, or deny the application. Conditions may be imposed to ensure compliance with zoning standards and to mitigate potential impacts.

(4) Expiration

- (a) ~~The Zoning Administrator may suspend or revoke the permit 1 year after approval if the proposed use has not commenced. An applicant and/or owner may apply to the Zoning Administrator for no more than one (1) time extension of up to 6 months for an unused administrative permit.~~

§ 3.003 VIOLATIONS AND PENALTIES

(A) Violation of any provisions of this Ordinance shall be a misdemeanor.

Commented [K059]: I believe we need to use the word shall if requiring a permit...may isn't strong enough.

Commented [K060]: There should be exceptions to this such as non-commercial speech, election signs (even though we can't call them that), real estate signs, etc. The more I think about this, we do require sign permits for all signs (except as noted above) so why even mention here?

Commented [FN61R60]: removed

Commented [K062]: As of right now, our Rental License requirements include short term rentals so they are covered by that. We have no desire to change this process at this time.

Commented [FN63R62]: Removed

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Commented [K064]: I think most of these permits would not have an end date, at least not those mentioned.

Commented [FN65R64]: Removed

Commented [EG66]: No time maximum for these?

Commented [FN67R66]: Updated to match other sections

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Commented [EG68]: If administrative citations are added (see: chickens) this needs to be redone, right?

Commented [K069R68]: To add context, the City might be exploring an administrative citation process for nuisance type ordinance violations. We are not sure if it might include some zoning violations.

Commented [FN70R68]: If you want admin citations to be in the UDC we can work in some language based on how it will work elsewhere. Let us know

- (B) In the event of a violation or a threatened violation of this Ordinance, the Council, or any member thereof, in addition to other remedies, may institute appropriate actions or proceedings to prevent, restrain, correct, or abate such violations or threatened violations and it is the duty of the Attorney to institute such action.
- (C) Any taxpayer may institute mandamus proceedings in District Court to compel specific performance by the proper official or officials of any duty required by this Ordinance.

§ 3.004 FILING AND RECORDING

(A) Restrictions on Filing and Recording Conveyances

Upon the adoption of this ~~chapter~~Ordinance, no conveyance of land to which this ~~chapter~~Ordinance is applicable shall be filed or recorded, and no building permit shall be issued for construction or alteration on any property, if the land is described in the conveyance is by metes and bounds, or by reference to an unapproved registered land survey, or to an unapproved plat made after the effective date of this ~~chapter~~Ordinance. The foregoing provisions do not apply to a conveyance if the land described:

- (1) was a separate parcel of record April 1, 1945 or the date of adoption of subdivision regulations under Laws 1945, Chapter 287, whichever is the later, or
- (2) was the subject of a written agreement to convey entered into prior to such time, and the instrument showing the agreement to convey was recorded in the office of the Registrar of Deeds within ~~one~~ year of such agreement, or
- (3) was a separate parcel of not less than 2.5 acres in area and 150 feet in width on January 1, 1966, or
- (4) was a separate parcel of not less than ~~five~~five (5) acres in area and 300 feet in width on July 1, 1980, or
- (5) is a single parcel of commercial or industrial land of not less than ~~five~~five (5) acres and having a width of not less than 300 feet and its conveyance does not result in the division of the parcel into ~~two~~two (2) or more lots or parcels, any ~~one~~one (1) of which is less than ~~five~~five (5) acres in area or 300 feet in width, or
- (6) is a single parcel of residential or agricultural land of not less than 20 acres and having a width of not less than 500 feet and its conveyance does not result in the division of the parcel into ~~two~~two (2) or more lots or parcels, any ~~one~~one (1) of which is less than 20 acres in area or 500 feet in width.

In any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the ~~city council~~CityCity Council may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.

(B) Concept Plan

In order to ensure that all subdividers are informed of the procedural requirements and minimum standards of this ~~chapter~~Ordinance and the requirements or limitations imposed by other ~~City~~City ordinances, prior to the filing of a preliminary plat, all subdividers shall present a concept plan to the ~~City~~City. The application fee shall be as indicated on the official ~~City~~City fee schedule.

- (1) Contents of plans. Subdividers shall prepare, for review with the ~~Planning Staff~~Zoning Administrator, the Planning Commission and Park Board (if applicable), subdivision concept plans which shall contain the following information: tract boundaries, north point, streets on and adjacent to the tract, significant topographical and physical features, proposed general street layout, proposed general lot layout including outlots and park dedication, and any zoning changes. ~~The concept plan must be submitted to the city in an electronic format (such as .PDF deemed acceptable by City Staff) as well as in paper format to seal.~~
- (2) Informal consideration. Such concept plans will be considered as submitted for informal review and discussion between the subdivider, ~~Planning Staff~~Zoning Administrator and the Planning Commission. Submission of a concept plan shall not constitute formal filing of a plat with the ~~Planning Community Development~~ Department. The Planning Commission shall also review the concept plan at a regularly scheduled meeting and provide comment, unless the developer requests otherwise. Any comments or recommendations for modifications made by ~~Planning Staff~~Zoning Administrator or the Planning Commission are advisory only and shall not constitute approval or a commitment to approve. No formal action will be taken by the Planning Commission or the ~~City~~City Council during concept plan review.
- (3) Modifications. As soon as may be practical on the basis of a concept plan, ~~Planning Staff~~Zoning Administrator will informally advise the subdivider of the extent to which the proposed subdivision conforms to the design standards of this ~~chapter~~Ordinance and will discuss possible plan modifications that are necessary to secure conformance.
- (4) ~~Planning Staff~~Zoning Administrator may determine that concept plan review with the Planning Commission is not necessary because of, but not limited to, the following reasons: small number of lots or no public land dedication.

Commented [EG71]: Zoning Administrator? When is either used, as they're mentioned in tandem earlier in the document. Planning staff is used instead throughout this entire document.

Commented [FN72R71]: replaced

Commented [EG73]: Scratch this? This isn't specified at earlier mentions of submitting electronic documents. Could just be added to the dictionary/definitions section at the beginning

Commented [FN74R73]: removed

§ 3.005 MINOR SUBDIVISIONS

(A) Application. A minor subdivision shall constitute any of the following:

- (1) The addition of a parcel of land to an abutting parcel.

- (2) The division of a lot from a larger tract of land that creates no more than ~~two-two~~ (2) lots out of the original lot. The parcels of land must not have been part of a minor subdivision within the last ~~five-(5)~~ years.
- (3) The division of a base lot upon which a two family dwelling, townhouse, four-plex, or any other multi-family unit which is a part of a recorded plat where the purpose of the division is to permit individual private ownership of a single dwelling unit within the structure. The newly created property lines must not cause any of the unit lots or the structure to be in violation of this ~~chapter~~Ordinance.
- (4) The consolidation of two (2) or more platted lots into ~~one- one~~ (1) parcel.
- (B) Contents and data required.
- (1) Certificate of survey. The requested minor subdivision shall be prepared by a professional land surveyor in the form of a certificate of survey. The survey shall contain a legal description for the parcels to be created. ~~Two (2) copies of the survey, along with an An electronic version of the survey,~~An electronic version of the survey shall be submitted to the Zoning Administrator. ~~Planning Department~~ ~~(or Zoning Administrator – let's stay consistent);~~
- (2) Property description and submission information. The data and supporting information detailing the proposed minor subdivision shall be the same as required for a preliminary plat as described in Section 3.006 (B) 040 of this ~~chapter~~Ordinance. Exceptions may be granted by the ~~Planning~~ ~~Department~~Zoning Administrator in writing.
- (C) Design standards. The minor subdivision must conform to all design standards as specified in Section ~~6.003 s-060 through 069~~ of this ~~chapter~~Ordinance. Any proposed deviation from the design standards shall require the processing of a ~~variance~~Variance request.
- (D) Processing.
- (1) If the minor subdivision involves property which has been previously platted, or the property is greater than ~~ten-(10)~~10 acres in total area, the ~~City Planner~~Zoning Administrator may administratively approve the application, provided that it complies with applicable provisions of this ~~chapter~~Ordinance.
- (2) In all other instances, the procedures for review and approval of plats set forth in this ~~chapter~~Ordinance must be followed, including approval by the ~~City~~City Council.
- (E) Filing. The ~~City Planner~~Zoning Administrator shall be authorized to stamp and sign the deed or registered land survey as meeting the requirements of the ~~City~~City. The survey

Commented [EG75]: Something earlier in the document asks for 3 physical copies of a survey. Standardize?

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Commented [EG77]: Zoning Administrator?

or deed shall be filed and recorded at the Office of the County Recorder within 30 days of approval.

§ 3.006 PRELIMINARY PLAT

Pursuant to Minnesota Statutes Section 462.358, an application for a preliminary plat shall be approved or denied by the ~~City~~City Council within 120 days from the date of its official and complete submission, as approved by ~~Planning Staff~~Zoning Administrator. All findings to support the decision of the ~~City~~City Council to approve or deny the application must be approved and adopted by the ~~City~~City Council within that 120-day period, unless an extension of the review period has been agreed to by the subdivider.

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(A) Procedure.

- (1) Filing. ~~Ten (10)~~An electronic copy~~ies~~ of the preliminary plat, ~~plus an electronic copy in .PDF format~~, shall be filed with ~~Planning Staff~~Zoning Administrator at least ~~three (3)~~ weeks prior to the regular Planning Commission meeting, at which time the plat is to be considered, together with the fully completed Planning Application, proof of ownership or ownership interest (option, etc.) and application fee. When a proposed subdivision is outside of the ~~city~~City limits, an abstracter's certified property certificate showing the property owners within 350 feet of the outer boundary of the proposed subdivision must be submitted.
- (2) ~~Variance~~Variances. Any necessary applications for ~~variance~~Variances from the provisions of this or other applicable code provisions must be filed with the Zoning Administrator before the preliminary plat will be considered complete and officially filed.
- (3) Application fee. -The application fee shall be as set by the ~~City~~City Council, to be used for the expenses of the ~~city~~City in connection with the approval or disapproval of said plans.
- (4) Rezoning. If the property must be rezoned for the intended use, an application for rezoning, pursuant to the procedure in the ~~Unified Development Code~~Zoning Ordinance, must be filed with the preliminary plat application.
- (5) Review by ~~Planning Staff~~Zoning Administrator. Prior to the meeting of the Planning Commission at which the preliminary plat is to be considered, ~~Planning Staff~~Zoning Administrator and other appropriate Department Directors shall examine the plat for compliance with this ~~chapter~~Ordinance and other ordinances of the ~~city~~City. ~~Planning Staff~~Zoning Administrator will submit a written report to the Planning Commission incorporating all pertinent comments.
- (6) Review by the Planning Commission.

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- (a) The Planning Commission shall conduct a public hearing to accept public input on the proposed preliminary plat at its first regular meeting after the application has been filed in accordance with the procedure outlined above. Notice of said hearing shall be published in the official ~~city~~City newspaper at least 10 days prior to the hearing. Mailed notice of this hearing shall be sent to surrounding property owners within 350 feet, each utility company, the ~~City~~City Attorney, ~~City~~City Engineer and to the following, if appropriate:
1. ~~Commissioner of the~~ Minnesota Department of Transportation if the proposed subdivision includes land abutting an established or proposed trunk highway;
 2. County Engineer if the proposed subdivision includes land abutting a county or county state-aid highway.
 3. ~~Commissioner of the~~ Department of Natural Resources if the proposed subdivision adjoins a water of the state.
- (b) The Planning Commission shall consider the preliminary plat together with the reports from the ~~Planning Staff~~Zoning Administrator and consultants and public input. The Planning Commission shall formulate a recommendation concerning the preliminary plat within 30 days of the conclusion of the public hearing, and shall promptly transmit it to the ~~City~~City Council together with ~~one~~ ~~one~~ (1) copy of the application and the staff report. If no recommendation is received by the Planning Commission within 30 days of the conclusion of the public hearing, the ~~City~~City Council may take action without a recommendation.
- (7) Review by the Park Board. The Park Board shall make a recommendation to the Planning Commission and ~~City~~City Council as to the location, size and type of park improvements and sidewalk/trail systems proposed. If the ~~City~~City Council grants approval of the preliminary plat prior to review by the Park Board, such approval shall be contingent on review by the Park Board.
- (8) Action by the ~~City~~City Council. The recommendations of the Planning Commission and Park Board on the preliminary plat shall be considered by the ~~City~~City Council, and the ~~City~~City Council shall approve, disapprove, or conditionally approve the preliminary plat. If the ~~City~~City Council disapproves said plan, the grounds shall be set forth in the proceedings of the ~~City~~City Council and reported to the subdivider. The ~~City~~City Council shall also act on the approval or disapproval of any ~~variance~~Variances requested by the subdivider and the method of financing and constructing the required public improvements. Notice of the action(s) taken by the ~~City~~City Council shall be forwarded to the subdivider.

- (9) Term of approval. Approval of the preliminary plat shall be effective for a period of 12 months, unless an extension is granted by the ~~City~~City Council. The subdivider may file a final plat limited to such portion of the preliminary plat as the subdivider proposes to record and develop at the time, provided that such portion conforms to all requirements of this ~~chapter~~Ordinance. If some portion of the final plat has not been submitted for approval within 12 months, a new application for preliminary plat approval must be submitted along with an application fee for review.
- (10) Preliminary approval. Approval of the preliminary plat shall not be construed to be approval of the final plat. Subsequent approval will also be required of the engineering proposals pertaining to water supply, storm drainage, sewage disposal, grading, gradients and roadways widths by the Public Works Department, ~~City~~City Engineer and other governmental agencies having jurisdiction prior to the approval of the final plat by the ~~city~~City.
- (11) Drainage. No plat will be approved for a subdivision which is subject to periodic flooding, that contains poor drainage facilities and would make adequate drainage to the streets and lots impossible. However, if the subdivider agrees to make improvements that will, in the opinion of the ~~City~~City Engineer, make the area completely safe for residential occupancy and provide adequate street and lot drainage, the preliminary plat of the subdivision may be approved. Subdivisions along any waterway must show the 100-year flood line on the preliminary plat.

(B) Data Required for Preliminary Plat

Any owner desiring to subdivide a piece of land in the ~~city~~City shall submit to the ~~Planning-Community Development~~ Department ~~Staff 10-24" by 36" copies of a digital copy of the preliminary plat drawings or prints, one 8½" by 11" drawing, one 11" by 17" drawing, one digital copy in PDF format,~~ a completed application ~~form~~, the application fee as identified in the ~~city~~City fee schedule and written documents containing the following information:

- (a) Identification and description.
- (b) The name of the proposed subdivision. Said subdivision name shall not duplicate or nearly duplicate the name of any other subdivision in the county, unless the proposed subdivision is an addition to an existing subdivision.
- (c) The legal description of the land contained within the subdivision including the total acreage of the proposed subdivision.
- (d) The names, addresses and telephone numbers of all owners of the property.

- (e) An indication as to which parcels are registered or abstract property.
 - (f) The name, address, telephone number, professional license number and seal of the professional land surveyor or engineer who made, or under whose supervision was made, the survey of the proposed subdivision.
 - (g) The date of the survey and revision dates for all subsequent submissions.
 - (h) A graphic scale or plat, not less than ~~one~~ one (1) inch equal to 100 feet.
 - (i) Existing and proposed covenants, easements, liens or encumbrances.
 - (j) Elevation bench marks used for the topographic survey, which match the applicable county's coordinates.
 - (k) Reference to the coordinate system used for the survey.
- (2) Existing conditions.
- (a) A vicinity map at a scale acceptable to the Planning Community Development Department showing the relationship of the proposed subdivision to adjacent properties, roads, right-of-ways, and other property and subdivisions within 500 feet of the proposed subdivision, and the relation of the plat to the surrounding zoning districts.
 - (b) All existing monuments and markers found and set.
 - (c) The location, names and widths of all existing streets, roads and easements within the proposed subdivision and adjacent thereto.
 - (d) The approximate boundaries of all areas subject to inundation or storm water overflow, and the location, width and direction of flow of all watercourses.
 - (e) The approximate location of tree cover and general identification of size and types thereof.
 - (f) The location and, where ascertainable, sizes of all existing structures, wells, overhead and underground utilities, railroad lines, municipal boundaries, section lines, township lines, and other important features existing upon, over or under the land proposed to be subdivided.
 - (g) The location of soil test holes, together with data regarding soil bearing qualities, etc., attesting to the suitability of soils for the specific uses proposed in the subdivision.
 - (h) North arrow and scale.

- (i) Existing contours, at two-foot intervals if required by the Planning Commission for a zero to ~~5% five-percent~~ slope: five-foot intervals for slopes exceeding ~~5% five-percent~~ up to 30%~~-percent~~; 10-foot intervals for slopes in excess of 30~~-percent~~%; and spot elevations to determine the general slope of the land, and high and low points thereof. Said contours and elevations shall be based upon datum acceptable to the ~~CityCity~~ Engineer.
 - (j) Areas in the plat which have been designated as wetlands or floodplains by the Department of Natural Resources.
- (3) Proposed conditions.
- (a) The boundaries of all blocks and lots within the proposed subdivision, together with the numbers and letters proposed to be assigned each lot and block.
 - (b) The total number of proposed lots and outlots with a table of their sizes that includes a listing of the minimum, maximum and average sizes.
 - (c) The layout of proposed streets showing right-of-way widths, centerline grades of streets and proposed street names.
 - (d) The location of any of the foregoing improvements which may be required to be constructed beyond the boundaries of the subdivision shall be shown on the preliminary map or on the vicinity map, as appropriate.
 - (e) Provisions for surface water disposal, ponding, drainage, and flood control.
 - (f) Where the subdivider owns property adjacent to that which is being proposed for subdivision, the subdivider must submit a sketch plan or ghost plat of the remainder of the property so as to show the possible relationships between the proposed subdivision and the future subdivision. In any event, all subdivisions must relate well with existing or potential adjacent subdivisions.
 - (g) Proposed pad elevations on each lot. Pad elevations shall ensure a ~~2%two percent~~ minimum grade from the structure and along all drainage ways.
 - (h) Minimum front, side and rear setback lines on each lot. When lots are on a curve, the width of the lot at the building setback line shall be shown.
 - (i) Minimum building setbacks to wetlands as specified in the ~~cityCity's Unified Development CodeZoning Ordinance~~.
 - (j) The location, size and proposed improvements for proposed parks, playgrounds and public open spaces; or other special uses of land to be

considered for dedication to public use or to be reserved by deed of covenant for the use of all property owners in the subdivision and any conditions of such dedication or reservation.

- (k) Proposed right-of-way widths of any alleys, pedestrian ways, trails, drainage easements, utility easements and wetland or conservation easements.
 - (l) Preliminary utility plan including the proposed sizes and locations of water, sanitary sewer, and storm water facilities.
 - (m) Preliminary grading and drainage plan which shows existing and proposed contours, including the types of buildings proposed to be constructed on the lots, i.e. FB = Full Basement, SE L/O = Split Entry Lookout, SE W/O = Split Entry Walkout, or FB W/O – Full Basement Walkout.
- (4) Supplemental information. Any or all of the supplementary information requirements set forth in this subsection shall be submitted when deemed necessary by the Planning-Community Development Department, consultants, advisory bodies or the CityCity Council. If zoning changes are contemplated, the proposed zoning plan for the area, including dimensions, shall be shown. Such proposed zoning plan shall be for information only and shall not vest any rights in the subdivider.

§ 3.007 FINAL PLAT

(A) Procedure for Submittal and Review

The procedure for submittal and review of the final plat shall be as follows

- (1) Filing. The final plat shall be submitted, along with a written application for approval of the final plat and the application fee, as established in the cityCity fee schedule, at least ~~three~~ 3 weeks prior to a Planning Commission meeting at which consideration is requested. The final plat shall be reviewed separately from the preliminary plat unless the cityCity agrees to review the preliminary and final plats simultaneously. The final plat shall incorporate all changes, modifications, and revisions required by the cityCity during the preliminary plat review process. Otherwise, the final plat must conform to the preliminary plat. If the final plat is not submitted within 12 months of the date that the CityCity Council approved the preliminary plat, the approval of the preliminary plat shall be considered void unless time has been extended by the CityCity Council.
- (2) Compliance with laws. All final plats shall comply with the provisions of Minnesota Statutes, the requirements of this chapterOrdinance and the CityCity Code.

(3) Certification. The subdivider shall submit with the final plat a current abstract of title, title opinion, registered property certificate, or other such evidence as the ~~CityCity~~ Attorney may require showing title or control in the subdivider's name.

(4) No monies owing. The subdivider shall submit with the final plat application, certification to the ~~cityCity~~ that there are no delinquent property taxes, special assessments, or ~~cityCity~~ utility fees due upon any of the parcels of land to which the subdivision application relates.

(B) Review of Final Plat

(1) Staff review. The ~~cityCity~~ shall refer copies of the final plat to the ~~CityCity~~ Engineer, for review of engineering standards and specifications, and to utility companies. The abstract of title, title opinion, registered property report or other such evidence of ownership shall be submitted to the ~~CityCity~~ Attorney for examination and report. The subdivider shall reimburse the ~~cityCity~~ for the fees of the ~~CityCity~~ Engineer and ~~CityCity~~ Attorney.

(2) Review by other agencies. Review by all other appropriate agencies that have jurisdiction within or adjacent to the final plat is required. Agencies may include, but are not limited to, the Minnesota Pollution Control Agency, [Scott and LeSueur County Highway Engineers](#), Scott and LeSueur County Soil and Water Conservation Districts, the Army Corps of Engineers, the Minnesota Department of Transportation and the Department of Natural Resources.

(3) Review by the Planning Commission. A recommendation of approval or disapproval of the final plat will be forwarded to the ~~CityCity~~ Council after the meeting of the Planning Commission at which such plat was considered.

(4) Action by the ~~CityCity~~ Council.

(a) After review of the final plat by the Planning Commission, such final plat, together with the recommendations of the Planning Commission shall be submitted to the ~~CityCity~~ Council for action. If approved, the final plat shall be approved by resolution, which resolution shall provide for the ~~CityCity~~'s acceptance of all streets, alleys, easements or other public ways, parks, or other open space dedicated for public purposes. If disapproved, the grounds shall be set forth in a ~~CityCity~~ Council resolution and the resolution shall be provided to the subdivider.

(b) No final plat shall be approved that:

1. Does not conform to the preliminary plat.
2. Does not meet the design standards and engineering specifications set forth in this ~~chapter~~[Ordinance](#).

3. Does not have the required documents calling for means to finance the public improvements as well as other required data.

- (5) Recording. If the final plat is approved by the ~~City~~City Council, the subdivider shall record it with the County Recorder's Office within ~~120~~90 days after the date of approval; otherwise the approval shall be considered void, unless the Council grants an extension of up to an additional 90 days.

Commented [K078]: We have found this to be too short, can we change to 120 days?

(C) Contents of Final Plat

When a final plat is approved, it shall include the following:

- (1) Name of plat.
- (2) Financial security to ensure completion of improvements, as provided for in this ~~chapter~~Ordinance.
- (3) Evidence that ground water control is at least ~~five~~five (5) feet below the level of finished grades of plan in order to avoid any ground water problems.
- (4) Any supplemental engineering data required by the ~~City~~City Engineer.
- (5) Data required by the county surveyor.
- (6) Accurate angular and lineal dimensions for all lines, angles, and curvatures used to describe boundaries, streets, easements, areas to be reserved for public use, and other important features.
- (7) Dimensions of lot lines shown in feet and hundredths.
- (8) When lots are located on a curve or when side lot lines are at angles other than 90 degrees, the width of the building setback lines shall be shown.
- (9) All lots and blocks must be clearly numbered, shown in the center of each area.
- (10) True angles and distances tied to the nearest established street line or official monuments (not less than ~~three~~three (3)) which shall be accurately described on the plat.
- (11) ~~City~~City, county, or section lines that are accurately tied to the lines of the subdivision by distances and angles.
- (12) Complete curve data, including radii, internal angles, points and curvatures, tangent bearings, and lengths of all arcs.
- (13) Accurate location of all monuments. A permanent marker shall be deemed to be a steel rod or pipe, three-fourths inch or larger in diameter extending at least 14 inches below the finished grade. In situations where conditions prohibit the

placing of markers in locations prescribed above, offset markers shall be shown on the final plat, together with accurate interior angles, bearings and distances.

- (14) Certification by a registered land surveyor to the effect that the plat represents a survey made by him/her and that monuments and markers shown thereon exist as located and that all dimensional and geodetic details are correct.
- (15) Notarized certification by the owner, and by any mortgage holder of record, of the adoption of the plat and the dedication of streets, alleys, parks, public open space and easements and other public areas.
- (16) A statement dedicating all easements, streets, alleys, parks and public open spaces and other public areas not previously dedicated.
- (17) Approval by signature of the chairperson and secretary of the Planning Commission, Mayor, ~~CityCity~~ Administrator and ~~CityCity~~ Attorney, and applicable county and state officials.
- (18) Scale of the plat.
- (19) Total acreage of the plat.

(D) Supplementary Documents

The following shall also be provided to the ~~cityCity~~:

- ~~(1) Mylar copies of the plat as approved by the city, in both 24" by 36" and 11" by 17"~~
- ~~(2)(1)~~ Electronic copies of the recorded plat in Shapefile or CAD Format and .PDF format for inclusion in the city's base map as required by CityCity Staff.
- ~~(3)(2)~~ A complete set of subdivision development plans containing plans and specifications to construct the required public improvements and to make the subdivision suitable for development, which conform to the ~~cityCity~~ requirements. These documents will be reviewed in full by the CityCity Engineer and CityCity Attorney at the subdivider's expense.
- ~~(4)(3)~~ A certified copy of the plat evidencing filing of the plat with the county within 90 days after approval by the ~~CityCity~~ Council. No building permits will be approved by the ~~CityCity~~ for construction of any structure on any lot in the plat until the ~~cityCity~~ has received evidence of the plat being recorded from Scott County or LeSueur County, depending on the location of the plat.
- ~~(5)(4)~~ A complete set of electronic as-built construction drawings for any public improvements constructed in the subdivision shall be furnished to the ~~cityCity~~ within 120 days after the construction is complete and approved by the ~~cityCity~~.

Commented [K079]: We have no use for the mylars and therefore they only need to provide the mylars as required by the counties.

~~(6)~~(5) Copies of any protective or restrictive covenants, including homeowners' association covenants affecting the subdivision or any part thereof.

~~(7)~~(6) Upon adoption and filing of a final plat, the ~~Planning-Community Development~~ Department shall prepare a street address map and distribute it to the subdivider, utility companies, the Police Department and the counties.

~~(8)~~(7) Financial Security as approved by the ~~CityCity~~ Attorney, in a sum of ~~125~~
~~percent~~% of the engineer's estimate or actual bid if available, for the cost of all improvements to be furnished and installed by the subdivider which have not been completed prior to approval of the plat, shall be deposited with the ~~cityCity~~ to be held in escrow. In lieu of making the escrow deposit, the subdivider may furnish a bank letter of credit or performance bond with corporate surety. The bond or letter of credit must be approved as to form by the ~~CityCity~~ Attorney. If the improvements are to be completed by the ~~CityCity~~ pursuant to a public improvement project, the financial security shall also include the first year's assessments. The ~~cityCity~~ may reimburse itself out of the financial security for any cost and expenses incurred by the ~~cityCity~~ for completion of the work in case of default of the subdivider and for any damages sustained on account of any breach thereof. The ~~cityCity~~ may release a portion of the financial security as public utility and street improvements are approved by the ~~CityCity~~ Engineer, as grading and erosion control has been certified and signed by the subdivider's engineer or as the first year's assessments are paid. Upon completion of the work and termination of any liability, the balance of the remaining financial security must be refunded to the subdivider.

Commented [K080]: Is this the common % number still being used?

Commented [FN81R80]: Yes I have also seen 130%

(E) Effect of Subdivision Approval

For ~~1-one~~ year following preliminary plat approval and for ~~2-two~~ years following final plat approval, unless the subdivider and the ~~cityCity~~ agree otherwise, no amendment to the ~~cityCity~~'s comprehensive plan or official controls shall apply to or affect the use, development density, lot size, lot layout, or dedication required or permitted by the approved application. Thereafter, the ~~cityCity~~ may extend the period by agreement with the subdivider and subject to all applicable performance conditions and requirements, or it may require submission of a new application unless substantial physical activity and investment has occurred in reasonable reliance on the approved application and the subdivider will suffer substantial financial damage as a consequence of a requirement to submit a new application. In connection with a subdivision involving planned and staged development, the ~~CityCity~~ Council may by resolution or agreement grant the rights referred to herein for such periods of time longer than ~~2-two~~ years which it determines to be reasonable and appropriate.

(F) Grounds for Denial of Subdivision Proposal

- (1) Purpose. Any preliminary plat of a proposed subdivision deemed premature for development shall be denied by the ~~City~~City Council.
- (2) Conditions establishing subdivisions premature for development. A subdivision may be deemed premature for development should any of the conditions set forth in the provisions which follow exist:
- (a) Lack of adequate drainage. A condition of inadequate drainage shall be deemed to exist if:
1. Surface or subsurface water retention and runoff is such that it constitutes a danger to the structural security of the proposed structures.
 2. The proposed subdivision will cause pollution of water sources or damage from erosion and siltation on downhill or downstream land.
 3. The proposed site grading and development will cause harmful and irreparable damage from erosion and siltation on downhill or downstream land.
 4. Factors to be considered in making these determinations may include, but are not limited to:
 - a. Average rainfall for the area.
 - b. The relation of the land to floodplains.
 - c. The nature of soils and subsoils and their ability to adequately support surface water runoff and waste disposal systems.
 - d. The slope of the land and its effect on effluents.
 - e. The presence of streams as related to effluent disposal.
- (b) Lack of adequate water supply. A proposed subdivision shall be deemed to lack an adequate water supply if it, if developed to its maximum permissible density, does not have adequate sources of water to serve all of the lots without causing an unreasonable depreciation of existing water supplies for surrounding areas.
- (c) Lack of adequate streets or highways to serve the subdivision. A proposed subdivision shall be deemed to lack adequate streets or highways to serve the subdivision when:

1. Streets that currently serve the proposed subdivision or streets that are proposed to serve the subdivision are of such a width, grade, stability, site distance and condition that an increase in traffic volume generated by the proposed subdivision would create a hazard to public safety and general welfare and, when with due regard to the advice of the county or state, said streets are inadequate for the intended use.
 2. The traffic volume generated by the proposed subdivision as calculated by the ~~City~~City Engineer and subject to generally accepted generation computation formulas and design standards would create unreasonable highway congestion at the time of the application or proposed for completion within the next ~~two~~2 years.
- (d) Lack of adequate waste disposal systems. A proposed subdivision shall be deemed to lack adequate waste disposal systems if there is inadequate sewer capacity in the present system to support the subdivision if developed to its maximum permissible density after reasonable sewer capacity is reserved for schools, planned public facilities, and commercial and industrial development projected for the next ~~5~~five years. Expected wastewater generation rates applicable to a proposed subdivision shall be based on generally accepted generation computation formulas as assigned by the ~~City~~City Engineer.
- (e) Lack of adequate ~~city~~City support facilities. A proposed subdivision shall be deemed to lack adequate support facilities, such as parks and recreational facilities and police, fire, and ambulance protection and services when said support facilities are reasonably expected to be necessitated by the subdivision and can not be reasonably provided for within the next ~~five~~5 fiscal years.
- (f) Inconsistency with the comprehensive plan. A proposed subdivision shall be deemed premature if it is found to be inconsistent with the purposes, objectives, and recommendations of the duly adopted comprehensive plan, as may be amended from time to time.
- (g) Inconsistency with environmental protection policies. A proposed subdivision shall be deemed premature if it is found to be inconsistent with environmental protection policies set forth within the ~~city~~City, state and federal rules and regulations, as may be amended.
- (3) Burden of establishing. The burden shall be upon the subdivider to show that the proposed subdivision is not premature.

(G) ~~Variance~~Variances and Waivers

When necessary, the Council upon recommendation by the Planning Commission, may authorize ~~variance~~Variances to the non-procedural requirements of this ~~chapter~~Ordinance in those cases where this Ordinance imposes unusual hardship to the subdivider in the use of his or her land. Unusual hardship includes, but is not limited to, inadequate access to direct sunlight for solar energy systems. Such ~~variance~~Variances shall be requested by the subdivider in writing at the time of the application for preliminary plat approval, and the grounds for such ~~variance~~Variances shall be stated by the subdivider. A ~~variance~~Variance may be granted only if the ~~City~~City Council finds that all of the circumstances detailed in Section 3.002 (G) (1) exist.

(H) Fees and Cost

- (1) Application Fee. To defray administrative costs of processing applications under this ~~chapter~~Ordinance, an application fee for each application shall be paid by all applicants in accordance with the official fee schedule adopted by the ~~City~~City Council.
- (2) Reimbursement of Costs. In addition to the application fee, the applicant shall also pay an administrative fee deposit in the amount determined by the ~~Planning Community Development~~Department and sign an agreement on a form provided by the ~~city~~City agreeing to reimburse the ~~city~~City for all of its costs, including staff and consulting time which includes engineering, planning, legal, administrative and inspection expenses and material costs incurred by the ~~city~~City in processing the application. The hourly rate for staff time shall be determined by the ~~City~~City Council and the rate for consulting time shall be at the actual rate charged to the ~~city~~City by the consultant. Payment of the application fee and the administrative fee deposit and execution of the reimbursement agreement shall be required prior to an application being considered filed, complete and subject to processing. If ~~City~~City ~~Planning Staff~~Zoning Administrator determines that the administrative fee deposit will not be sufficient to fully reimburse the ~~city~~City for its expenses, they may require the applicant to make a supplemental deposit in an amount deemed necessary to reimburse the ~~city~~City for all of its costs. If the applicant fails to submit the supplemental deposit within a reasonable time, the ~~city~~City may suspend processing the application until the deficiency is corrected or deny the application.
- (3) Reimbursement in Full Required. Upon the termination of the application, by an approval, denial, withdrawal, or any other means, all costs incurred by the ~~city~~City shall be immediately payable by the applicant. Any deposit in excess of the ~~city~~City's costs shall be refunded to the applicant. No permits shall be issued, no construction or development shall commence, and no use of property shall be made until all fees and costs are paid in full. -In the event that payment of costs is not made within a reasonable time after demand, the ~~City~~City Council or ~~City~~City ~~Planner~~Zoning Administrator may take such steps as are available to the ~~city~~City

Commented [K082]: Is there an industry standard you'd recommend?

Commented [FN83R82]: I'd recommend the "Community Development Department" for the department and "Zoning Administrator" for authoritative position

Commented [FN84R82]: New Prague's website mentions Community Development Department with the Building department and the Planning and Zoning Department being housed within the CDD. I'd still recommend CDD as the department and ZA as the person

under law to collect the unreimbursed amounts, including collection costs. The steps the ~~city~~City may take to recover its costs include, but are not limited to, placing the amount on the person's property as a service charge pursuant to Minnesota Statutes Section 366.011 and 366.012 and also pursuant to ~~City~~City Code 92.03, or taking such other action as may be deemed appropriate to obtain full reimbursement for the ~~city~~City for all costs it incurs related to the application.

- (4) Trunk area charges. All unplatted land shall be charged water, sanitary sewer, and storm sewer trunk area charges calculated based on the current rate listed in the Official Fee Schedule. ~~The charges will be set in the annual fee schedule during the first City Council meeting in January of each year.~~

(I) Compliance Required

- (1) Conditions for recording. No plat of any subdivision shall be entitled to record in the County Recorder's Office or have any validity until the plat thereof has been prepared, approved, and acknowledged in the manner prescribed by this ~~chapter~~Ordinance.
- (2) Building permits. No building permits will be issued by the ~~city~~City for the construction of any building, structure, or improvement to the land or to any lot in a subdivision, as defined herein, until all requirements of this ~~chapter~~Ordinance have been fully complied with.

(J) Violations

- (1) Sale of lots from unrecorded plats. It is unlawful for any person to sell, trade or otherwise convey or offer to sell, trade or otherwise convey any lot or parcel of land as a part of, or in conformity with, any plan, plat or replat of any subdivision or area located within the jurisdiction of the ~~city~~City unless the plan, plat or replat has been recorded in the Office of the LeSueur or Scott County Recorder, depending on the location of the plat.
- (2) Receiving or recording unapproved plats. It is unlawful for any person to receive or record in any public office any plans, plats or replats of land laid out in building lots and street rights-of-way, alleys or other portions of the same intended to be dedicated to public or private use, or for the use of purchasers or owners of lots fronting on or adjacent thereto, and located within the ~~city~~City, unless the same shall bear thereon, by endorsement or otherwise, the review of the Planning Commission and the approval of the ~~City~~City Council.
- (3) Misrepresentation as to construction, supervision or inspection of improvements. It is unlawful for any person, owning an addition or subdivision of land within the ~~city~~City, to represent that any improvements upon any of the street rights-of-way, alley or avenues of the addition or subdivision, or any utility in the addition or subdivision have been constructed according to the plans and specifications

approved by the ~~City~~City Council, or have been supervised or inspected by the ~~city~~City, when such improvements have not been so constructed, supervised, or inspected.

- (4) Violation a misdemeanor. Every person who violates a section, subdivision, paragraph or provision of this ~~chapter~~Ordinance when he/she performs an act thereby prohibited or declared unlawful, or fails to act when such failure is thereby prohibited or declared unlawful, and upon conviction thereof, shall be punished as for a misdemeanor except as otherwise stated in specific provisions hereof.

SECTION 4 ZONING DISTRICTS

§ 4.001 ZONING DISTRICTS

The zoning districts are so designed as to assist in carrying out the intent and purposes of the Comprehensive Plan which has the purpose of protecting the public health, safety, convenience and general welfare. For the purposes of this Ordinance, the ~~City~~City of New Prague is hereby divided into the following Zoning Districts.

RL-90R-1	Single Family Residential District
RL-84R-2	Single Family Residential District
RL-70R-3	Single Family Residential District
RM	Medium Density Residential District
RH	High Density Residential District
B-1	Central Business District
B-2	Community Commercial District
B-3	Highway Commercial District
I-1	Light Industrial District
PUD	Planned Unit Development Overlay

The following procedure shall apply for establishing zoning in areas annexed to the ~~City~~City:

- (1) Interim zoning. Upon annexation, and until permanent zoning is adopted as provided below, each parcel of annexed land shall be automatically zoned as RL90-R-1 Low Density Residential district until permanent zoning is adopted.
- (2) Permanent zoning. Within a reasonable time after annexation, permanent zoning shall be established by the CityCity for all annexed areas, according to the procedures set forth in this Ordinance.

§ 4.002 ZONING MAP

The zoning map is a graphic representation of locations of all zoning districts within the CityCity as adopted by specific ordinances. It also shows future designations for those areas lying outside the CityCity limits as guided by the Comprehensive Plan.

§ 4.003 ZONING DISTRICT PURPOSES

- (A) RL-90R-1 Single Family Residential District
 - (1) This district is intended for detached single family, low density development in developed and developing areas of the CityCity that are predominantly residential in character.
- (B) RL-84R-2 Single Family Residential District
 - (1) This district is intended to allow existing and infill detached single family, low density development in previously platted areas of the community.
- (C) RL-70R-3 Single Family Residential District
 - (1) This district is intended to allow existing and infill detached single family residences in areas historically platted for small lots.
- (D) RM Medium Density Residential District
 - (1) This district is intended for single family attached ~~two-two (2)~~ to eight (8) unit residences at medium densities of up to 12 units per acre in areas appropriate for buffering single family districts from business and industrial districts and major roadways.
- (E) RH High Density Residential District
 - (1) This district is created to allow high density multi-family dwellings of up to 32 units per acre. This district is located in areas of transition, lower density residential areas and nonresidential areas. Densities higher than 32 units per acre shall be established with a Planned Unit Development.
- (F) B-1 Central Business District

- (1) The purpose of this district is to encourage the continuation of a viable downtown area by allowing retail, service, office and entertainment facilities as well as public and semi-public uses. In addition, residential uses will be allowed to locate above the commercial establishments. Any use in this district shall not be required to provide off-street parking.

(G) B-2 Community Commercial District

- (1) This district is established to accommodate the type of businesses that are oriented to the traveling public and require highway access. To minimize unmanageable strip development, common access drives and frontage roads should be integrated into site plans and platting.

(H) B-3 Highway Commercial District

- (1) This district is established to accommodate the type of businesses that are oriented to the traveling public and require highway access. This district is intended to allow existing businesses and redevelopment/infill of certain types of businesses, but not encourage expansion of the overall zoning boundary of the district.

(I) I-1 Light Industrial ~~and Business Park~~ District

- (1) This district is intended to provide for industrial ~~and business~~ uses for activities that, because of their nature, are not well suited for close proximity to residential ~~and business~~ areas of the community. Existing industry that is located close to residential areas is allowed to continue and must meet certain performance criteria when applicable. Light Industrial and Business Park areas allows for a mix of light industrial, office, research and development, and limited service uses. ~~Industrial areas have good access to highway and railroad lines because of their need to receive and distribute products and goods.~~

(J) WD West Downtown Overlay District

- (1) Purpose. The purpose of the West Downtown Overlay District is to provide a special designation for properties on the western fringe of the historical and recognized downtown area. Future redevelopment, possibly assisted in part by available city programs, should encourage the use of this area as a mixed use transition from the downtown to nearby park, open space, and residential uses which are compatible with the purposes of the B-1 downtown. New development and redevelopment in the West Downtown Overlay District will only be permitted if it conforms to the uses allowed in the B-1 zoning district and conditions outlined in this
- (2) Permitted uses. Uses, whether commercial or residential, legally existing on (date of UDC Adoption), may continue. The intent of this provision is to allow existing

uses to remain and be maintained. To meet this intent, the following work is permitted:

(a) Work required bringing existing structures into compliance with current building code;

(b) Interior structural remodeling

(3) Redevelopment of existing structures and uses. Redevelopment of properties within the West Downtown Overlay District shall only be permitted if the property complies with the B-1 zoning district land uses and performance standards unless an interim use permit shall be considered for a land use or variance for performance standards.

(4) Parking. Required parking within the West Downtown overlay district shall be located onsite unless approved by a specific parking plan approved through a conditional use permit or interim use permit.

(+)(5) Dimensional standards. Dimensional standards for uses in existence on (date of UDC adoption), in the B-1 Zoning District shall be applicable.

SECTION 5 ALLOWED USES AND PERFORMANCE STANDARDS

§ 5.001 USE CHART

(A) Key: P = Permitted Use, C = Conditional Use, A = Accessory Use

Use	RL- 90R-	RL- 84R-	RL- 70R-	RM	RH	B-1	B-2	B-3	I-1
<u>Above Ground Bulk Storage (Liquid)</u>								C	C
<u>Accessory buildings</u>	A	A	A	A	A				A
<u>Accessory uses</u>	P	P	P	P	P				
<u>Accessory Dwelling Unit</u>	P	P	P						
<u>Any house or other principal structure moved onto a lot</u>	C	C	C	C	C	C	C	C	C
<u>Apartments</u>				P, *12	P	P/C, *23, *34	C, *45	C, *45	
<u>Assisted living facility</u>	P	P	P	P	P				
<u>Auto repair, major</u>							C	C	P
<u>Auto repair, minor</u>						C	C	C	P

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Commented [K085]: Move up list so it's in alphabetical order

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Automobile parking lots, parking garages, bus stations						P	C	C	
Bed and Breakfast Homes	E	E, *1	E, *1	E, *1	E, *1				
Bed and Breakfast Inns	C	C	C	C	C	C	C	C	
Billboard signs									P
Breweries									P
Brewpubs						P	P	P	
Small Breweries						C	C	C	P
Cannabis cultivation business									C
Cannabis delivery business						P	P	P	
Cannabis event organizer						P	P	P	C
Cannabis manufacturing business									C
Cannabis retail business						P	P	P	C, *7
Cannabis testing business									C
Cannabis wholesale business									C
Lower-potency hemp edible retailer						P	P	P	C, *7
Carwashes							C	C	P
Clinics						P	P		
Day care facilities						P	P		
Day care facilities, in-home	P	P	P	P	P				
Distilleries or micro distilleries									C
Drinking establishments						P	C		
Drive-thru businesses							P	P	
Educational buildings and uses including primary and secondary public and private schools and institutions for higher education	C	C	C	C	C				
Electric vehicle charging stations	A	A	A	A	A	A	A	A	A

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Entertainment and amusement facilities						P	C	C	
Essential services	P	P	P	P	P	P	P	P	P
Essential Services Structures	C		C	C	A	C	C		
Exterior Storage							C	C	C
Farm Implement Dealers								C	
Fences	A	A	A	A	A				
Financial institutions, including drive-through facilities							P	P	P
Firing range, indoor									C
Fuel stations						C	C	C	C
Funeral Homes							C		
Gardening, where no sale of products is conducted	A	A	A	A	A				
Health Care Facilities			C				C		
Home occupations	P	P	P	P	P				
Hotels/Motel						P	P	P	
Indoor athletic facilities, no spectator seating							C	P	P
Industry, light									P
Industry, heavy									C
Kennel, Commercial								C	
Landscape nurseries and garden supply store							C	P	
Landscaping and landscaping features	A	A	A	A	A				
Lumberyard								C	
Mail Services						P	P	P	P
Manufactured/Modular home parks		C	C	C	C	C	C	C	
Manufactured home sales								C	
Manufacturing, light								C	
Manufacturing, heavy									C
Motor vehicle and recreation equipment sales							C	C	

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Nameplate and temporary signs	A	A	A	A	A				
Nursing homes and assisted living facilities	C	C	C	C	C				
Office uses						P	P	P	P
Off-street parking serving the property	A	A	A	A	A				
Outdoor seating for food service businesses and drinking establishments						C	C	C	
Physical recreation or training						P	P	P	C
Public Building or utility	C	C	C	C	A	C	C	P	P
Quasi-public organizations						P	C	C	C
Recreation, commercial						C	C	C	C
Recreation, Public	P	P	P	P	P	P	P	P	P
Recycling centers									C
Religious Institution	C	C	C	C	C	C	C	C	
Research facilities									P
Residential recreation equipment	A	A	A	A	A				
Restaurants						P	P	P	
Retail establishments and service establishments						P	P	P	C, *56
Seasonal produce stands						P	P	P	
Self storage								C	C
Single family dwelling units	P	P	P	P	P				
Short Term Rental	P	P	P	P	P	P			
Strip Mall							C		
Temporary buildings/uses							P	P	
Townhouses				P, *12	P				
Two family dwelling units and twinhomes		P	P	P	P				
Uses incidental to the principal uses such as off-street parking and						A	A	A	A

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§ 5.003 PERFORMANCE STANDARDS

Purpose. The performance standards established in this section are designed to encourage a high standard of development by providing assurance that neighboring land uses will be compatible. The performance standards are designed to prevent and eliminate those conditions that cause blight or are detrimental to environment. All future development in all districts shall be required to meet these standards and the standards shall also apply to existing development where so stated.

Before any building permit is approved, the Zoning Administrator shall determine whether the proposed use will conform to the performance standards. The applicant or landowners shall supply data necessary to demonstrate such conformance. Such data may include a description of equipment to be used, hours of operation, method of refuse disposal, and type and location of exterior storage.

(A) Existing Farm Operations

- (1) All farms currently in existence will be permitted to continue operation subject to the following conditions.
 - (a) Any new private stable or other new building in which farm animals are kept shall be a minimum distance of ~~two hundred (200)~~200 feet or more from any other occupied lot in a Residential District, and shall require a ~~Conditional Use Permit~~Conditional Use Permit.
 - (b) The owner of any roadside stand shall be required to apply for a ~~Conditional Use Permit~~Conditional Use Permit.
 - (c) All properties are prohibited from keeping, maintaining or harboring any Farm Animals as defined by this ordinance.

Commented [K090]: Pending council discussion/approval of a backyard chicken ordinance, this could change.

(B) Exterior Storage

In residential districts, except as specifically provided for by this section, all materials and equipment shall be stored within a building.

- (1) ~~(A)~~Exceptions.
 - (a) Laundry drying equipment such as clothesline poles.
 - (b) Children's play equipment such as swing sets and sandboxes.
 - (c) Construction and landscaping materials and equipment currently being used on the premises.
 - (d) Agricultural equipment and materials if these are used or intended for use on the premises.

(e) Off-street parking of passenger motor vehicles and pick-up trucks.

~~(e)~~1. Parking of passenger vehicles and pick-up trucks must be on an improved bituminous surface if located in the front yard. Parking of passenger vehicles and pick-up trucks is permitted on an unimproved surface in the rear yard if the vehicle meets accessory structure setbacks of the district.

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(f) Firewood piles, provided they are kept or stored as follows:

~~(e)~~1. In neat and secure stacks (maximum of ~~four~~four (4) stacks), each of which shall be no higher than ~~five~~five (5) feet. The total volume of all stored wood shall not exceed ~~five~~five (5) feet high by ~~10~~ten feet wide by 25 feet long.

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~~(h)~~2. Stacks shall not be closer than ~~six~~six (6) feet from side property lines and ~~six~~six (6) feet from rear property lines unless screened by a solid fence or wall.

~~(i)~~3. The wood shall not be stored or kept in any front yard.

~~(j)~~(g) Recreational Vehicles and Recreational Equipment, as defined in Section ~~2.001302~~, may be parked or stored outside in a residential district provided that:

~~(k)~~1. The items are immediately operable, without need of repair, and are currently licensed and/or registered to the owner or occupant of the premises upon which they are stored;

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~~(l)~~2. A principal structure must first be located on the lot where the items are stored.

~~(m)~~3. The items are parked or stored outside of a required minimum front yard setback and if parked or stored within a public utility easement are subject to removal at any time for required utility work within the easement.

~~(n)~~4. During periods of seasonal use which are defined as April 1 through October 31 for summer use items (which includes but is not limited to boats, personal watercrafts and similar items that are only able to be used in warm weather months) and November 1 through March 31 for winter use items (which includes but is not limited to snowmobiles, fish houses and similar items that are only able to be used in cold weather months), the items may be located completely on an established and paved driveway within the required minimum front yard setback, provided that:

~~(o)~~a. The item is kept entirely on the vehicle owner's property.

~~(p)~~b. The item does not obstruct the public sidewalk or public right of way.

~~(q)~~c. Recreational vehicles and recreational equipment used for a habitable space for camping purposes are allowed to be stored year-round on an established and paved driveway within the minimum front yard setback.

~~(r)~~5. The item must be parked on a concrete, bituminous or gravel surface, ~~except that gravel~~ Gravel parking areas are not acceptable for driveways used for vehicle parking ~~except for with the exception that~~ items defined specifically as Recreational Equipment, up to 20 feet in length are permitted to be parked on lawn, turf or other similar surface subject to being parked outside of a minimum front yard setback area.

~~(s)~~6. Items parked outside of an enclosed building within a residential district may not exceed 40 feet in length, except as follows:

~~(t)~~a. Items greater than 40 feet in length may be parked at a residential location for a period not to exceed ~~eight~~ hours.

~~(u)~~b. Extended outdoor storage of items greater than 40 feet in length may be permitted by ~~conditional-use permit~~ Conditional Use Permit. In these cases the applicant shall demonstrate that the item is limited from the view of neighboring dwellings through screening or setback from neighboring dwellings or a combination thereof.

~~(c)~~(2) Refuse

~~(+)~~(a) In all districts, all waste material, debris, refuse, or garbage shall be kept in an enclosed building or property, contained in a closed container designed for such purposes. All dumpsters, garbage containers, or refuse bins that are stored outside shall be screened from view. Acceptable methods of screening include enclosures made of wood fencing material, brick or a combination thereof. Enclosure height shall be a minimum of ~~five~~ (5) feet for business and industrial districts. Gates and doors which allow access to the refuse containers shall have a latching mechanism which keep them closed or locked when not in use.

~~(b)~~ Passenger vehicles and trucks in an inoperative state shall not be parked in residential districts for a period exceeding ~~7~~ 7-days. "Inoperative" shall mean incapable of movement under the vehicle's own power and in need of repairs. All passenger vehicles shall be currently licensed.

(2)(c) All exterior storage material not included as a permitted use, accessory use or conditional use, or otherwise permitted by provisions of this Ordinance, shall be considered to be refuse and must be removed.

(3)(d) All platted vacant lots must be maintained in a reasonable manner with the grass cut on a regular basis and noxious weeds controlled [in accordance with Chapter 92 of the CityCity Code](#). The owner of vacant land shall be responsible for keeping such land free of refuse.

~~(D)~~ Glare

~~In all districts, any all lighting used to illuminate an off street parking area, sign, or other structure, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right of way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from said property.~~

Commented [EG91]: List is unclear, typo?

Commented [FN92R91]: I moved under exterior storage for now. In the current zoning ordinance, it is its own section within performance standards.

~~(E)~~(C) Above Ground Bulk Storage (Liquid)

- (1) All uses associated with the above ground bulk storage of, oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a Conditional Use-Permit in order that the [CityCity](#) Council may have assurance that fire, explosion or water or soil contamination hazards are not present that would be detrimental to the public health, safety, and - general welfare.
- (2) The [CityCity](#) Council may require the development of diking around said tanks. Diking shall be suitably sealed and shall hold a leakage capacity [eitycity](#) equal to 115 percent% of the tank's capacitycity. ~~Any existing storage tank that, in the opinion of the City Council, constitutes a hazard to the public safety shall discontinue operations within one (1) year following enactment of this Ordinance.~~

Commented [KO93]: Add to the use table

~~(F)~~(D) Dwelling Units Prohibited

No basement, garage, tent, trailer, recreational vehicle or accessory building shall be used as a permanent dwelling, ~~unless the dwelling is a permitted accessory dwelling unit~~. The basement portion of a finished home or apartment may be used for normal eating and sleeping purposes provided it is properly damp-proofed, has suitable fire protection and exits, and is otherwise approved by the [CityCity](#) Building Inspector.

Commented [EG94]: Should there be an addendum to this clarifying that accessory habitable building units are allowed?

Commented [KO95R94]: Yes, should include an exception for ADU's

(E) Glare

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- (1) In all districts, all lighting, shall be arranged so as to deflect light away from any adjoining residential zone or from the public streets.
- (2) Direct or sky reflected glare, whether from floodlights or from high temperature processes such as combustion or welding, shall be hooded or controlled in some manner so as not to light adjacent property.
- (3) Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right of way.
- (4) Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 candles (meter reading) as measured from said property.

(G)(F) Home Occupations

- (1) Purpose. The purposes of these home occupation provisions are in recognition of:
 - (a) The need to protect market value of existing residential properties;
 - (b) The need to guarantee existing residential property owners' freedom from excessive noise, excessive traffic, nuisances, fire hazards, and other possible adverse effects from commercial-type activities being conducted in residential areas;
 - (c) The need of some citizens to use their place of residence for limited commercial type activities to produce or supplement personal or family income;
 - (d) The fact that certain limited home occupational uses can be useful to both the community as well as the residential proprietor;
 - (e) The fact that the nature of the investment or operation of some activities have a pronounced tendency once started to rapidly increase beyond the limits permitted and thereby impair the use and value of residentially zoned areas for residential purposes; and
 - (f) The ~~City~~City's obligation to protect the integrity of its residential areas from activities which detract from the residential character of a neighborhood and infringe upon the rights of neighborhood residents.
- (2) General Standards for Applicability. The following regulations and requirements shall apply to all home occupations within the ~~City~~City:

- (a) ~~Home occupations shall be conducted entirely within the dwelling unit or accessory structure.~~ The area used for the home occupation shall not exceed 25 ~~percent~~% of the gross floor area of the ~~dwelling unit~~ building in which it is located.
- (b) The home occupation shall in no way cause the residential appearance or character of the premises to differ from the surrounding residential area.
- (c) Home occupations shall not be conducted in such a manner as to produce noise, dust, vibration, glare, smoke or smells, electrical interferences, fire hazards, traffic or any other nuisance not typically experienced in the zoning district where the property is located.
- (d) The home occupation shall not result in or cause vehicular traffic that will create a nuisance to abutting properties or be detrimental to the residential character of the neighborhood.
- (e) No outside storage of materials, goods, supplies or equipment related to the operation of the home occupation shall be allowed.
- (f) Retail sales, on premises, shall be prohibited except for the retail sales of merchandise or products used in connection with and incidental to other permitted home occupations. (Examples: A single-chair hair salon would be allowed to sell combs, hair spray, shampoo, etc.)
- (g) The home occupation shall not employ any person who is not a resident of the home.
- (h) No more than ~~one~~ one (1) home occupation per residence shall be allowed and it must be conducted by the occupant.
- (i) For home occupations that involve classes or instruction, there shall be no more than ~~four~~ four (4) students or pupils in the dwelling unit or on the premises at any ~~one~~ one (1) time.
- (j) Home occupations that attract customers, clients or students to the premises shall not be allowed in apartment dwelling units.
- (k) Signs related to home occupations shall comply with Section 6.002 (J) ~~718~~ of this Ordinance.

~~(3) — The following is a non-exhaustive list of uses which may be conducted as home occupations within the limits established in this section:~~

- ~~(a) — Music, writing, photography or similar studios.~~
- ~~(b) — Direct sale product distribution (Amway, Avon, Tupperware, etc.)~~

Commented [EG96]: Include accessory buildings with this?

Commented [KO97R96]: The City has not historically allowed home occupations in accessory buildings...but I'm not opposed to this.

Commented [FN98R96]: added

- ~~(e) — Dressmaker, seamstress, tailor.~~
- ~~(d) — Hair cutting and styling.~~
- ~~(e) — Home typing or computer services.~~
- ~~(f) — Mail order sales.~~
- ~~(g) — Non-principal (secondary) offices of physician, dentist, veterinarian, insurance agent, real estate or similar professions which typically serves several clients on a daily basis.~~
- ~~(h) — Offices of accountants, architect, engineer, surveyor, or similar professional.~~
- ~~(i) — Tutor.~~
- ~~(j) — Day care, subject to State and County requirements and licensing.~~

~~(4)~~(3) The following uses and other uses similar in character shall not be considered to be conducted as home occupations:

- (a) Vehicle engine repair.
- (b) Vehicle body work.
- (c) Veterinary hospital.
- (d) Commercial kennel.

~~(5)~~(4) Garage Sales. Garage sales shall not be considered an unlawful home occupation under this Section, provided that all requirements of this subsection ~~45~~ are met. A garage sale is defined as the sale of secondhand goods where all of the following requirements are met:

- (a) The sale is held on property occupied as a dwelling by the seller or owned, rented or leased by a charitable or political organization.
- (b) The items offered for sale are owned by the occupant or friends of such occupant.
- (c) The sale does not exceed a period of ~~seventy-two (72)~~ consecutive hours.
- (d) None of the items offered for sale shall have been purchased for resale or received on consignment for purpose of resale.
- (e) Any retail sale event that does not meet the above definition of garage sale and does not otherwise meet the express exception in Section 5.003 (F) (2) ~~(f) 714, subsection 2(F)~~ above shall be considered an unlawful use in all residential districts. Additionally, a garage sale shall occur no more than

~~threethree~~ (3) times within ~~1~~ ~~one~~ calendar year per property and it shall be a violation of this subsection to exceed said number. Participation in the annual ~~city~~City-wide garage sale event that takes place in May of each year shall not count toward the limitation in the previous sentence.

~~(6)~~(5) Cannabis businesses and hemp businesses shall not be permitted as home occupations,

~~(H)~~ ~~Bed and Breakfast Homes~~

~~(1)~~ ~~Purpose.~~

~~The purpose of this section is to have predefined standards in place for the permitting and operation of a bed and breakfast home.~~

~~(2)~~ ~~General Standards.~~

~~The following regulations shall apply to bed and breakfast homes located in the city:~~

- ~~(a)~~ ~~The bed and breakfast home must be owner occupied.~~
- ~~(b)~~ ~~Building Codes. The bed and breakfast home shall meet all applicable housing, building, and fire codes as required by the State of Minnesota. The home shall be subject to inspection by the City Building Inspector.~~
- ~~(c)~~ ~~Food. Food service shall be limited to breakfast, and separate kitchen or cooking facilities shall not be available for guests.~~
- ~~(d)~~ ~~Allowed Number of Rooms. The maximum number of allowed guest rooms in the RL-70R-1, RL-84R-2, and RL-90R-3 zoning district is three, unless the lot is greater than 20,000 square feet, in which case five rooms will be allowed. The maximum number of allowed guest rooms in the RM zoning district is five. All guest rooms must be located in the primary residence.~~
- ~~(e)~~ ~~Parking. Parking shall be in accordance with Section 717 of this Ordinance. Parking shall be developed in such a manner that the residential character of the property is preserved. Tandem parking is allowed; however, not more than two (2) cars per tandem will be allowed.~~
- ~~(f)~~ ~~Signs. Signs may be permitted in accordance with Section 718 of this Ordinance.~~
- ~~(g)~~ ~~Appearance. Each residential property shall maintain an exterior residential appearance and character, meaning that it has an exterior facade that is compatible with the surrounding houses, and is of an appearance that would be found in a structure designed for residential use. This is to~~

~~ensure that bed and breakfast uses are clearly secondary and incidental uses of residential buildings.~~

- ~~(h) Rental Period. No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of 30 total days within any 90 day period.~~
- ~~(i) Special Functions. There shall be no catering to special or ancillary functions of a commercial nature, whether guest related or not. Such functions include, but are not limited to, wedding parties and receptions, other similar private parties and receptions, corporate / institutional meetings, seminars, workshops, religious retreats, etc.~~
- ~~(j) Annual Review. Any conditional use permit issued for a bed and breakfast home shall be reviewed by the Planning Commission on an annual basis.~~
- ~~(k) License. A bed and breakfast license must be obtained from the City.~~

(G) Bed and Breakfast Inns

(1) Purpose:

The purpose of this section is to have predefined standards in place for the permitting and operation of a bed and breakfast inn.

(2) General Standards.

The following regulations shall apply to bed and breakfast inns located in the ~~City~~City:

- (a) A resident manager must occupy the site when guests are present.
- (b) Building Codes. The bed and breakfast inn shall meet all applicable housing, building, and fire codes as required by the State of Minnesota. The inn shall be subject to inspection by the ~~City~~City Building Inspector.
- (c) Allowed Number of Rooms. The maximum number of allowed guest rooms is eight ~~(8)~~.
- (d) Parking. Parking shall be in accordance with Section ~~6.002 (I)~~717 of this Ordinance.
- (e) Signs. Signs may be permitted in accordance with Section ~~6.002 (J)~~718 of this Ordinance.
- (f) Rental Period. No guest shall be permitted to rent accommodations or remain in occupancy for a period in excess of 30 total days within any 90 day period.

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- (g) Annual Review. Any ~~conditional use permit~~ Conditional Use Permit issued for a bed and breakfast home shall be reviewed by the Planning Commission on an annual basis.
- (h) License. A bed and breakfast license must be obtained from the ~~City~~ City.

~~(F)~~ (H) Commercial Towers and Antennas

(1) Purpose:

In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the ~~City~~ City Council finds that these regulations are necessary to:

- (a) Provide for the appropriate location and development of towers and antennas to accommodate the communication needs of the residents and businesses in the ~~City~~ City;
- (b) Maximize the use of approved towers and buildings to accommodate new personal wireless service antennas in order to reduce the number of new towers necessary to serve the community;
- (c) Ensure antennas and towers are designed, located, and constructed in accordance with all applicable Ordinance requirements to avoid potential damage to adjacent properties from tower failure and weather related occurrences through structural standards and setback requirements;
- (d) Require antennas and tower sites to be secured in order to discourage trespassing and vandalism;
- (e) Require tower equipment to be screened from the view of persons located on properties contiguous to the site or to be camouflaged in a manner to complement existing structures to minimize adverse visual effects of antennas and towers;
- (f) Utilize business, industrial and public land, buildings and structures for wireless communications whenever possible and/or appropriate.

(2) General Requirements:

- (a) Freestanding commercial towers shall conform to all applicable provisions of this Ordinance and shall be allowed only with an approved ~~Conditional Use Permit~~ Conditional Use Permit in the I1, Light Industrial ~~and Business(?)~~ District, and with an approved ~~Conditional Use Permit~~ Conditional Use Permit in the following ~~RL-90R-1~~ Zoning District locations:

1. Religious institution sites when architecturally integrated into steeples or bell towers.
 2. Towers may be allowed on Park sites, if found to be compatible with the nature, size and character of the park, as recommended by the Park Board. All revenues generated through the lease of a ~~City~~City park for wireless telecommunications towers and antennas will be transferred to the park fund;
 3. Government, school, and public utility sites.
- (b) Antennas mounted on roofs, walls, and water towers are permitted uses in the following districts:
1. ~~RL-70R-1, RL-84R-2, RL-90R-3~~ Single Family Residential Districts. RM, Medium Density Residential, and RH, High Density Residential District.
 2. B-1, Central Business District, B-3 Highway Commercial District.
 3. I-1, Light Industrial District.
- (c) Antenna co-locations are permitted uses on existing monopoles in the following districts:
1. ~~RL-90R-1~~ Single Family Residential District.
 2. I-1, Light Industrial District.
- (d) Amateur radio towers are permitted uses in the ~~RL-70R-1, RL-84R-2, RL-90R-3~~ ~~Single Family Residential~~ Districts and the ~~RM, Medium Density Residential~~ Districts, and shall conform to the following standards:
1. Towers supporting amateur radio antennas and conforming to all applicable provisions of this Ordinance shall be allowed only in the rear yard of residentially zoned parcels.
- (3) Tower Performance Standards:
- (a) Lighting: Commercial towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower for camouflage purposes, light fixtures used to illuminate parking lots or other similar areas may be attached to the tower.
 - (b) Signs and Advertising: No signage, advertising, or identification of any kind intended to be visible from the ground or other structures is

permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.

- (c) Interference with Public Safety Telecommunications: No new or existing telecommunications service shall interfere with public safety telecommunications.
- (d) Permit Required: No person, firm or corporation shall erect, construct in place, or re-erect, replace or make structural repairs to any tower without making application for and receiving an approved ~~conditional use permit~~Conditional Use Permit, when applicable. In all cases, review by the ~~City~~City for all required permits shall be necessary. The ~~City~~City may, in its discretion, condition approval of a ~~conditional use permit~~Conditional Use Permit on the owner of the tower facilities entering into an agreement with the ~~City~~City under the terms of which the owner agrees to remove, at the owner's expense, all towers and associated facilities following owner's cessation of operations at the site.
- (e) Building Code Compliance: All towers, antennas, and accessory structures shall be in compliance with the State Building Code, and shall obtain necessary permits.
- (f) Structural Design: Structure design, mounting and installation of the tower and antenna shall be in compliance with the manufacturer's specifications. The plans shall be approved and certified by a structural engineer licensed in the State of Minnesota. In addition, communication towers shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least ~~two~~two (2) additional users, if the tower is over 100 feet in height, and at least ~~one~~one (1) additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at various heights.
- (g) Electrical Grounding: Towers and antennas shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable provisions of all state codes.
- (h) ~~City~~City Review: The ~~Planning-Community Development~~ Department is authorized to employ, on behalf of the ~~City~~City, an independent technical expert to review technical materials submitted by the applicant, or to determine if additional information is necessary. The applicant shall pay the cost of such review or independent analysis.

- (i) Location: No tower shall be located within any utility or drainage easement.
 - (j) Insurance: The tower, antenna, accessory structure and associated equipment shall be insured against injury or property damage caused by structural failure of the tower or associated equipment.
 - (k) Landscape Bond Requirements: The owner shall guarantee the growth and maintenance of all plants for a minimum of ~~two-two~~ (2) growing seasons. The guarantee period will not begin until a final landscape inspection has occurred.
 - (l) Construction Bond Requirements: A construction bond shall be posted with the ~~City~~City prior to the issuance of a building permit. The bond shall ensure the installation of the tower.
 - (m) Abandoned or Unused Tower or Antennas or Portions of Towers: All abandoned or unused towers and associated facilities shall be removed within ~~six months~~6 months of the cessation of operations at the site unless an extension is approved by the ~~City~~City. In the event that a tower is not removed, the tower and associated facilities may be removed by the ~~City~~City and the costs of removal assessed against the property. After the facilities are removed, the site shall be restored to its original or an improved state.
- (4) Design Standards:
- (a) Proposed or modified towers and antennas shall meet the following requirements:
 - 1. Towers and antennas (including antenna cables) shall be designed to blend into the surrounding environment to the maximum extent possible as determined by the ~~City~~City through the use of building materials, colors, texture, screening, landscaping, and other camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration;
 - 2. Communication towers shall be of a monopole design.
 - 3. A galvanized finish shall be used on the tower, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration.
- (5) Height Restrictions:

(a) The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground or rooftop to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure at the tower's point of attachment and tower must meet the height restrictions of this Section.

(b) The maximum heights for towers are as follows:

1. In residential zoning districts, the maximum height of any commercial tower, including all antennas and other attachments, shall not exceed 200 feet.
2. In residential zoning districts, amateur radio antennas are a permitted use if 50 feet or less in height. Amateur radio antennas in excess of 50 feet require a ~~Conditional Use Permit~~Conditional Use Permit, provided that such height is technically necessary to receive and broadcast amateur radio signals. They shall be in accordance with the preemption ruling PRB1 of the Federal Communications Commission.
3. In the I-1 Industrial zoning district, the maximum height of any commercial tower, including all antennas and other attachments, shall not exceed 200 feet.

(c) The maximum height of antennas attached to a structure and not freestanding is 15 feet.

(6) Setbacks:

(a) Towers, accessory buildings, and their related equipment shall conform to the following setback requirements:

1. Commercial towers in the Industrial zoning district shall be set back 50-~~percent~~% of the height of the tower, from all property line lines.
2. For residentially zoned property, towers shall maintain property line setbacks equal to ~~two-two~~ (2) times the height of the tower from residentially zoned property lines.
3. Towers shall only be allowed in the rear yard.
4. Accessory utility buildings and equipment shall meet the minimum accessory use location and setback requirements of the underlying zoning district.

(7) Accessory Utility Buildings:

Commented [EG99]: Conditional use permit is sometimes a proper noun, sometimes not a proper noun (see: 2 pages ago.)

Commented [KO100R99]: Relating to this comment, would a variance not be the appropriate method of allowing a height increase?

Commented [FN101R99]: Typically a dimensional standard would require a variance to be changed but a variance has a more strict review criteria than a CUP. For a variance, a practical difficulty has to be established. CUP here allows a better opportunity for a taller antenna. Up to you how you want to handle

- (a) All utility buildings and structures accessory to a tower or antenna shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements for accessory structures of the underlying zoning district, except that the B-1 ~~distriet~~District, accessory structures shall only be allowed in the rear yard and shall maintain a ~~five~~five (5) foot property line setback.
 - (b) Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (8) Antennas Mounted on Roofs, Walls, and Existing Towers:
- (a) The placement of personal wireless service antennas on roofs, walls, and existing towers may be approved by the ~~City~~City, without a ~~conditional use permit~~Conditional Use Permit, provided the antennas meet the requirements of this Ordinance, with a building permit approved by the appropriate ~~City~~City staff. In addition to the submittal requirements required elsewhere in this Ordinance, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:
 - 1. A site and building plan showing the location of construction of the antennas and the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this Ordinance;
 - 2. Certification by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antenna.
- (9) Landscaping and Security Fencing:
- (a) The following requirements shall govern landscaping and fencing surrounding towers and accessory structures supporting towers and antennas, within all zoning districts:
 - 1. Where adequate vegetation is not present, all towers and mechanical equipment facilities shall be landscaped around its perimeter. Landscaping shall consist of trees that are opaque year round, and are a minimum of ~~six~~six (6) feet in height and ~~four~~four (4) feet in diameter at time of planting, and placed 10 feet on center, except that no landscaping is required at the entrance to the tower facility.

2. Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized.
3. A chain link or wood fence, a minimum of ~~six~~ six (6) feet in height, shall surround the perimeter of the tower and mechanical equipment area. If equipment is housed within a completely enclosed building, fencing is not required. Fencing shall meet the ~~City~~ City's fencing requirements under Section ~~6.002 (B)708.1.2.3~~ of this Ordinance.
4. Landscaping and fencing requirements may be waived by the ~~City~~ City Council, if it is found to not be necessary.
5. Amateur radio towers are exempt from the landscaping requirements.

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(10) Co-Location Requirement:

- (a) A proposal for a new personal wireless communication service tower shall not be approved unless it can be documented by the applicant that the communications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building within a ~~one~~ one (1) mile radius of the proposed tower due to ~~one~~ one (1) or more of the following reasons:
 1. The planned equipment would exceed the structural ~~capacity~~ capacity of the existing or approved tower or building as documented by a qualified and licensed structural engineer licensed in the State of Minnesota, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
 2. Existing or approved towers and buildings within a ~~one~~ one (1) mile radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer.
 3. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment at the tower or building as documented by a qualified and licensed engineer.

4. Other unforeseen reasons that make it unfeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
5. The applicant must demonstrate that a good faith effort to co-locate on existing towers and structures was made, but an agreement could not be reached.

(11) Existing and Damaged Towers and Antennas:

- (a) Towers, antennas and tower accessory buildings in existence as of the date of adoption of this Section which do not conform to or comply with this Ordinance are subject to the following provisions:
 1. When any lawful non-conforming tower is damaged or destroyed by wind, fire, flood, explosion, earthquake, war, riot or other similar peril to the extent of greater than 50-~~percent~~% of its estimated market value as indicated in the records of the county assessor at the time of damage and no building permit has been applied for within 180 days of when the tower is damaged it shall not be reconstructed except in conformity with the provisions of this Ordinance.

(12) Submittal Requirements:

- (a) The following shall be required for both Building Permits and ~~Conditional Use Permit~~Conditional Use Permits for towers and their antennas:
 1. A report from a qualified and licensed structural engineer licensed in the State of Minnesota which does the following:
 - a. Describes the tower height and design including a cross section and elevation;
 - b. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas;
 - c. Describes the tower's ~~capacity~~capacity, including the number and type of antennas that it can accommodate;
 - d. Describes information on non-interference; and
 - e. Documentation that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower.

2. A certificate of survey and documentation which describes the following:
 - a. All existing conditions on the subject parcel.
 - b. All proposed features relating to the tower location, including the tower, fencing, accessory structures, and driveways.
 - c. Landscaping and/or screening plans;
 - d. Legal description of the property;
 - e. Any additional information as deemed necessary by the ~~Planning-Community Development~~ or Building Department.
3. Before the issuance of a building permit, the following supplemental information shall be submitted:
 - a. Confirmation that the proposed tower complies with the requirements of the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority or that the tower is exempt from those regulations; and
 - b. A report from a qualified professional engineer licensed in the State of Minnesota which demonstrates the tower's compliance with the State and ~~City~~City structural and electrical, but not radio frequency, standards.
 - c. Any additional information as deemed necessary by the ~~Community Development~~Planning or Building Department.

(13) Exemptions:

- (a) The following antennas are exempt from the requirements under this Section except as otherwise provided in ~~Subsection (b)B, (c)C & (d)D~~ of this Section:
 1. Satellite earth station antennas that are ~~two-two~~ (2) meters or less in diameter and located or proposed to be located in a Business or Industrial District;
 2. Antenna designed to receive signals as follows:

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- a. Antennas that are ~~one~~ one (1) meter or less in diameter and that are designed to receive direct broadcast satellite service, including direct-to-home satellite services;
 - b. Antennas that are ~~one~~ one (1) meter or less in diameter and that are designed to receive video programming services via multipoint distribution services, including multi-channel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
 - c. Antennas designed to receive television broadcast signals.
- (b) Residential District Standards. Satellite earth station antennas in excess of ~~one~~ one (1) meter in diameter and antennas designed to receive direct broadcast services or multi-channel multipoint distribution services in excess of ~~one~~ one (1) meter in diameter may be allowed as a conditional use within the residential zoning districts of the ~~City~~ City and, in addition to the requirements of this Section, shall comply with the following standards:
 - 1. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained within the limits of the property ownership;
 - 2. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the receive window;
 - 3. The antenna is not greater than ~~three~~ three (3) meters in diameter; and
 - 4. The ~~conditional-use-permit~~ Conditional Use Permit provisions of this Section are considered and determined to be satisfied.
- (c) Business District Standards. Satellite earth station antennas in excess of ~~two~~ two (2) meters in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of ~~one~~ one (1) meter in diameter are allowed as a conditional use within the B-1, B-2, and B-3 districts of the ~~City~~ City and, in addition to the requirements of this Section, shall comply with the following standards:

1. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction free transmit-receive window or windows can be maintained within the limits of the property ownership;
 2. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window; and
 3. The ~~conditional-use-permit~~Conditional Use Permit provisions of this Section are considered and determined to be satisfied.
- (d) Industrial District Standards. Satellite earth station antennas in excess of ~~two-two (2)~~ meters in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of ~~one-one (1)~~ meter in diameter may be allowed as a conditional use within the I-1 District of the ~~City~~City and, in addition to the requirements of this Section, shall comply with the following standards:
1. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction free transmit-receive window or windows can be maintained within the limits of the property ownership;
 2. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window; and
 3. The ~~conditional-use-permit~~Conditional Use Permit provisions of this Section are considered and determined to be satisfied.

~~(K)(1)~~ Outdoor Wood-Fired Boilers

(1) Purpose:

It is generally recognized that the types of fuel used, and the scale and duration of burning by outdoor wood burning boilers, creates noxious and hazardous smoke, soot, fumes, odors and air pollution, can be detrimental to citizens' health, and can deprive neighboring residents of the enjoyment of their property or premises.

Therefore, with the adoption of this article, it is the intention of the ~~City~~City to establish and impose restrictions upon the construction and operation of outdoor wood burning boilers within the limits of the ~~City~~City for the purpose of securing

and promoting the public health, comfort, convenience, safety, welfare and prosperity of the CityCity and its inhabitants.

(2) Prohibition:

No person shall install or allow the installation of an outdoor wood-fired boiler within the CityCity.

~~(L)(J)~~ Second Kitchen in a Single Family Dwelling

(1) Purpose:

The purpose of this section is to establish use and development regulations for a second kitchen within a single family residence. These regulations are adopted for the following purposes:

- (a) To allow CityCity residents to have a second kitchen within a single family dwelling unit for use by the family residing within the dwelling unit for the purpose of entertaining, recreation or convenience, which is accessory to the first kitchen within the dwelling unit.
- (b) Approval of a second kitchen within a single family dwelling unit shall not be an approval of a second dwelling unit or accessory dwelling unit.

(2) Development Standards - Permitted Use:

- (a) A second kitchen in a single family residence (dwelling unit) may be allowed in the ~~RL-90R-1 Single Family Residential, RL-84R-2 Single Family Residential, RL-70R-3 Single Family Residential, RM, Medium Density Residential~~ and RH ~~High Density Residential~~ zones if all of the following requirements are met:

- 1. The residence shall have only ~~one~~ one (1) front entrance.
- 2. The residence shall have only ~~one~~ one (1) address.

~~3. An interior access shall be maintained to all parts of the residence to assure that an accessory unit or apartment is not created. There shall be no keyed and dead bolt locks or other manner of limiting or restricting access from the second kitchen to the remainder of the residence.~~

~~4.3.~~ 4.3. The residence shall have no more than ~~one~~ one (1) electrical meter.

~~5.4.~~ 5.4. A second kitchen shall exist only as part of the primary structure and shall not be installed in an accessory building/structure.

Commented [EG102]: Sometimes these are listed R-1 R-2 R-3, and sometimes listed R-3 R-2 R-1. Should this be standardized and made the same?

Commented [EG103]: Should some parts of this be rewritten to address that accessory buildings will be allowed? Will accessory building's kitchens have to follow these ordinances? Or will that not count as a second kitchen, as it's in a different building?

Commented [KO104R103]: If we allow accessory dwelling units, the need for the second kitchen regulations will need to be revised heavily. The whole idea of this ordinance as it exists today is to limit illegal apartment units in single family homes. If ADU's are allowed, there would be nothing wrong with second kitchens if the followed the ADU requirements as an apartment, or just simply a second kitchen for a family for entertaining or whatever.

Commented [FN105R103]: Revised language, please review

~~6. The residence owner shall sign a written document prescribed by the City which declares that the residence will not be converted into two or more units without meeting the requirements of this Ordinance to do so (if possible). The signature on such a document shall be notarized and the document shall be recorded with the County Recorder's Office prior to issuance of a building permit. The permit fee shall be set annually by the City Council.~~

~~7. Once a second kitchen is approved under the above criteria, both present and future owners of the residence shall limit use of the single family residence to a single family only. No roomers or boarders shall be permitted.~~

~~8.5.~~ Construction of any such kitchen shall meet standards of the current building codes adopted by the ~~City~~City.

~~(b) A single-family dwelling unit may be permitted up to two (2) kitchens in addition to a kitchen permitted as part of an approved accessory dwelling unit.~~

~~(b)~~ A second kitchen shall not be established in a single family residential structure which contains an attached accessory dwelling, whether or not such

(c) accessory dwelling was established legally.

~~(M)~~(K) Outdoor Seating for Restaurants and Drinking Establishments

(1) Restaurants, ~~drinking establishments, and restaurants,~~ may provide outdoor seating for their patrons with an approved ~~Conditional Use Permit~~administrative permit provided that the following requirements are met:

(2) For all establishments:

(a) The seating shall be located on private property and outside of any recorded easement areas and demonstrated on a site plan.

~~(b) The seating shall consist of good quality patio or café type furniture that enhances the appearance of the business.~~

~~(e)~~(b) No beverages or food shall be served to persons outside of the designated outdoor seating area.

~~(d)~~(c) The seating area, if not slab on grade, shall be subject to applicable setback requirements.

~~(e)~~(d) The seating area shall have a permanent surface of concrete, asphalt, wood or other fabricated construction material.

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(f)(c) The seating shall be located so as not to compromise safety. Seating shall not obstruct the entrance or any required exits or be located on landscaping or parking areas. If located on private sidewalks or walkways, it shall be located so as to leave a minimum of a ~~four~~four (4) foot ~~(4)~~ wide passageway for pedestrians. Applicable building and fire codes for ingress and egress shall be met.

(g)(f) No additional parking is required for 30 outdoor seats or less. Any additional seating over 30 seats shall provide required parking based on ~~one~~ one (1) space per ~~three~~three (3) seats.

(h)(g) The outdoor seating area shall be subordinate to the principal use and shall not exceed 40 ~~percent~~% of the square footage of the principal use building space.

(i)(h) Noises on the outdoor seating area shall be subject to ~~City~~City Code Section 92.18(S).

(j)(i) Lighting shall be permitted to the extent that it only illuminates the designed area. Lighting must otherwise meet the standards listed in Section ~~5.003~~ 704 of this Ordinance for Glare.

(k)(j) The business owner or designated person shall inspect the premises on a daily basis including all adjacent streets, sidewalks, alleys, parking areas and sidewalks within 100 feet and remove all litter. Appropriate receptacles for rubbish, garbage, cigarette paraphernalia, etc. must be provided in close proximity to the outdoor seating area.

(l)(k) Additional conditions may be imposed by the ~~City~~ Zoning Administrator and listed on the approved ~~conditional use~~administrative permit including but not limited to hours of outdoor seating area use and additional screening or buffering to residential zoned or used areas.

(m)(l) No external music, live or recorded, shall be allowed after 10:00PM. It also shall not be audible from a distance of more than 50 feet ² from the edge of the defined patio area at any time.

(n)(m) Pet dogs may be permitted within outdoor patio areas of dining and drinking establishments, provided that:

1. The establishment allows pet dogs and;

~~(m)~~2. The establishment obtains a permit, according to City Code, as amended.

(3) For establishments with liquor licenses the following regulations apply in addition to those listed above:

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- ~~(a)~~ The seating shall be located in a compact and contiguous location to the principal structure. A Conditional Use Permit is required for outdoor seating for a restaurant or drinking establishment with a liquor license.
- ~~(a)~~(b) No alcoholic beverages shall be served or consumed in an outdoor seating area unless the liquor license approved by the ~~City~~City specifies the compact and contiguous location.
- ~~(b)~~(c) The outdoor seating area shall be defined with the use of landscaping and permanent ~~attractive~~approved fencing which is a minimum of ~~four~~four (4) feet in height with at least 50 ~~percent~~% opac~~city~~city that contains the tables and chairs for the use as demonstrated on a site plan. It shall also prohibit the free passage of any person or substance from the area.
- ~~(e)~~(d) No alcoholic beverages shall be served to persons outside of the designated outdoor seating area or those not seated at tables. Signage shall be posted that restricts consumption of alcohol outside of the designated outdoor seating area as approved by the ~~Conditional Use Permit~~Conditional Use Permit.
- ~~(d)~~(c) Bars are prohibited in outdoor seating areas (with the exception of a service bar for the exclusive use of the establishment's employees).
- ~~(e)~~(f) Patrons shall only access the outdoor seating area through the interior of the main building and seated by wait staff if at full service restaurants. No other ingress or egress shall be allowed other than required emergency exits.

~~(N)~~(L) Apartments Located Above the First Floor

Apartments located above the first floor of a building used or zoned for business purposes shall meet the following minimum requirements:

- ~~(1) There must be two off-street parking spaces provided for each unit.~~
- ~~(2) There must be security lighting that illuminates the parking area and entries to the units.~~
- ~~There must be an appropriate area for trash receptacles, and the designated area must meet the requirements of Section 703 of the Unified Development Code Zoning Ordinance governing Refuse.~~

~~Apartments Located on the First Floor~~

- ~~(1) In the B-1 zoning district, street level, first floor dwelling units (apartments) not facing the street shall be permitted where adequate onsite parking is available.~~
- ~~(2) There must be two (2) off-street parking spaces provided for each unit.~~

(3) There must be security lighting that illuminates the parking area and entries to the units.

~~(3)~~(4) There must be an appropriate area for trash receptacles, and the designated area must meet the requirements of Section 5.003(B) of the Unified Development Code governing Refuse.

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~~(O)~~(M) Brewpubs

Brewpubs are a permitted use in the B-1, B-2 and B-3 Commercial Zoning Districts with the following minimum requirements:

- (1) Brewpubs must be accessory to a Small Brewery.
- (2) Brewpubs are limited to the production of no more than 3,500 barrels annually.
- (3) The brewing process and equipment is not required to be located in the same building as the restaurant, however it must be located on the same premises as the Small Brewery.
- (4) No exterior storage of brewery related items are allowed including but not limited to: brewing equipment, product, raw materials or waste materials.
- (5) The Municipal Utility Department must review and approve facility plans to determine that appropriate utilities are available to the premises and that wastewater generated will not be a detriment to the waste water treatment plant. The Waste Water Department may require a sampling point on the premises for processed water and regular sampling by a certified lab acceptable to the ~~City~~City to determine appropriate treatment. Treatment must be undertaken by the owner of the premises when required by the Waste Water Department.
- (6) Brewpubs must comply with all applicable provisions of the law and obtain all required licenses.
- (7) Brewpubs must meet the ~~performance~~ standards in Unified Development Code Zoning Ordinance Section 6.002 (K)719, Subdivision 4.

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~~(P)~~(N) Small Breweries and Breweries

- (1) In every district where the use is conditional or permitted, the Small Brewery or Brewery:
 - (a) Must comply with all applicable provisions of law and obtain all required licenses.
 - (b) Must meet the performance standards in Unified Development Code Zoning Ordinance Section 6.002 (K). Section 719, Subdivision 4

- (c) The Municipal Utility Department must review and approve facility plans to determine that appropriate utilities are available to the premises and that wastewater generated will not be a detriment to the waste water treatment plant. The Waste Water Department may require a sampling point on the premises for processed water and regular sampling by a certified lab acceptable to the ~~City~~City to determine appropriate treatment. Treatment must be undertaken by the owner of the premises when required by the Waste Water Department.
- (2) Small Breweries are a conditional use in the B-1, B-2 and B-3 Commercial Zoning Districts with the following minimum requirements:
 - (a) Small Breweries are limited to the production of no more than 5,000 barrels annually.
 - (b) No exterior storage of brewery related items are allowed including but not limited to: brewing equipment, product, raw materials or waste materials.
 - (c) Every Small Brewery in a commercial zoning district must provide for consumption on the premises at a Taproom that is open for retail consumption at least 10 hours a week.
- (3) Small Breweries and Breweries are a permitted use in the I-1 Light Industrial Zoning District and may have a Taproom but may not have a restaurant (as that term is defined in the Unified Development Code Zoning Ordinance and Minnesota Statutes, Section 340A.101).

~~(Q)~~(O) Distilleries and Micro-Distilleries

In every district where the use is permitted, the Distillery or Micro-Distillery:

- (1) Must comply with all applicable provisions of law and obtain all required licenses.
- (2) Must not be located next to or adjacent to low density residential.
- (3) The Municipal Utility Department must review and approve facility plans to determine that appropriate utilities are available to the premises and that wastewater generated will not be a detriment to the waste water treatment plant. The Waste Water Department may require a sampling point on the premises for processed water and regular sampling by a certified lab acceptable to the ~~City~~City to determine appropriate treatment. Treatment must be undertaken by the owner of the premises when required by the Waste Water Department.
- (4) No exterior storage of distillation related items are allowed including but not limited to: equipment, product, raw materials or waste materials.

~~(R)~~(P) Clinics

- (1) Shall follow all Minnesota Department of Health program rules specific to detoxification programs and chemical dependency treatment programs, as applicable. A security guard must be on site during all business hours.
- (2) Clinics in the B-1 Central Business District that have more than 50 patients per day are required to provide for an off-street parking area that provides for a minimum number of parking spaces equal to the number of employees on the largest shift.

~~(S)~~(Q) Healthcare Facilities

- (1) Shall not have any emergency vehicle access adjacent to or located across the street from any residential use.
- (2) Shall follow all Minnesota Department of Health program rules specific to detoxification programs and chemical dependency treatment programs, if applicable. A security guard must be on site during all business hours.

~~(T)~~(R) Indoor Firing Ranges

In every district where the use is permitted or conditional, the Indoor Firing Range:

- (1) Shall not be located on any lot directly adjacent to an existing Residential Zoning District or any public park property.
- (2) Shall not be located within ~~one thousand (1,000)~~1,000 lineal feet, measured from building to building, of any church, school, or establishment licensed to dispense intoxicating or non-intoxicating beverages.
- (3) The use, occupancy, and construction of the building shall conform to the Minnesota State Building Code.
- (4) The building and method of operation shall conform with the applicable Minnesota Pollution Control Agency, Environmental Protection Agency, and OSHA standards for indoor ventilation, emissions into the atmosphere, indoor sound levels, lead containment, and outside noise standards.
- (5) The design and construction of the firing range shall completely confine all ammunition rounds within the building and in a controlled manner. The design and construction of the firing range shall be certified by a registered engineer in the State of Minnesota. The certified plans shall include the specifications and construction of the bullet trap(s), ceilings, exterior and interior walls, and floors. The certified plans shall state what type and caliber of ammunition the range is designed to totally confine.
- (6) No ammunition shall be used in the range that exceeds the certified design and construction specifications of the firing range.

- (7) A written log of range users shall be maintained by the range operator and available for inspection by the ~~City~~City at any/all times. The name and address of the user shall be verified by photo identification. The log shall, but is not limited to: a. The name, address and phone number of the range user; b. The time and date the user was in the range.
- (8) Firearms shall not be stored on the premises when the range is closed for business, unless they are stored in a secured vault.
- (9) On-site supervision shall be supplied at all times by an adult with credentials as a range operator. The range operator shall be responsible for the conduct of their place of business and the conditions of safety and order in the place of business and on the premises.
- (10) The applicant shall provide and maintain proof of liability insurance which shall require the insurer notify the ~~Planning Director~~Zoning Administrator in writing within ~~ten (10)~~10 business days of cancellation of the policy, a change in the limit of the policy and/or a change in policy ownership. Said policy shall be available for inspection by the ~~Planning Director~~Zoning Administrator or designee and/or his/her assigns at all times.
- (11) On site instruction shall be given only by Certified Firearms Instructors. Current certificates for firearms instructors shall be on display in a conspicuous location in the premises and available for public inspection at all times.
- (12) An outside security plan for the general grounds shall be submitted to the ~~Planning Director~~Zoning Administrator or designee for review and approval.
- (13) The transport of firearms on the premises, to the premises and from the premises shall conform to State Law.
- (14) Minors shall not be allowed in the range unless accompanied by an adult at all times. This provision shall not be interpreted to prohibit minors from participating in a firearm safety class which is supervised by an adult instructor.
- (15) Indoor firing ranges shall not sell or dispense intoxicating or non-intoxicating liquors, nor shall they be located in a building which contains a business that sells or dispenses nonintoxicating or intoxicating liquors.
- (16) Hours of operation are limited to 7am to 10pm.
- (17) The Planning Commission and ~~City~~City Council reserve the authority to review or modify the performance standards for the range.

Commented [EG107]: Should this be replaced by "or designee" as it is in (12)?

~~(U)~~(S) Cannabis Businesses

- (1) Cannabis businesses may not be located within 250 feet of a school as established in ~~City~~City Code, section 121.14 (H).

(T) Sacred Communities and Micro-Unit Dwellings

- (1) ~~Sacred Communities and Micro-Unit Dwellings shall be permitted in accordance with Minnesota Statute 327.30 as it may be amended.~~

(1) ~~1~~

(U) Miscellaneous

- (1) Opt-Out of Minnesota Statutes, Section 462.3593: Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the ~~City~~City of New Prague opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

SECTION 6 DEVELOPMENT, CHARACTER AND BUILDING STANDARDS

§ 6.001 DIMENSIONAL STANDARDS CHART

§ 6.001

Standard	RM - 100 ft	RM - 150 ft	RM - 200 ft	RM	RH	B-1	B-2	B-3	I-1
Minimum Lot Area (Square feet)	83009.000	Single family: 7,5008.40 Two-family: 6200 square feet per dwelling unit	Single family: 62007.000 Two-family: 6200 square feet per dwelling unit	Single and two-family: 74005.500 square feet per dwelling unit, three through eight units: 2,034,000 square feet per dwelling unit	Single and two-family: 5,527,600 square feet per unit, multi-unit: 1,300 square feet per unit	No requirement	20,000	20,000	40,000
Minimum Lot Width (ft)	6065	5560	50	Single -family: 50 ft, multi-unit: 100 ft	Single - family: 50 ft, multi-unit: 100 ft	No requirement	80	80	150
Minimum Front Yard Setback (ft)	3250	2530	25	30, 25 for single family	30, 25 for single family	10 there's no minimum setbacks in the B-1 District currently... I'd like to keep it that way (other than for railroads and alleys)	30 feet along collector and arterial roadways, 15 feet along residential and local roadways	40	40
Minimum Side Yard Setback (ft)	7	7	7	single-family: 7 ft, multi-unit: 10 ft	single-family: 7 ft, multi-unit: 20 ft	100	10	10	15
Minimum Rear Yard Setback (ft)	30	30	30	30	30	100	30	10	25 (50 ft when abutting a residential district)
Minimum Rear Alley	No requirement	No requirement	No requirement	No requirement	No requirement	No requirement 10	10	10	10

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Commented [EG108]: Should any of the following be added to this?: details about duration (eg 30 days within a 90 day period, which bed & breakfast has,) details about accessory dwellings (if it can be used as a short term rental or not), how much guest parking is required, how often a property can be rented out (like can an airbnb be re...

Commented [KO109]: As noted in an earlier comment...

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Setback (ft)									
Maximum Height (ft)	35	35	35	50	50	36	35	35	50
Maximum Land Coverage by Structures (%)	40	40	40	40	40	No requirement	40	40	40
Minimum Floor Area (two or more unit buildings)	No requirement	No requirement	No requirement	Efficiency Unit: 400 square feet, One bedroom apartment: 600 square feet, Two bedroom units: 750 square feet, Three bedroom units: 950 square feet	Efficiency Unit: 400 square feet, One bedroom apartment: 600 square feet, Two bedroom units: 750 square feet, Three bedroom units: 950 square feet	No requirement	No requirement	No requirement	No requirement
Useable Open Space Per Dwelling Unit (two or more unit buildings) (square feet)	No requirement	No requirement	No requirement	400	300	No requirement	No requirement	No requirement	No requirement

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§ 6.002 CHARACTER AND BUILDING STANDARDS

(A) Screening

(1) Commercial, Industrial, or Institutional Uses Abutting Residential Districts

Where any commercial, industrial or institutional uses are adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front as determined by the Zoning Administrator. Landscape screening required under this section shall not be allowed within public drainage and utility easements. Screening is not required within any sight triangle required under Section 6.002 (O) 723(6) of this Ordinance. Screening shall consist of a 20 foot wide green belt strip as provided below:

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- (a) A green belt planting strip shall consist of staggered rows of evergreen trees, deciduous trees, or shrubs each spaced at a maximum of 12.5 feet and consist of a sufficient density to provide a visual screen and reasonable buffer of at least an 80% opacity year round once trees are mature. This planting strip shall be designed to provide visual

screening to a minimum height of eight (8) feet at all times and a minimum tree diameter of 2.5 inches² measured six (6) inches above the ground level. The grade for determining the height shall be the grade elevation of the building or use for which the screening is providing protection. The planting plan and type of plantings shall require the approval of the Zoning Administrator.

- (b) A fence may also be installed, but not in lieu of the green belt planting strip. The fence shall be visually appealing and cohesive with the exterior of the principal structure. The fence must be located within the interior of the lot such that the green belt plantings are visible from adjacent property.
- (c) For any use allowed via a ~~conditional-use permit~~ Conditional Use Permit, additional requirements may be added to the above requirements in order to mitigate the impact on the adjacent residential properties and if adjacent to roads classified as major collectors and higher, such as berms, more ~~opacity~~ or other requirements not listed herein.

(2) Industrial Uses Abutting Commercial or Industrial Districts

All industrial properties abutting commercial or industrially zoned districts must follow the provisions below:

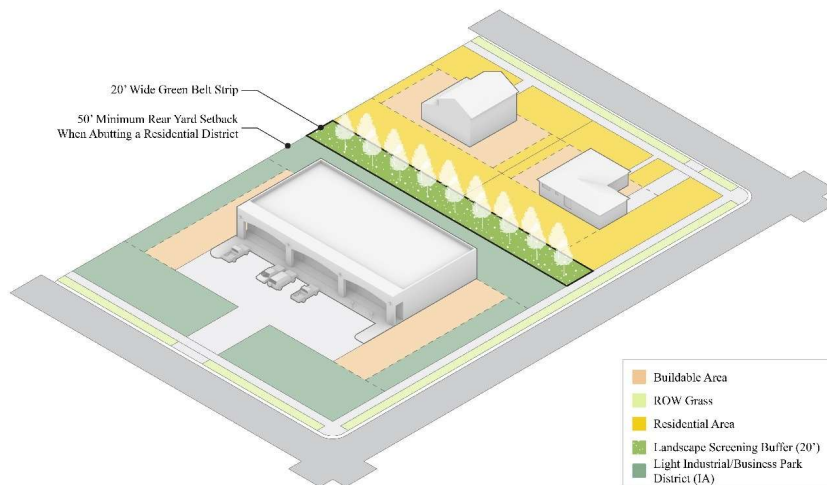
- (a) A single row of deciduous or evergreen trees is required and must be a minimum height of eight (8) feet² with a minimum diameter of 2.5 inches² measured six (6) inches above the ground level. Tree spacing shall be 40 feet² around the perimeter of the property abutting commercial or industrial districts. Follow ~~§ 717~~ Section 6.002 (1) of the Zoning Ordinance Unified Development Code for landscaping requirements for parking lots.
- (b) If fencing is erected on the property, the fence must be visually appealing and cohesive with the exterior of the principal structure.

(3) Industrial Uses Along Arterial Roadways

- (a) If a proposed industrial use abuts a roadway classified as an arterial roadway or higher, the applicant must obtain a ~~conditional-use permit~~ Conditional Use Permit to ensure that the property and use is adequately screened from the arterial roadway which may include additional landscaping/screening requirements beyond those found in Section (1) and (2) above as well as include additional requirements related to tree spacing, ~~opacity~~, fencing, etc.

(4) Warranty and Escrow

- (a) The CityCity shall collect a cash escrow specifically for the screening requirements before any building permit is issued. The escrow shall be at an amount equal to a minimum of 125% of the estimated screening expenses and shall be refunded to the party who deposited the escrow when all the following are completed and approved by the CityCity:
1. Required screening trees are installed and alive at the end of the 1+
~~year~~ warranty time period.
 2. Sites that are completed between October 15th and before May 15th shall have until July 1st to plant the required trees but will only be issued a temporary certificate of occupancy until that time.
 3. If the property owner fails to complete the landscaping and screening requirements by the deadline, the CityCity may finish the work with the cash escrow. Any additional fees or expenses accrued in association with the CityCity finishing the work will also be invoiced to the property owner.



3.

(B) Fencing

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(1) Permit Required. Fences within all districts, of all heights, and of all materials shall require an administrative permit issued by the City.

(a) The applicant shall submit a fence administrative permit application on an application form furnished by the City along with the fee as specified on the City's Official Fee Schedule.

(b) The Zoning Administrator shall issue an administrative permit for fences that meet application and Unified Development Code requirements.

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(+)(2) Fencing in all Districts.

(a) Fences may be placed along property lines provided no damage of any kind results to abutting property. A clear zone of two (2) feet shall be required for fences located adjacent to any sidewalk or trail edge and a clear zone of five (5) feet (5') shall be required for fences located adjacent to any alley or public roadway edge.

Commented [EG114]: Again regarding standardizing number (#). At one point in this document, a measurement was listed as number feet (#'). Should it be done that way, or number (#) feet. ?

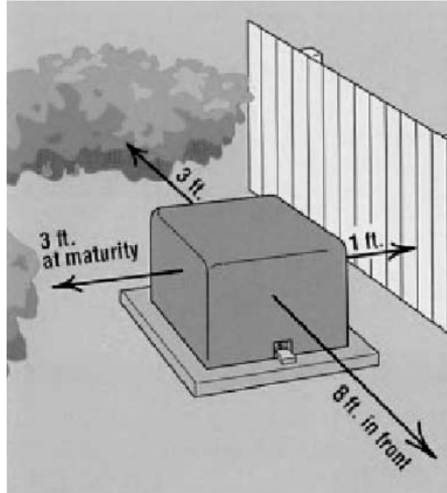
(b) Fences may be installed along property lines, and within drainage and utility easements, but shall be installed at the sole risk of the property owner. By installing a fence in a drainage and/or utility easement, the property owner acknowledges the existence of the drainage and utility easement and the City's right to remove the fence, at the owner's expense, in order to access and utilize such easement areas for drainage and utility purposes. The property owner must maintain access to the drainage and utility easement at all times, including existing and future utility infrastructure.

Commented [FN115R114]: Updated numbers to follow standard APA format. 1-9 are spelled out, 10 and above are numerals. Given the nature of searching items in a zoning code, I put a numeral value following the 1-9 words, example: two (2). Numbers in the tables still remain numerals for the sake of space. Also following APA format, all measurements of time are in numeral form.

(c) Municipal electric boxes must have the following clear zones which means no fences can be installed closer than the following distances as depicted below:

Commented [EG116]: See comment immediately above

1. Front: eight (8) feet² (the side that is padlocked)
2. Sides: three (3) feet² on two (2) sides and at least one (1) foot¹ on the fourth side



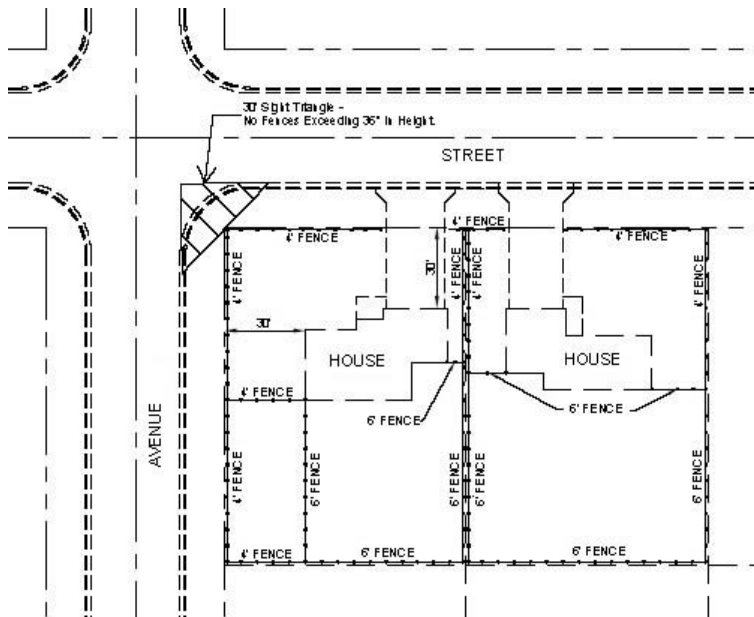
(not opposed to an updated drawing to match the other ones being added)

- (d) Fences are not allowed in required sight triangles above 36 inches in height.

(2)(3) Residential Fences.

- (a) Fences may be located on any lot line to a height of four (4) feet and a fence up to six (6) feet in height may be erected behind the nearest rear corner of the principal building. The side of the fence considered to be the face (facing as applied to fence posts) shall face abutting property. For corner lots, a six (6) foot fence may only be erected at the minimum front setback line for the district in which it is located. accessory building 30' building setback line. A fence up to six (6) feet in height may also be erected behind attached garages where the location of the fence is not entirely erected behind the nearest rear corner of the principal building.

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Example of allowable residential fence heights and locations ([this illustration should be updated too](#))

(3)(4) Business and Industrial Fences.

- (a) Fences may be located along property lines to a height of six (6) feet.
- (b) Fences over ~~six~~six (6) feet in height that have a security arm and barbed wire shall require a ~~variance~~Variance.

(C) Drainage Standards

No land shall be developed and no use shall be permitted that results in water runoff causing flooding or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area or other suitable facility.

(D) Permitted Encroachments

The following shall be considered as permitted encroachments on setback and height requirements except as provided in this ordinance.

- (1) In any yard: posts, off street open parking spaces, flues, leaders, sills, pilasters, lintels, cornices, eaves, gutters, awnings, open terraces, service station pump islands, open canopies, steps, chimneys, flag poles, ornamental features, open fire

escapes, sidewalks and fences, and all other similar devices incidental and appurtenant to the principal structure except as hereinafter amended. Decks are also exempted from the rear yard setback requirements except that a deck may not be located closer than ~~twenty (20)~~20-feet from the rear property line.

(E) Accessory Buildings and Structures

(1) In Residential Districts.

- (a) The maximum allowed size of detached garages and accessory buildings, individual and combined, for any parcel shall not exceed 1,000 square feet. In cases where existing lots are less than 7,000 square feet, the maximum allowed size of detached garages and accessory buildings, individual and combined, shall not exceed 15 ~~percent~~% of the total lot area. The maximum allowed accessory building size for any parcel shall be a combined total of all accessory buildings on the property.
- (b) Accessory buildings are permitted in any rear or side yard. Such building shall not be erected within ~~six~~six (6) feet of any lot line or 10 feet from any alley and provide a minimum of 20 feet of direct access to the entrance.
- (c) In no case shall an accessory building over 200 square feet ~~-ft.~~ in floor area exceed 15 ~~feet~~² in overall height.
- (d) Accessory buildings which are 200 square feet and under in floor area shall not require a building permit but must still meet applicable setback requirements ~~-and~~ cannot exceed 12 ~~feet~~² in height and require an administrative permit.
- (e) Pole buildings or post and beam constructed buildings shall be allowed as a construction method if they are able to meet State building codes.

(2) In Commercial and Industrial Districts.

- (a) No accessory building shall exceed the height of the principal building except by ~~variance~~Variance.
- (b) Accessory buildings may be located any place to the rear of the principal buildings, subject to the building code and the fire zone regulations except where prohibited by other sections of this Ordinance.

(3) In All Districts.

- (a) Accessory buildings shall not be constructed prior to or in lieu of the principal building.

(b) Any accessory building shall be considered as an integral part of the principal building if it is located less than ~~six~~six (6) feet from the principal building.

(c) Accessory buildings which are 200 square feet and under in floor area shall not require a building permit but must still meet applicable setback requirements cannot exceed 12 feet in height and require an administrative permit.

~~(b)~~(d) On through lots, accessory structures may be permitted a reduced setback from the lot line opposite the lot line that abuts the street from which the property is addressed. For the purposes of this provision, that opposite lot line shall be treated as a rear lot line, and the setback for accessory structures may be reduced to the rear yard setback standard for accessory structures applicable to the zoning district in which the lot is located.

Commented [EG117]: If this doesn't require a building permit, then I think either 1(d) or this one should be reworded.

Commented [KO118R117]: I agree, make the language consistent between the similar provisions.

Commented [FN119R117]: Made consistent

(F) Accessory Dwelling Units

(1) The following shall apply to all ADUs:

(a) An ADU shall only be allowed on properties within the R-1, R-2, or R-3 Zoning Districts which have a single-family home present.

(b) Either the home or the ADU shall be occupied by the owner of the property. Proof of owner occupancy shall be recorded to the property.

(c) Utilities for the primary home and ADU shall not be separately metered, and water and sewer for the ADU shall be connected to the existing principal structure. The ability to establish an ADU may be denied by the City of New ~~Brighton~~Prague if it is deemed that water or sewer capacities in the area are insufficient to serve the ADU.

(d) An ADU shall require one (1) additional off-street parking stall located on an improved surface in accordance with Section 6.002 (I).

(e) No more than one (1) ADU shall be permitted on a property, and the primary home and ADU shall share the address number but may be designated as different units (i.e. Unit 1 and Unit 2).

(f) An ADU shall be located on a permanent foundation.

(g) An ADU shall meet all architectural standards of the zoning district including consistency in color and material to the home.

(h) The gross floor area of an ADU shall not exceed the gross floor area of the principal structure.

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- (i) An ADU shall not be sold independently of the principal residential dwelling and may not be placed on a separate tax parcel.
- (j) ADUs shall not be utilized for short-term rentals as defined under Section 2.001. All yard setbacks required of the primary structure shall be met by an attached ADU.
- (k) All ADU rental properties shall require a rental license in accordance with City Codes.
- (l) All ADUs involving additional ground floor area will require a certificate of survey be submitted with the building permit application.

Commented [KO120]: Similar to short term rentals, we would just license these through our existing rental license ordinance. I do not want an additional but separate process to have to follow.

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(2) Detached ADU.

- (a) A detached ADU shall be located within a side yard or rear yard of a lot unless otherwise authorized by a Conditional Use Permit.
- (b) The maximum floor area of a detached ADU shall not exceed the floor area of the principal structure or 1,064 square feet, whichever is less unless otherwise authorized by a Conditional Use Permit.
- (c) A detached ADU shall adhere to the required side and rear yard setbacks of the underling zoning district.
- (d) A detached ADU shall maintain a minimum 10-foot separation from the primary dwelling.
- (e) The maximum height of a detached ADU shall not be greater than the height of the primary dwelling nor exceed the height maximum of the underlying zoning district.

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Commented [FN122R121]: See other comment regarding Variance vs CUP. Still up to you

Commented [KO123]: Same as above, shouldn't a variance be required instead?

Commented [FN124R123]: See other comment regarding Variance vs CUP. Still up to you

(F)(G) Relocating Structures

(1) Permit Required.

No person shall move any principal building from within or without the ~~City~~City limits to a new location within the ~~City~~City without first obtaining a ~~e~~conditional use permitConditional Use Permit in accordance with the provisions of Section 3.002 (E) ~~505~~ of this Ordinance. -An application for such ~~e~~conditional use permitConditional Use Permit shall indicate the origin and destination of such building, and the route over which it is to be moved.- The application shall also indicate the location of the lot on which the house is to be located, the dimensions of the lot and the proposed location of the structure on the lot along with setback distances. -No permit to move a building shall be issued unless and until the following conditions are fully complied with and approved by the ~~City~~City Council.

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- (a) The building to be moved must comply in all respects with the State Building Code and other pertinent State rules and regulations and the ~~CityCity~~ Code.
- (b) The lot on which the building is to be located must meet all the minimum dimensional requirements of the zoning district in which it is located.
- (c) The building must be placed on the lot so as to meet all the front, side and rear yard requirements as set forth in this Ordinance.
- (d) Payment of a ~~\$5,000~~-deposit as set on the CityCity's Official Fee Schedule, to be refunded upon final occupancy, grading and landscaping.
- (e) Factors that must be considered by the Planning Commission and ~~CityCity~~ Council when reviewing the ~~conditional-use-permit~~Conditional Use Permit application:
 - 1. Whether the structure is at such a ~~variance~~Variance with the established or expected pattern of development in the neighborhood that it would destroy the overall appearance of the neighborhood;
 - 2. The extent of ~~variance~~Variance, if any, of the proposed structure with the existing age, bulk, architectural style and quality of construction; and
 - 3. The structure will not substantially diminish or impair property values within the neighborhood.

(2) Electrical Corrections Requirements.

- (a) In every case in which the removal or displacement of any overhead electrical or other wires is required, it shall be the duty of the person, association, or corporation owning, operating, or controlling said wires to remove or displace the same, so far as the same way may be necessary to effect the removal thereof, shall be authorized by such permit.
- (b) The person moving the structure must notify the person, association, or corporation owning, operating, or controlling said wires to remove or displace the same to facilitate the removal of said wires sufficiently to allow the passage of said building along the street over which said wires are suspended.
- (c) Any expenses incurred or to be incurred in the moving, removing or displacing of such wire shall be paid for by the person moving the structure.

~~All structures for habitation within the City shall meet the following minimum requirements.~~

- ~~(1) Every dwelling shall have a minimum width of 22 feet for at least 70 percent of its length.~~
- ~~(2) Every dwelling shall have a full load-bearing perimeter foundation with a minimum clear span floor loading capability to a center wall or beam which complies with the requirements of the Minnesota State Building Code.~~
- ~~(3) Every dwelling shall have a minimum roof overhang of one foot.~~
- ~~(4) Every building shall comply with the City adopted building codes in all respects.~~

(H) **Manufactured Homes**

Manufactured homes shall meet the following minimum standards.

- (1) Must exceed 24 feet in width.
- (2) Must have a minimum floor area of 800 square feet.
- (3) The dwelling must be placed on a permanent foundation.
- (4) All other local, state and federal requirements must be satisfied

Commented [FN126]: Check state reqs

(I) **Off-Street Parking and Loading**

- (1) General Standards for Applicability.

The following regulations and requirements shall apply to all required and non-required off-street parking and loading facilities in all zoning districts in the CityCity except those located in the B-1 Central Business District. Uses in the B-1 District are not required to provide off-street parking spaces. Design standards for parking areas in the B-1 district are applicable if off-street parking is provided.

- (a) Reduction of Existing Off-Street Parking Space or Lot Area. Off-street parking spaces and loading spaces or parking lot areas existing upon the effective date of these provisions shall not be reduced in number or size unless the number exceeds the requirements set forth herein for a similar new use.
- (b) Nonconforming Structures. Should a nonconforming structure or use be damaged or destroyed by fire, it may be re-established if elsewhere permitted in this Ordinance, except that in doing so, any off street parking or loading space which existed before shall be retained.
- (c) Change of Use or Occupancy of Land. No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces

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shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by this Ordinance.

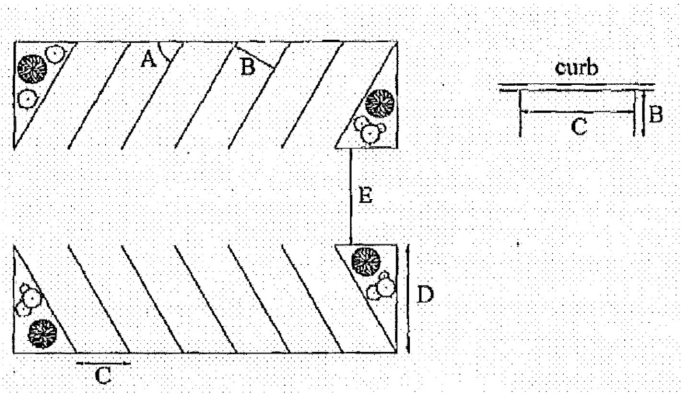
- (d) **Change of Use or Occupancy of Buildings.** Any change of use or occupancy of any building or buildings including additions thereto requiring more parking areas shall not be permitted until there is furnished such additional parking spaces as required by this Ordinance.
- (e) **Computation of Spaces Required.** In computing the number of parking or loading spaces required, the following rules shall govern:
 - 1. Floor space shall mean the gross floor area of the specific use;
 - 2. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number;
 - 3. The parking space requirement for a use not specifically mentioned herein shall be the same as required for a similar use as determined by the Zoning Administrator.
 - 4. When computing the total number of parking spaces required for a use, individual activities within the building will be calculated separately and added together to arrive at the total required parking spaces for each specific use proposed, unless the strip mall / shopping center calculation applies.
 - 5. In assembly places where seating is provided on benches, pews, or other similar items, each 22 inches of such seating shall be counted as one (1) seat for the purpose of determining required parking.
- (f) **Maintenance.** It shall be the responsibility of the lessee and the owner of the property and buildings to maintain in a neat and adequate manner, the parking space, access ways, striping, landscaping and required screening.
- (g) **Use of Parking Areas.** Required off-street parking spaces in any district shall be maintained in a neat and orderly manner and shall not be utilized for vehicle repair, open storage, stockpiling of snow, debris, materials, goods, or for the storage of vehicles which are inoperable or for sale or lease.
- (h) **Snow Storage.** Adequate area shall be designated for snow storage so that required number of parking spaces remain available for vehicle parking, and clear visibility must be maintained from the property to any public street.

(2) **Design and Dimensions of Off-Street Parking Facilities.**

- (a) Minimum Dimension Requirements for Drive Aisles and Parking Stalls.
All off-street parking facilities shall comply with the following dimensional standards:

Angle of Parking Stalls (A)	Minimum Stall Width (B)	Minimum Curb Length (C)	Minimum Stall Depth (D)	Minimum Parking Lot Drive Aisle Width (E)
90 Degree	9'	9'	20'	24 feet (two-way traffic)
60 Degree	9'	10' 5"	21'	18 feet (one-way traffic)
45 Degree	9'	12' 9"	19' 10" ²	13 feet (one way traffic)
Parallel	9'	23'	9'	24 feet (two-way traffic)

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Depiction of angled parking

- (b) Angled Parking. Parking spaces oriented at less than 90 degrees to the aisle shall be limited to one way circulation.
- (c) Location.

1. All required parking spaces shall be off street and located on the same lot as the building or use to be served.
 2. Required off-street parking spaces may be provided within the principal building for which they are required.
 3. Except for the case of single, two family and townhouses, parking areas requiring backing into a public street is prohibited.
 4. In the B-1 Central Business District, no off-street parking shall be located on a property between the building and the street.
- (d) Setback Requirements for Off-Street Parking Spaces and Lots.
1. All areas designed and used as off-street parking areas shall be set back a minimum of 15 ~~feet~~² from a street right of way, and ~~five (5)~~² feet from property lines, except in the case of a joint parking lot, adjacent yard setbacks shall not apply.
 2. All parking areas must be located outside of public drainage and utility easements.
- (e) Parking Spaces Abutting Residential Uses. Off-street parking facilities which abut a property zoned for residential purposes shall meet the screening requirements stated in Section ~~6.002 (A) 707~~ of this Ordinance.
- (f) Handicap Parking Spaces. Required handicap spaces and ramps shall be provided as specified in the State Building Code. All handicap stalls shall be located in close proximity to entrance areas and shall not be hindered by inappropriately located curb cuts, catch basins, etc.
- (g) Surfacing. All areas intended to be utilized for drive aisles, parking spaces, and access drives shall be surfaced with either concrete or plant mixed bituminous.
- (h) Curbing. A poured in place, ~~sixsix (6)~~ inch non-surmountable concrete curb shall be provided around the perimeter of all parking lots designed for ~~fourfour (4)~~ or more cars. Such poured in place curb is required along all internal access roads. Curbs or other means shall be provided to prevent parked vehicles from overhanging property lines and sidewalks. The ~~CityCity~~ Engineer may waive the curbing requirement when it is determined that sheet drainage is an appropriate stormwater management practice for a given location. When ~~sixsix (6)~~ inch non-surmountable curbing is not recommended by the ~~CityCity~~ Engineer for drainage purposes, flat concrete curb with curb cuts or other appropriate methods may be used as approved by the ~~CityCity~~ Engineer.

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- (i) Striping. Except for single, two family and townhouses, all parking stalls shall be marked with white or yellow painted lines not less than ~~four~~four (4) inches wide.
- (j) Lighting. All lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining residential property and public rights-of-ways. Glare standards as stated in Section 5.003 (E) ~~704~~ of this Ordinance apply to parking lot lighting as they affect adjacent properties.
- (k) Design. Off street parking areas shall be so designed that vehicles are parked in an orderly fashion. Site plans shall show proposed parking spaces, driveways, loading areas, landscaping and screening, and the parking area shall conform to such site plans. Aisle entrance shall be kept clear by appropriate design.
- (l) Drainage. There shall be adequate drainage of the surface of the parking or paved area to a public storm sewer or to other ~~City~~City approved means. Plans for surfacing and drainage of all parking lots for 20 spaces or more, or paved areas of 6,000 square feet or more must be approved by the ~~City~~City.
- (m) Landscaping. Off street parking facilities shall meet the following landscaping requirements:
 - 1. Perimeter Landscaping Requirements.
 - a. Along front yards, a minimum of ~~one~~ one (1) deciduous tree or coniferous tree shall be planted every 40 feet along the perimeter of the parking lot.
 - b. Along side and rear yards, a minimum of ~~one~~ one (1) deciduous tree or coniferous tree shall be planted every 30 feet along the perimeter of the parking lot.
 - c. A deciduous tree shall be a minimum of 2.5 inches in diameter. A coniferous tree shall be a minimum of six (6) feet in height
 - d. Off-street parking facilities which abut a property zoned or used for residential purposes shall meet the screening requirements stated in Section 6.002 (A) ~~707~~ of this Ordinance.
 - 2. Interior Landscaping Requirements. In all parking areas, including those for the sale and display of autos, trucks and other types of vehicles, that contain more than 50 parking spaces, planting islands

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must be provided to occupy a minimum of ~~3%~~ ~~three percent~~ of the gross parking area, subject to the following:

- a. The interior dimensions of any planting or landscaped island shall be a minimum of 240 square feet in area, and a minimum of ~~six~~ (6) feet in width;
- b. Each planting island shall contain at least ~~one~~ ~~one~~ (1) tree that provides shade, which shall be a minimum of 2.5 inches in diameter in size, and the remainder of the landscape island shall be covered with turf grass, native grasses, ground cover or other perennial flowering plants, vines, shrubs or trees. If landscape rock or bark is to be utilized, provisions should be made to prevent material from spilling into the parking area. Ash trees may be planted but will not count towards the minimum landscape requirement; and
- c. Each landscape island shall be protected by vertical curbs or similar structures and shall be designed and grouped into a parking area to create defined aisles and entrances for on-site traffic circulation.

~~e.3.~~ No trees, shrubs or other landscaping other than sod/seed shall be allowed within any drainage/utility easement or road right-of-way. The City or utility companies will remove any obstructions placed in easements. The City is not responsible for any damage to plantings placed within any drainage and utility easement or road right-of-way.

- (n) Joint Parking Requirements. Off-street parking facilities for separate uses may be provided collectively in a joint parking lot if the total number of spaces so provided is not less than the sum of the separate requirements of each use. No parking space shall serve as a required space for more than ~~one~~ ~~one~~ (1) use. In the case of joint parking lots, the parking lot setback requirements shall not apply to the property line where the joint parking facility is located. A maintenance and joint use agreement for use of the joint parking facility must be filed with the ~~City~~City and recorded with the County Recorder.
- (o) Proof of Parking Requirements. The ~~City~~City may allow a reduction in the number of required parking spaces if unique characteristics of the proposed use are such that it will generate a need for less parking than the requirements set forth in this Ordinance. All requests for reductions in the amount of required parking shall be accompanied by a plan showing

Commented [EG129]: Should these just be banned?

Commented [KO130R129]: I don't think so, there are some hybrids coming out that are not susceptible to EAB...so I'd hate to ban and have that situation to deal with.

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where the total required parking spaces can be added on the lot, without requiring any ~~variance~~ **Variances**, and shall be approved by the Planning Commission and ~~City~~ **City** Council.

- (p) Required Parking ~~Spaces~~. The minimum number of off-street parking spaces for each type of use shall be determined in accordance with the following table:

Use	Minimum Number of Spaces Required	Maximum Number of Spaces Allowed
Assisted Living Facilities	1 per bed + 1 per employee on the largest shift	125% of minimum spaces required
Banks	1 per 250 square feet of floor area	
Barber Shops and Hair Salons	2 + 1.5 per chair	
Bed and Breakfast Homes	1 per room + spaces as needed for associated residential use	
Bed and Breakfast Inns	1 per room + 1 per employee on the largest	
Bowling Alleys	5 per lane in addition to spaces required for restaurant facilities	
Clinics, Medical and Dental Offices	1 per 150 square feet of floor area	
Community Centers	1 per every 3 seats	
Drinking Establishments	1 per every 3 seats	
Entertainment & Amusement Facilities	1 per every 3 seats	
Fuel Stations	1 per pump or charging station, plus 1 per 300 square feet of floor area of associated retail space	
Funeral Homes	1 per 50 square feet of floor area	
Health Care Facilities (Hospitals)	1 per bed + 1 per employee on the largest shift, and spaces as needed for associated clinics	
Hotels	1 per room + 1 per employee on the largest shift in addition to spaces required for restaurants, bars, meeting rooms, and associated facilities.	
Industrial Uses	1 per 1,000 square feet of floor area	
Laundromats	.5 per machine	
Manufacturing Uses	1 per 1,000 square feet of floor area	
Mobile/Manufactured Home Parks	2 per dwelling unit	
Offices	1 per 300 square feet of floor area	
Physical Recreation	1 per 350 square feet of floor area	
Residential, Single and Two Family Dwellings	2 per unit	
Residential, Apartment	2 per unit (we talked with you that we'd like a variable parking requirement for studios on up to larger apartments where each would	

Commented [KO131]: How many cities have you seen implement a "maximum" parking space limit of maybe 125% of the minimum required to avoid giant parking lots that are wasted land?

Commented [FN132R131]: I have not seen many cities similar to New Prague do a maximum, but we definitely can. I added a column for now and we can discuss

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	have a different requirement. The 2 per unit is a bit much. Our most recent apartment we approved at 1.7 per unit for a mixed unit apartment of studio to 2 bedroom units.
Residential, Elderly Housing (occupancy limited to persons age 55 and over)	1 per unit
Residential, Townhouse	2 per unit; plus guest parking of ½ space per unit for projects with more than 8 units
Restaurants, Class I	1 per every 100 square feet of floor area
Restaurants, Class II & III	1 per every 3 seats + 1 per employee on the largest shift
Religious Institutions	1 per every 3 seats (sanctuary seats only)
Retail Stores and Service Establishments	1 per 300 square feet of floor space and outdoor sales space
School, Elementary & Junior High	1 per 7 students based upon building design
School, Senior High	1 per 3 students based upon building design
Strip Malls / Shopping Centers under 100,000 square feet	1 per 200 square feet of floor area
Warehousing	1 per 1,000 square feet of floor area
Uses Not Listed	The parking requirement for a use not specifically mentioned herein shall be the same as required for a similar use as determined by the Zoning Administrator

Uses in the B-1 District are not required to provide off-street parking spaces.

1. Electric Vehicle Charging Stations Required. Principal uses shall provide electric vehicle charging stations. A property owner, business owner, or property manager may determine whether parking spaces with electric vehicle charging stations are reserved for electric vehicles or are available for use by all vehicles.
 - a. Newly established off-street surface parking areas providing 20 or more spaces and existing off-street surface parking areas that add 20 or more spaces shall supply not less than 5% of newly established parking spaces with electric vehicle charging stations capable of L2 charging or greater.
2. Reduced Parking. A reduction of 10% of required spaces may be applied to residential or mixed use developments meeting one (1) or more of the following criteria:
 - a. Located within the B-1, RH, or RM zoning district
 - b. Contains deed-restricted affordable housing for households earning below 80% of Area Median Income (AMI).

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Commented [KO133]: We'll see how well this is received...

Commented [KO134]: What exactly would be the reduced parking requirements? Just at the discretion of the zoning administrator???

Commented [FN135R134]: Added a specific reduction of 10% - similar to other municipalities that allow this

c. Provides a mix of uses on site or is part of a mixed-use development.

d. Includes units that are 500 square feet or less in gross floor area.

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(3) Design and Dimensions of Off-Street Loading Space.

- (a) Location. All required loading berths shall be off street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from a street intersection and at least 50 feet from a residential district unless it is within a building. Loading berths shall not occupy the required front yard space.
- (b) Size. Unless otherwise specified in this Ordinance, a required loading berth shall not be less than 12 feet in width, 50 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.
- (c) Required Loading Spaces. Determined by the ~~City~~City Council following review by the Planning Commission.
- (d) Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.
- (e) Surfacing. All loading berths and access ways shall be improved with a durable material to control the dust and drainage.
- (f) Accessory Use. Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this Ordinance shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
- (g) In connection with any structure which is to be erected or substantially altered, and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, there shall be provided off-street loading space.
- (h) Screening. Except in the case of multiple dwellings, all loading areas shall be screened from abutting and surrounding residential uses in compliance with other provisions of this Ordinance.
- (i) Where noise from loading or unloading activity is audible in a residential district, the activity shall terminate between the hours of 7:00 p.m. and 7:00 a.m. except for the loading and unloading of grain.

Commented [KO136]: General comment, you deleted and didn't add back in sandwich board sign regulations. Also looks like you didn't add back in the "sign area calculations", "exemptions" and "sign removal" sections which I believe should be added back in somewhere in the language.

Commented [FN137R136]: Thank you, added in

(J) Signs

(1) Purpose and Intent. The purpose of this Section is to regulate the physical characteristics of signs within the City, not the content of speech. It is the intent of this Section to:

- (a) Promote public health, safety, and welfare through regulation of the number, size, type, location, illumination, and structural integrity of signs.
- (b) Prevent visual clutter and enhance the City's aesthetic character.
- (c) Ensure effective communication consistent with constitutional protections and City goals.
- (d) Provide fair, consistent enforcement under the City's zoning authority.
- (e) Protect the safety of motorists and pedestrians by minimizing distractions and obstructions.

(2) General Standards. Signs are permitted accessory uses in all zoning districts, subject to the following provisions:

- (a) No sign, unless posted by the Zoning Administrator, shall be located in public rights-of-way, easements, or public property.
- (b) [Illuminated signs are permitted; however, signs with flashing, rotating, or intermittent lights are prohibited. All illuminated signs shall meet glare standards of Section 5.003 (E).]
- (c) One commercial sign is permitted on a residentially zoned lot, not to exceed six (6) square feet per surface, and one (1) on a commercially or industrially zoned lot, not to exceed 32 square feet per surface. Such signs shall be removed within 10 days following the sale or lease of the property. (this is intended for "For Sale" signs by the way...this is how our city attorney wanted it worded the last time we amended the ordinance)
- (d) One commercial sign not exceeding 240 square feet per side (maximum of two (2) sides) is permitted at a construction site. Such signs shall be removed within 10 days after sale of the final lot by the developer.
- (e) Signs shall not mimic or obstruct the visibility of traffic control devices.
- (f) Signs shall not be painted on fences, rocks, or similar surfaces, nor shall paper or similar signs be affixed to building walls by adhesive or similar means.
- (g) Portable or temporary signs are permitted only by permit in commercial and industrial districts, limited to one (1) per lot, not exceeding a total of 32 square feet- and divided on up to three (3) total temporary signs per surface with a maximum of two surfaces. Such signs may be displayed for

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Commented [EG138]: Who?

Commented [FN139R138]: Changed to ZA

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Commented [EG140]: Should this clarify that it must follow the Glare ordinance?

Commented [EG141R140]: It's listed a few times later in the ordinance, but maybe just stating it here that it applies in ALL zoning districts makes it easier than listing it within commercial and industrial etc

Commented [FN142R140]: agreed

up to 15 days and shall be removed immediately following the advertised event. No lot shall display such signs for more than 45 days in a calendar year. Placement in public rights-of-way or attachment to pylons or light poles is prohibited.

(h) Signs containing non-commercial speech may be displayed without limitation in number or size from 46 days prior to a state primary election until 10 days following the general election, and from 13 weeks prior to any special election until 10 days following. one (1) non-commercial speech sign is allowed on each lot outside of the specified election periods. (this is basically about “election signs” but our city attorney said we couldn’t label them as such so this is what was written to accommodate election signs).

(i) Building-mounted and projecting signs shall be affixed only to the principal building on the lot.

(j) Any sign permitted under this Section may display non-commercial speech in lieu of any other permitted content.

(k) A sign permit is required unless otherwise exempt. All signs shall be constructed, secured, and maintained to ensure public and traffic safety. Permit fees shall be established by City Council resolution.

(l) Electronic variable message signs are permitted in commercial and industrial zoning districts, excluding the B-1 Central Business District. The display shall not change more than once every 5 seconds.

(m) Illuminated signs must comply with the Minnesota Electrical Code.

(n) No sign shall block windows, doors, or fire escapes. Signs shall maintain a minimum clearance of 36 inches from electrical conductors under 600 volts, and 48 inches for those over 600 volts.

(o) Off-premise commercial signs are prohibited except billboards. Off-premise non-commercial speech signs are permitted.

(p) Up to three (3) non-commercial speech flags are permitted per lot, with each flag not exceeding 100 square feet per surface.

(q) Window signs are allowed on street-facing windows in commercial and industrial districts, not exceeding 25% of the window area.

(r) Building address signs are exempt from overall signage limitations.

(3) Signs Permitted in Residential Districts

(a) One building sign is permitted per dwelling, not to exceed two (2) square feet per surface, with a maximum of two (2) surfaces.

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(b) One building sign is permitted for each multi-dwelling building of six (6) or more units, not to exceed 2.5% of the building face to which the sign is affixed.

Commented [EG143]: For apartment buildings, this is incredibly limiting. We had an apartment building request a variance for a 33 sq ft sign above their door, which is reasonable given the size of the building. Maybe this could be limited to a percentage of the building side, similar to how it is restricted for commercial buildings?

(c) One building sign is permitted for each non-residential use or use by Conditional Use Permit, not to exceed ~~twelve (12) square feet per surface~~ 2.5% of any one any single building face, with a maximum of two (2) surfaces.

Commented [KO144R143]: Maybe the limit should be 2.5% of a building face?

(d) Multi-family dwellings -with six (6) or more units and non-residential uses or use by conditional use permit Conditional Use Permit may have one (1) ~~(1) freestanding or~~ monument sign not exceeding 32 square feet per surface, set back a minimum of 10 feet from property lines.

Commented [FN145R143]: added

(e) Integrated architectural features, symbols, statues, or sculptures may be illuminated in accordance with applicable glare standards of Section 5.003 (E).

(f) All monument signs shall be set back at least 10 feet from any property line and shall not exceed 10 feet in height. Illumination must comply with the City's glare standards of Section 5.003 (E).

(g) Real Estate Signs

1. Temporary signage for the purpose of selling, renting or leasing individual lots, parcels, homes or buildings may be erected provided:

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a. One sign may be placed per street frontage and located within 15 feet of the right-of-way line on the property to be sold or leased.

b. The size of such sign shall be a maximum of six (6) square feet for residentially zoned property and a maximum of 32 square feet for all other properties.

c. The sign shall be removed upon completion of construction, sale or lease of the dwellings within the project, or 2 years from issuance of the first permit for the construction of a dwelling or dwellings within the project

(4) Signs Permitted in Business Districts

(a) For sites with total gross floor area greater than 100,000 square feet:

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1. Freestanding/monument sign area shall not exceed 250 square feet per public street frontage, with no more than two (2) sides per sign. Signs must be spaced at least 250 feet apart.
 2. At street intersections, sign square footage must be attributed to a single frontage and may not be split.
- (b) For sites with total gross floor area from 50,000 to 100,000 square feet:
1. Freestanding/monument sign area shall not exceed 200 square feet per frontage.
 2. Spacing and corner lot requirements as stated in (a) above apply.
- (c) For sites with total gross floor area less than 50,000 square feet:
1. Freestanding/monument sign area shall not exceed 100 square feet per frontage.
 2. Spacing and corner lot requirements as stated in (a) above apply.
- (d) Maximum sign height is 20 feet in the B-1 and B-2 Districts and 30 feet in the B-3 District.
- (e) Minimum setback for freestanding or monument signs is 10 feet from property lines and outside any easements.
- (f) Building signs may extend up to six (6) feet above the roofline and are limited to 15% of the building face area. Signs must be located on the principal building.
- (g) Projecting signs are limited to 16 square feet per surface, must maintain an eight (8) foot clearance above curb elevation, and may extend up to five (5) feet from the building face, provided they do not enter the public right-of-way.
- (h) Electronic variable message signs and readerboard signs are allowed only in the B-2 and B-3 Districts.
- (i) Signs may be illuminated in compliance with glare standards of Section 5.003 (E). Internally illuminated freestanding signs in B-2 and B-3 must be at least 100 feet from residential districts. This does not apply to externally illuminated signs.
- (j) Only monument signs are allowed in the B-2 District.
- (k) Signage for subdivided lots that were part of a larger approved site shall be counted towards the total allowed signage for that original site.

(5) Signs Permitted in Industrial Districts

- (a) One (1) freestanding or monument sign is allowed per frontage. Total sign area shall not exceed one (1) square foot per lot frontage foot, up to a maximum of 100 square feet per surface. Setback shall be at least 10 feet. Maximum height is 30 feet.
- (b) Building signs may not extend more than six (6) feet above the highest wall and are limited to 15% of the building face. Signs must be on the principal building.
- (c) Billboards are permitted only as a principal use of a lot, limited to 480 square feet per side (maximum two (2) sides), and spaced at least 500 feet apart. Setbacks shall meet principal structure requirements.
- (d) Electronic variable message signs and readerboard signs are permitted.
- (e) All illumination must comply with glare standards of Section 5.003 (E).

(6) Sandwich Board Signs.

- (a) Sandwich board signs shall be allowed in all zoning districts within the City except that in residential districts, sandwich board signs will be permitted only for non-residential uses and uses by Conditional Use Permit.
- (b) There shall be only one (1) sandwich board sign allowed for each entity.
- (c) Sandwich board signs shall not exceed eight (8) square feet in size per surface area.
- (d) Sandwich board signs may be placed on a public sidewalk or within the public right-of-way provided that the sign owner agrees to indemnify the City with respect to the sign and signs a waiver to this effect. Upon application for a sign permit, the sign owner must also provide the City with a certificate of insurance that covers the property in which the sign will be placed and the value of sign. The City must be named as an "additional insured" on the certificate of insurance.
- (e) If placed on a sidewalk, a sandwich board sign shall not take up more than three (3) feet of sidewalk width and shall not be placed in the middle of the sidewalk.
- (f) All sandwich board signs require a sign permit which must be obtained prior to placement of the sign. All permit applications shall contain a sketch of the sandwich board sign which includes the sign's dimensions, colors and design. The location of the sign shall also be indicated. Sandwich board sign permits shall not be transferable.

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- (g) A copy of the approved sign permit for the sandwich board sign shall be attached to the sandwich board sign at all times. Sandwich boards signs that do not comply with this requirement may be removed and disposed of by the City.
 - (h) Sandwich board signs may be removed by the City if they interfere with any City activities (i.e. snow removal, maintenance of the surrounding area, etc.).
 - (i) Sandwich board sign permits are valid from the date of issuance until December 31st of each year.
 - (j) Sandwich board signs shall be displayed only during the times that the entity is open. No sandwich board sign shall be displayed overnight or when there has been any snow accumulation. Sandwich board signs that do not comply with this requirement may be removed and disposed of by the City.
 - (k) Sandwich board signs must either be weighted down or removed when there are wind gusts of 20 m.p.h. or greater.
 - (l) Under no circumstances shall a sandwich board sign be used instead of permanent building signage.
- (7) Exemptions. The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from responsibility of its compliance with the provisions of this Ordinance or any other law or ordinance regulating the same.
 - (a) The changing of the display surface on a painted or printed sign only.
 - (b) Signs six (6) square feet or less in size, per surface, except for sandwich boards must always obtain permits even if they are six (6) square feet or less in size.
 - (c) Window Signage as permitted in the general standards.
 - (d) Non-commercial speech signs.
- (8) Sign Area Calculations
 - (a) The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building facade against which it is placed, but not including any supporting framework, pole or bracing.

(b) ~~For monument signs, the method in the previous paragraph shall be used. Only the face that is specifically intended to be used for signage shall be included when computing the sign area. Any base or other supporting structure, along with all adjoining structures such as fences or walls shall not be included when computing the sign area.~~

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(1) ~~Purpose and intent: It is not the purpose or intent of this Ordinance to regulate the message displayed on any sign; nor is it the purpose or intent of this Ordinance to regulate any building design or any display not defined as a sign, or any sign which cannot be viewed from outside a building. The purpose and intent of this Ordinance is to:~~

(a) ~~Regulate the number, location, size, type, illumination and other physical characteristics of signs within the City in order to promote the public health, safety and welfare.~~

(b) ~~Maintain, enhance and improve the aesthetic environment of the City by preventing visual clutter that is harmful to the appearance of the community.~~

(c) ~~Improve the visual appearance of the City while providing for effective means of communication, consistent with constitutional guarantees and the City's goals of public safety and aesthetics.~~

(d) ~~Provide for fair and consistent enforcement of the sign regulations set forth herein under the zoning authority of the City.~~

(e) ~~Provide for the safety of the traveling public by limiting distractions, hazards and obstructions.~~

(2) ~~General Standards:~~

~~Signs are a permitted accessory use in all use districts subject to the following regulations:~~

(a) ~~Signs that are not posted by authorized government officials are prohibited within the public right-of-way, easements or publicly owned land.~~

(b) ~~Illuminated signs may be permitted but devices giving off an intermittent or rotating beam or rays of light shall be prohibited.~~

(c) ~~One sign with a commercial message on a residentially zoned property that does not exceed six square feet per surface may be placed in the front yard of the property. One sign with a commercial message on a commercial / industrial zoned property that does not exceed 32 square feet per surface may be placed in the front yard of the property. These signs~~

~~must be removed within 10 days after the closing date of the sale or lease of the property.~~

- ~~(d) One sign with a commercial message that does not exceed 240 square feet of surface per side (with a maximum of two sides) may be placed upon a construction site. These signs must be removed within 10 days after the closing date of the sale of the last lot owned by the development company.~~
- ~~(e) No sign shall, by reason of position, shape or color interfere in any way with the proper functioning or purpose of a traffic sign or signal.~~
- ~~(f) Signs shall not be painted on fences, rocks, or similar structures or features nor shall paper or similar signs be attached directly to a building wall by an adhesive or similar means.~~
- ~~(g) Portable or temporary signs as defined by this Ordinance are allowed by permit only in industrial and commercial zoning districts. There shall be no more than one portable or temporary sign on any lot at a time and such sign shall not exceed 32 square feet in size per surface with a maximum of two surfaces. Portable or temporary signs may not be displayed for more than 15 days at a time and must be removed immediately after the event advertised. Portable or temporary signs may not be placed in the public right of way, be flashing, having moving parts or be fastened to any pylon or light pole. No permit shall be issued by the City for a portable or temporary sign on a lot for a duration of more than 45 days within a calendar year. Temporary signage is allowed over and above the typical signage limit allowed on a property for permanent signage.~~
- ~~(h) Non-commercial speech signs: Notwithstanding any other provisions of this Ordinance, all signs of any size containing non-commercial speech may be posted in any number from 46 days before the state primary election in any general election year until ten (10) days following the general election and 13 weeks prior to any special election until 10 days following the special election. One non-commercial speech sign is allowed on each lot outside of the above specified time period on all properties.~~
- ~~(i) Building and projecting signs can only be located on the principal building on the lot.~~
- ~~(j) Substitution Clause: The owner of any sign which is otherwise allowed by this Ordinance may substitute non-commercial speech signs in lieu of any other commercial speech sign or other non-commercial speech sign. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any~~

~~particular non-commercial speech over any other non-commercial speech. This provision prevails over any more specific provision to the contrary.~~

- ~~(k) Sign permits are required for all signs unless otherwise stated in this code. The fee for sign permits shall be established by council resolution. All signs shall conform to the requirements of this Ordinance whether or not a sign permit is required. All signs shall be constructed in a matter and of such material that they shall be safe and substantial. All signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised.~~
- ~~(l) Electronic Variable Message Signs are permitted in industrial and commercial zoning districts (except for the B-1 Central Business District) as long as the message and/or picture on the sign does not change more than once per five (5) seconds.~~
- ~~(m) Illuminated signs shall be subject to the electrical requirements of the Electrical Code of the State of Minnesota.~~
- ~~(n) No sign shall be attached to or placed upon any building in such a manner as to obstruct any window or door for fire escape or be attached to any fire escape. The minimum clearance of any sign from unprotected electrical conductors shall be not less than 36 inches for conductors carrying not over 600 volts and 48 inches for conductors carrying more than 600 volts.~~
- ~~(o) All off-premise commercial signs are prohibited except for signs defined as billboards. Off-premise non-commercial speech signs are exempted from this prohibition.~~
- ~~(p) Up to three flags containing non-commercial speech only may be displayed upon a lot. Each non-commercial speech flag may not exceed 100 square feet in size per surface.~~
- ~~(q) Window Signs are permitted in street-facing windows of commercial and industrial-zoned buildings provided they do not exceed 25 percent of the window area which has street frontage.~~
- ~~(r) Building address signs are not counted towards overall permitted signage on a building.~~
- ~~(3) Signs Permitted in Residential Districts.~~
 - ~~(a) One building sign for each dwelling not to exceed two square feet in area per surface, and no sign shall be so constructed as to have more than two surfaces.~~

- ~~(b) — One building sign for each dwelling group of six or more units. Such sign not to exceed six square feet in area per surface and no sign shall be constructed as to have more than two surfaces.~~
- ~~(c) — One building sign for each permitted nonresidential use or use by conditional use permit. Such signs shall not exceed 12 square feet in area per surface and be so constructed as to have more than two surfaces.~~
- ~~(d) — Non-residential uses of residential property as provided in this Ordinance and multi-family dwelling groups of six or more units may be allowed one (1) freestanding or monument sign not more than 32 square feet per surface and set back 10 feet from property lines.~~
- ~~(e) — Symbols, statues, sculptures and integrated architectural features on buildings may be illuminated and must meet the glare standards listed in the zoning ordinance.~~
- ~~(f) — Any sign shall be set back at least 10 feet from any property line. No sign shall exceed 10 feet in height above the average grade level. Signs may be illuminated and must meet the glare standards listed in this Ordinance.~~
- ~~(4) — Signs Permitted in Business Districts:~~
 - ~~(a) — For an individual lot or site as defined by this Ordinance with all buildings totaling a gross floor area of greater than 100,000 square feet, the following signage is permitted:~~
 - ~~1. — Freestanding or monument signs. The maximum freestanding/monument sign surface area shall be 250 square feet per public street frontage of the lot or site. This maximum surface area applies to one sign surface of no more than two sides per sign structure. The allotted maximum surface area per public street frontage for the lot or site may be distributed to multiple freestanding/monument signs. In no case shall any one sign be larger than 250 square feet per side.~~
 - ~~2. — All signs within a lot or site shall be spaced no closer than 250 feet apart as measured along the public street frontage(s).~~
 - ~~3. — When placing signs on the corner of a lot at the intersection of two public streets, the applicant shall designate which public street frontage for the lot or site that the total sign square footage should be attributed to and in no case shall the sign area be allowed to be divided between the frontages.~~

~~(b) For an individual lot or site as defined by this Ordinance with all buildings totaling a gross floor area of greater than 50,000 square feet up to 100,000 square feet, the following signage is permitted:~~

- ~~1. Freestanding or monument signs. The maximum freestanding/monument sign surface area shall be 200 square feet per public street frontage of the lot or site. This maximum surface area applies to one sign surface of no more than two sides per sign structure. The allotted maximum surface area per public street frontage for the lot or site may be distributed to multiple freestanding/monument signs. In no case shall any one sign be larger than 200 square feet per side.~~
- ~~2. All signs within a lot or site shall be spaced no closer than 250 feet apart as measured along the public street frontage(s).~~
- ~~3. When placing signs on the corner of a lot at the intersection of two public streets, the applicant shall designate which public street frontage for the lot or site that the total sign square footage should be attributed to and in no case shall the sign area be allowed to be divided between the frontages.~~

~~(c) For an individual lot or site as defined by this Ordinance with all buildings totaling a gross floor area of less than 50,000 square feet, the following signage is permitted:~~

- ~~1. Freestanding or monument signs. The maximum freestanding/monument sign surface area shall be 100 square feet per public street frontage of the lot or site. This maximum surface area applies to one sign surface of no more than two sides per sign structure. The allotted maximum surface area per public street frontage for the lot or site may be distributed to multiple freestanding/monument signs. In no case shall any one sign be larger than 100 square feet per side.~~
- ~~2. All signs within a lot or site shall be spaced no closer than 250 feet apart as measured along the public street frontage(s).~~
- ~~3. When placing signs on the corner of a lot at the intersection of two public streets, the applicant shall designate which public street frontage for the lot or site that the total sign square footage should be attributed to and in no case shall the sign area be allowed to be divided between the frontages.~~

~~(d) In all cases, a freestanding or monument sign shall not exceed a height of 20 feet from the average grade for signs located in the B-1 Central~~

~~Business District and the B-2 Community Commercial District. The maximum freestanding or monument sign height in the B-3 Highway Commercial District shall be no more than 30 feet from the average grade.~~

- ~~(e) In all cases, the minimum setback for all freestanding or monument signs shall be at least 10 feet from any property line. In cases where an easement encumbers area along the property line, the sign must be set outside of the easement area, even if the easement area exceeds ten feet from the property line.~~
 - ~~(f) No building sign shall extend in height more than six feet above the highest outside wall or parapet of any principal building. Building signs can only be placed on the principal building. Sign area is limited to 15 percent of the building face in the B-1 Central Business District, the B-2 Community Commercial District and B-3 Highway Commercial District.~~
 - ~~(g) Projecting signs shall not exceed the sum of 16 square feet per surface, and must be located at a height of eight feet above the top of curb elevation of the street. Such signs can project to five feet from the building face, provided that they do not infringe on the public right of way.~~
 - ~~(h) Electronic Variable Message Signs and Readerboard Signs are permitted as part of the allowed signage only in the B-2 Community Commercial and B-3 Highway Commercial Zoning Districts.~~
 - ~~(i) Signs may be illuminated and must meet the glare standards listed in this Ordinance. Internally illuminated freestanding/monument signs, including electronic variable message signs, located in the B-2 Community Commercial Zoning District and B-3 Highway Commercial Zoning District shall be a minimum distance of 100 feet from the leading edge of said sign to an adjoining residential district boundary. This provision shall not apply to externally illuminated signs which otherwise comply with the glare standards listed in this Ordinance.~~
 - ~~(j) In the B-2 Community Commercial Zoning District, only monument signs are permitted.~~
 - ~~(k) If property was originally included in an application for development as part of a larger development which met the definition of "site" pursuant to this Ordinance, any signage permitted for that property, at the time of development of the site, or in the future, will be counted towards the total amount of signage allowed for the entire site, regardless of whether the property is further subdivided or there has been a change in ownership.~~
- ~~(5) Signs Permitted in Industrial Districts.~~

- ~~(a) — One (1) freestanding or monument sign per lot for single street frontage lots. In cases where lots have more than one street frontage, such lot shall be allowed up to two freestanding or monument signs which must each be placed on different frontages. The total square footage of all freestanding or monument signs on a lot shall not exceed the sum of one square foot for each front foot of lot, or 100 square feet, per surface, whichever is smaller. Freestanding or monument signs shall be set back 10 feet from any property line. Maximum height is 30 feet from average grade.~~
- ~~(b) — No building sign shall extend in height more than six feet above the highest outside wall or parapet of any principal building. Building signs can only be placed on the principal building. Sign area is limited to 15 percent of the building face.~~
- ~~(c) — Billboard signs are allowed only as the principal use of a lot. Billboards shall not exceed 480 square feet of sign per surface with a maximum of two sides. Setbacks shall comply with applicable district regulations for principal structures. Billboards shall maintain a spacing of not less than 500 feet between billboards.~~
- ~~(d) — Electronic variable message signs and readerboard signs are permitted as part of the allowed signage.~~
- ~~(e) — Signs may be illuminated but must meet the glare standards listed in this Ordinance.~~
- ~~(6) — Sign Removal.~~
 - ~~(a) — Any sign legally existing at the time of the passage of this Ordinance that does not conform to the provisions of this Ordinance shall be considered a legal nonconforming sign and may be continued through repair, replacement, restoration, maintenance or improvement but not including expansion. “Expansion” shall be defined as any structural alteration, change or addition that is made outside of the original sign structure, sign area or design.~~
 - ~~(b) — Nothing in this section shall prevent the return of a sign structure that has been declared unsafe by the City’s Building Inspector to a safe condition.~~
 - ~~(c) — When any legal nonconforming sign is discontinued for a period of more than one year or is changed to a conforming sign, any future sign shall be in conformity with the provisions of this Ordinance. Any legal nonconforming sign shall be removed and shall not be repaired, replaced, or rebuilt if it is damaged by fire or similar peril to the extent of greater than 50 percent of its estimated value as indicated in the records of the County Assessor at the time of destruction and no sign permit or building~~

permit has been applied for within 180 days of the date of destruction. In the event there are no records of the County Assessor on the sign, the City's Building Inspector shall be responsible for making the determination of whether a nonconforming sign has been destroyed greater than 50 percent of its estimated market value at the time of destruction. In making the determination the Building Inspector shall consider the market value of the entire sign at the time prior to the destruction and the replacement value of the existing sign. In the event that a building permit or sign permit is applied for within 180 days of the date of destruction, the City may impose reasonable conditions upon the building permit in order to mitigate any newly created impact on adjacent properties.

(7) ~~Sandwich Board Signs.~~

- (a) ~~Sandwich board signs shall be allowed in all zoning districts within the City except that in residential districts, sandwich board signs will be permitted only for non-residential uses and uses by conditional use permit.~~
- (b) ~~There shall be only one sandwich board sign allowed for each entity.~~
- (c) ~~Sandwich board signs shall not exceed eight square feet in size per surface area.~~
- (d) ~~Sandwich board signs may be placed on a public sidewalk or within the public right-of-way provided that the sign owner agrees to indemnify the City with respect to the sign and signs a waiver to this effect. Upon application for a sign permit, the sign owner must also provide the City with a certificate of insurance that covers the property in which the sign will be placed and the value of sign. The City must be named as an "additional insured" on the certificate of insurance.~~
- (e) ~~If placed on a sidewalk, a sandwich board sign shall not take up more than three feet of sidewalk width and shall not be placed in the middle of the sidewalk.~~
- (f) ~~All sandwich board signs require a sign permit which must be obtained prior to placement of the sign. All permit applications shall contain a sketch of the sandwich board sign which includes the sign's dimensions, colors and design. The location of the sign shall also be indicated. Sandwich board sign permits shall not be transferable.~~
- (g) ~~A copy of the approved sign permit for the sandwich board sign shall be attached to the sandwich board sign at all times. Sandwich boards signs that do not comply with this requirement may be removed and disposed of by the City.~~

- ~~(h) Sandwich board signs may be removed by the City if they interfere with any City activities (i.e. snow removal, maintenance of the surrounding area, etc.).~~
- ~~(i) Sandwich board sign permits are valid from the date of issuance until December 31st of each year.~~
- ~~(j) Sandwich board signs shall be displayed only during the times that the entity is open. No sandwich board sign shall be displayed overnight or when there has been any snow accumulation. Sandwich board signs that do not comply with this requirement may be removed and disposed of by the City.~~
- ~~(k) Sandwich board signs must either be weighted down or removed when there are wind gusts of 20 m.p.h. or greater.~~
- ~~(l) Under no circumstances shall a sandwich board sign be used instead of permanent building signage.~~

~~(8) Exemptions~~

~~The following signs shall not require a permit. These exemptions, however, shall not be construed as relieving the owner of the sign from the responsibility of its compliance with the provisions of this Ordinance or any other law or ordinance regulating the same.~~

- ~~(a) The changing of the display surface on a painted or printed sign only.~~
- ~~(b) Signs six square feet or less in size, per surface, except for sandwich boards must always obtain permits even if they are six (6) square feet or less in size.~~
- ~~(c) Window Signage as permitted in the general standards.~~
- ~~(d) Non-commercial speech signs.~~

~~(9) Sign Area Calculations~~

- ~~(a) The area of a sign shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem, or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building facade against which it is placed, but not including any supporting framework, pole or bracing.~~
- ~~(b) For monument signs, the method in the previous paragraph shall be used. Only the face that is specifically intended to be used for signage shall be included when computing the sign area. Any base or other supporting~~

~~structure, along with all adjoining structures such as fences or walls shall not be included when computing the sign area.~~

Commented [KO146]: Add these sections back in...they are important.

(K) Restaurants and Drinking Establishments

The following requirements shall apply to all restaurants and drinking establishments in the ~~City~~City.

(1) Class I Restaurants (Fast Food)

~~(a) — Shall comply with all applicable provisions of the City Code.~~

Commented [EG147]: Does this need to be included? Feels redundant to me, but I also guess it can't hurt

~~(b)~~(a) All menu boards, order microphones, and speakers shall be located in the rear of the building or other unobtrusive location if the rear yard is adjacent to a public street or alley and shall not be directed towards residential areas.

Commented [KO148R147]: Good point, can probably delete.

(2) Class II Restaurants (Sit Down)

(a) Shall comply with all applicable provisions of the ~~City~~City Code.

(3) Class III Restaurants (Sit Down with Alcohol or Entertainment)

(a) Shall comply with all applicable provisions of the ~~City~~City Code.

(b) Shall comply with all conditions imposed as part of the liquor license for the site.

(c) Shall not be located on a lot or parcel of land adjacent to any low density residential (~~R-1L70, R-2RL84, or R-3L90~~) zoning district. "Adjacent to" shall be defined as property lines that touch and are contiguous.

Commented [KO149]: Change to R-1, R-2, R-3

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Commented [EG150]: Adjacent to is mentioned a lot throughout all of this. Should it be defined somewhere else, such as in the dictionary portion at the beginning?

Commented [FN151R150]: Added definition

(d) Shall be limited to the hours of 6:00 a.m. to 11:00 p.m. if located within 100 feet of any residentially zoned property. The setback distance shall be measured from the property line of the Class III Restaurant to the property line of the residentially zoned property.

(4) Drinking Establishments

(a) Shall comply with all applicable provisions of the ~~City~~City Code.

(b) Shall comply with all conditions imposed as part of the liquor license for the site;

(c) Shall not be located on a lot or parcel of land adjacent to any low density residential (~~R-1L70, R-2L84, or R-3L90~~) zoning district. "Adjacent to" shall be defined as property lines that touch and are contiguous.

Commented [KO152]: Change to R-1, R-2, R-3

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(d) Shall be limited to the hours of 6:00 a.m. to 11:00 p.m. if located within 100 feet of any residentially zoned property. The setback distance shall be

measured from the property line of the drinking establishment to the property line of the residentially zoned property.

(L) Drive-thru Businesses

All order boards or microphones, and speakers shall be located in the rear [yard](#) of the building or other unobtrusive location if the rear yard is adjacent to a public street or alley and shall not be directed towards residential areas.

(M) Car Washes

General provisions for car wash facilities.

- (1) Entry and exit doors shall be closed during wash/dry cycles.
- (2) Stacking spaces shall be provided and oriented to prevent traffic backup on adjacent streets.
- (3) Parking and stacking spaces shall be screened from view of adjacent residentially zoned areas.
- (4) Vehicular access points shall be limited to prevent traffic conflicts.
- (5) Vacuums must not interfere with stacking spaces and not be in a yard adjacent to residentially zoned areas.
- (6) A ~~six~~[six](#) (6) inch non-surmountable curb shall separate all walks and landscape areas from parking areas.

(N) Fuel Stations

- (1) General provisions for convenience stores.
 - (a) For architectural purposes, each side of the building shall be considered a front face.
 - (b) All trash, waste materials, and obsolete parts shall be stored within a separate enclosure meeting the requirements of Section [5.003 \(B\) \(2\) 703](#) of this Ordinance.
 - (c) All goods for sale, other than those required for the operation and maintenance of motor vehicles shall be displayed within the principal structure. The storage of items for sale outside the principal building shall be displayed in specially designed containers.
 - (d) No sale or storage of motor vehicles or trailers or campers shall be permitted.
- (2) Site Requirements.

Commented [KO153]: Update reference

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(a) Driveway accesses shall meet the requirements of Section ~~6.002 (O)~~ ~~723~~ of this Ordinance.

(b) The total height of any overhead canopy or weather protection shall not exceed 20 feet.

(3) Additional Bulk Requirements:

(a) Lot Width: 150 feet

(b) Setbacks:

	Front Yard	Side Yard	Rear Yard
Canopy (edge)	10 ft	25 ft	20 ft
Fueling Island	25 ft	25 ft	25 ft
Accessory building	30 ft	30 ft	30 ft

(4) Fuel stations in the B-1, B-2 and B-3 districts must have an associated building with retail sales similar to those outlined in the “fuel station” definition.

(5) Fuel stations are only allowed as conditional uses in I-1 – Light Industrial Zoning District when the property abuts a state highway.

(6) No more than ~~three~~ ~~three~~ (3) publicly available EV charging stations on a commercial or industrial zoned property is an allowed accessory use, however, parking spaces where the charging stations are located will not be counted to meet the minimum parking space requirement.

(O) Access Spacing and Driveways

(1) A street’s functional classification shall be defined by the New Prague Comprehensive Land Use Plan’s Future Functional Classification Map.

(2) The distance from a driveway access to the intersection of ~~two~~ ~~two~~ (2) streets shall be in accordance with the following table. The setback measurement shall be measured from the edge of the street right of way to the nearest edge of the curb cut for the driveway access.

STREET WITH PROPOSED PRIVATE DRIVEWAY ACCESS	Nearest Intersecting Street			
	Local Street	Collector	Minor Arterial	Principal Arterial
Local Street				
Residential Driveway	40'	55'	70'	100'

Commented [KO154]: Update reference

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Commented [EG155]: Should this be amended now that EV charging stations are discussed in the parking lot section? In that section, EV charging stations DO count towards the minimum parking space requirements (or at least I believe they do)

Commented [KO156R155]: I guess we’ll see if the Council wants to actual require EV charging stations...I think it may be controversial. We will keep this here for now.

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Commercial/Industrial Driveway	100'	150'	150'	*500'
Collector Street				
Residential Driveway	40'	55'	70'	100'
Commercial/Industrial Driveway	100'	200'	*500'	*500'

*A driveway access may be located less than 500 feet from the nearest intersection if the proper roadway geometrics are installed to limit access to right turns in and out of the property only. Such exceptions are subject to the approval of the CityCity Engineer. Review criteria shall include, but not be limited to, sight lines and distances, traffic volumes and speeds on the public street, intersection controls, street and driveway spacing, and trip generation from the



property.

Driveway Spacing to Intersection – Example #1



Driveway Spacing to Intersection – Example #2

- (3) Driveway accesses to streets shall be allowed in accordance with the minimum access spacing guidelines shown in the following table:

TYPE OF ACCESS BEING REQUESTED	FUNCTIONAL CLASSIFICATION OF STREET AFFECTED BY ACCESS			
	Principal Arterial	Minor Arterial	Collector (Major)	Local
Private Residential Driveway	Not Permitted	Not Permitted	1/8 Mile (660')	No Restriction
Commercial/Industrial Driveways, Or Private Streets	Not Permitted	Not Permitted	1/8 Mile (660')	No Restriction

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- (4) Driveways onto major arterial, minor arterial, and major collector streets shall be prohibited where alternative street access is available. For existing lots of record, where alternative access is not available, direct access onto arterial and collectors may be permitted, provided a site plan is submitted for review and approval of the CityCity Engineer or the CityCity's transportation consultant.
- (5) Access will not be permitted within a right turn lane or taper areas of a turn lane.
- (6) Sight triangles shall be provided on corner lots. The area between three (3) feet and 10 feet in height above the road centerline grade shall be maintained clear of all obstructions at the intersections of streets with other streets for safety of pedestrians and people in vehicles. Property in the B-1 Central Business District shall be exempt from this sight triangle requirement. The chart below specifies the required clear area for each street intersection based upon the functional classification of the streets. The CityCity Engineer may require additional sight triangle area if a traffic study or special conditions indicate that additional area is needed.

Intersection of / With	Major Arterial	Minor Arterial	Collector	Local
Major Arterial	A	A	B	B
Minor Arterial	A	B	B	B
Collector	B	B	B	B
Local	B	B	B	B

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Key:

A = 100' X 100' sight triangle

B = 30' x 30' sight triangle

(a visual would be really nice to have here!)

Commented [FN157]: Note request for graphic

- (7) Authorization to construct or alter a driveway on a road under the jurisdiction of Scott County, LeSueur County, or the Minnesota Department of Transportation

shall be received from the applicable jurisdictional agency. No driveway shall be constructed until such authorization is obtained.

- (8) The driveway angle to the street shall be as near to right angle as practical.
- (9) No residential driveway curb cut shall exceed 30 feet in width, unless approved by the ~~CityCity~~ Engineer or the ~~CityCity~~'s transportation consultant.
- (10) The maximum driveway grade shall not exceed 10~~percent~~% for residential uses. The ~~percentpercent~~ of grade shall be determined by calculating the difference in grade from the front of the garage to the street right of way line. The maximum driveway grade for commercial or industrial uses shall not exceed ~~5%5-percent~~.
- (11) All driveways shall be surfaced with asphalt, concrete, paver bricks, or equivalent type of materials.

(P) Land Alterations

- (1) The approval of the ~~CityCity~~ Engineer and ~~CityCity~~ Council and a permit shall be required in all cases where excavation, grading and filling of any land would:
 - (a) Result in a substantial alteration of existing ground contour.
 - (b) Change existing drainage or would cause flooding or erosion.
 - (c) Deprive an adjoining property owner of lateral support.
 - (d) Remove or destroy the present ground cover resulting in less beneficial cover for present and proposed development.

Substantial alteration shall be defined as the extraction, grading or filling of land involving movement of earth and materials in excess of 25 cubic yards but less than 500 cubic yards. See Section ~~6.002 (U) 734~~ of this Ordinance for additional provisions relating to land alterations in excess of 500 cubic yards.

- (2) Applications for a permit shall contain the following additional information:
 - (a) Legal description of land to be altered.
 - (b) Nature of proposed alteration and future use of the property.
 - (c) Starting date and approximate completion date of the operation.
 - (d) The names of all owners of the land to be altered.
 - (e) The names and addresses of all owners and occupants of the adjoining land that may be affected by said land alterations.
 - (f) A construction plan showing existing and proposed elevations.
 - (g) Erosion and Sediment Control Plan.

Commented [KO158]: Update reference

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- (3) The ~~City~~City Council may require adequate proof of bonding in the form of a performance bond, sufficient in value to cover the expense of the completion of the development plan or to bring such portion of the completed project to a safe grade and elevation so as to be healthful and safe to the general public and to provide safe and adequate drainage to the site.
- (4) If, during the land alteration work it becomes necessary for the person altering the land to create a condition of grade or drainage not in the interest of health or safety, it shall become that person's duty to correct immediately the dangerous situation created, as well as fence or screen the area from the public upon order of the Building Inspector.

(Q) Building Design Requirements

- (1) These design requirements shall be applicable to Commercial (excluding B-1 Zoning District), Industrial, and Multi-Family Residential Buildings Containing 5 or more units
- (2) Predominant exterior building materials must be of high quality, including brick, wood, stucco, natural or artificial stone, or concrete. When concrete or tilt-up concrete panels are used, detail using color, textures, and material treatments must be integrated to provide a higher degree of aesthetic treatment. Aluminum or vinyl siding, unfinished metal, plywood, reflective glass, are prohibited. Fiber cement or vinyl siding may be used for multi-family residential buildings as long as no more than 50% of an individual wall is comprised of this material.
- (3) A minimum of two (2) of the following design requirements shall be incorporated:
- (a) At least two contrasting building colors or accent textures;
 - (b) At minimum 25% window coverage on each building wall facing a street;
 - (c) A front entry that is accented with a minimum 150 square feet around the door entrance. Primary building entrances shall be clearly defined and emphasized through architectural treatments such as canopies, recesses, or enhanced materials;
 - (d) Varying roof lines;
 - (e) Varying wall depths.
- (4) Internal pedestrian walkways must be provided from perimeter sidewalks to building entrances.
- (5) All mechanical equipment, whether rooftop or ground-mounted, shall be fully screened from public view using parapet walls, architectural enclosures, or landscape screening.

(6) Trash enclosures shall be constructed of materials consistent with the principal structure and include opaque gates.

(7) Multi-family buildings with 5 or more units located in the B-1 Central Business District must comply with the provisions of Section 6.002 (Q) of the Zoning Ordinance.

Formatted: ____ (1) Level

(Q)(R) Commercial Building Design for the B-1 District

(1) Purpose.

The purpose of establishing design standards for the B-1 Central Business District is to preserve an atmosphere consistent with the original character of the ~~City~~City, to protect and enhance the appeal and attraction of the ~~City~~City to residents, visitors, and tourists, to foster civic pride in the beauty and notable accomplishments of the past, and to preserve the value of existing buildings which are located in the ~~City~~City.

- (a) Finishes, construction techniques and craftsmanship that characterize the architectural character of a building shall be preserved. ~~whenever reasonably possible.~~
- (b) Deteriorating features shall be repaired rather than replaced. ~~whenever reasonably possible.~~ When the severity of the deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities, and materials. ~~where reasonably possible, materials.~~
- (c) Masonry and other original surfaces shall be preserved. Brick shall not be covered with stucco, shakes, or other veneer.
- (d) Windows must not be filled in with wood, brick, or any other materials. Window sizes and shapes must be maintained if replacement or removal of original window is necessary.
- (e) For new construction, at least 40 ~~percent~~% of the first floor façade area must consist of windows. For buildings being constructed on a corner lot, this requirement applies only to the façade facing Main Street and the first 40 feet of the side street, or the more major of the ~~two~~two (2) adjacent streets. This provision shall not apply to accessory buildings located in the B-1 District.
- (f) Original windows that have been covered shall be uncovered and restored to the extent feasible during any permitted exterior renovation. ~~The City encourages the uncovering of original windows that have since been covered.~~

- (g) For new construction, ~~predominant a minimum of 80% of~~ exterior building materials must consist of brick, ~~stone, or glass. to complement historical downtown building materials.~~
- (h) Additions or exterior alterations to existing buildings shall be compatible in materials, color, scale, and architectural features with the existing building.
- (i) Awnings shall be made of cloth or canvas. No plastic awnings shall be allowed.
- ~~(j)~~ Structures located in the B-1 Central Business District are generally those structures where early commerce occurred in New Prague, and therefore have historical significance. Prior to issuing a demolition permit for any structure located in the B-1 Central Business District, the ~~City~~City Council shall evaluate its historical significance to the community, the economic feasibility of renovating the structure versus demolition, and life safety issues associated with the structure, and determine if the demolition permit shall be issued based upon these factors.
- ~~(k)~~ All mechanical equipment, whether rooftop or ground-mounted, shall be fully screened from public view using parapet walls, architectural enclosures, or landscape screening.
- ~~(j)(l)~~ (The planning commission asked about preserving or maybe added murals to downtown...consider adding language related to this here)

~~(R)(S)~~ Land and Water Preservation

(1) Purpose.

The purpose of this Section is to ensure that sensitive physical features such as bluff land, ravines, wetlands and natural waterways are protected.

(2) Soil Erosion and Sedimentation Control.

(a) General Standards.

1. All development shall conform to the natural limitations presented by the topography and soil in order to create the best potential for preventing soil erosion.
2. Slopes over 30-~~percent%~~ in grade shall not be used as a building site.
3. Development on slopes with a grade between 20-~~percent%~~ and 30 ~~percent%~~ shall be carefully reviewed to ensure adequate measures

Commented [KO159]: General Comment here - we become an MS4 City on January 1, 2026 - I'm assuming we will make some changes to this section of the Ordinance...just a note.

have been taken to prevent erosion, sedimentation and structural damage.

4. Erosion and siltation control measures, as determined by the ~~City~~City Engineer, shall be coordinated with the different stages of development. Appropriate control measures shall be installed prior to development when necessary to control erosion.
5. Land shall be developed in increments of workable size such that adequate erosion and siltation controls can be provided as construction progresses. The smallest practical area of land shall be exposed at any ~~one~~-one (1) period of time and no exposure shall exceed the requirements of the NPDES Construction Stormwater Permit. For sites not controlled by the NPDES Construction Stormwater Permit, no exposure shall exceed 65 days unless extended by the ~~City~~City Council.
6. Where the topsoil is removed, sufficient arable soil shall be set aside for re-spreading over the disturbed area or new topsoil shall be brought in. The topsoil shall be restored to a depth of ~~four~~four (4) inches and shall be of a quality at least equal to the sod quality prior to development.
7. Public and private properties and water bodies adjacent to the development site shall be protected from the effects of erosion, sedimentation, flooding or other damage caused by the development or construction activity. Any violations of this provision must be corrected by the owner to the satisfaction of the ~~City~~City within ~~five~~five (5) days of receiving notification of such. If the violation is not remedied within the time period specified, the ~~City~~City may correct the problem and assess the costs incurred to the property owner.
8. All land disturbing activities, whether requiring a permit under these Ordinances or otherwise, shall be undertaken in conformance with best management practices and in compliance with the standards and criteria in these Ordinances.
 - a. Land disturbing activities shall be planned and conducted to minimize the extent of disturbed area, runoff velocities and erosion potential, and to reduce and delay runoff volumes. Erosion and runoff controls, consistent with Best Management Practices (BMPs), shall be properly installed before commencing land disturbing activities, shall be sufficient to retain sediment on-site, and shall not be

removed without approval. Erosion and runoff controls shall be regularly inspected and maintained. Vegetation shall be installed over the disturbed areas promptly if the land disturbing activity ceases or is suspended, and upon completion. Pipe outlets must be provided with temporary or permanent energy dissipation if connected to surface water.

- b. Whenever the ~~City~~City determines that any land disturbing activity has become a hazard to any person, or endangers the property of another, adversely affects water quality or any water body, increases flooding, or otherwise violates this Ordinance, the owner of the land upon which the land disturbing activity is located, or other person or agent in control of such land, upon receipt of written notice from the ~~City~~City, shall within the time period specified therein repair or eliminate such condition. The owner of the land upon which a land disturbing activity is located shall be responsible for the cleanup and any damages from sediment that has eroded from such land. The ~~City~~City may require the owner to obtain a permit from the ~~City~~City under this Ordinance before undertaking any repairs or restoration.
- c. Erosion and sediment control measures shall meet the standard for the General Permit Authorization to Discharge Storm Water Associated With Construction Activity Under the National Pollutant Discharge Elimination System/State Disposal System Permit Program Permit MN R100001 (NPDES General Construction Permit) issued by the Minnesota Pollution Control Agency, August 1 2003, as amended; except where more specific requirements are provided in this Ordinance below.
- d. If the activity is taking place on a site where the soils are currently disturbed (e.g. a tilled agricultural site that is being developed), areas that will not be disturbed as part of the development and areas that will not be disturbed according to the time frames and slopes specified in the NPDES General Construction permit Part IV.B.2, shall be seeded with temporary or permanent cover before commencing the proposed land disturbing activity.
- e. Where ~~five~~five (5) or more acres of disturbed soil drain to a common location, a temporary (or permanent) sediment

basin must be provided prior to the runoff leaving the site or entering surface waters. The basins must be designed and constructed according to the standards in the NPDES General Construction Permit Part III.B.

- f. The permittee or applicant must ensure final stabilization of the site in accordance with the NPDES General Construction Permit requirements. The site will be considered as having achieved final stabilization following submission of Certificate of Completion by the permittee or applicant, and inspection and approval by the ~~City~~City.
9. All on-site stormwater conveyance channels shall be designed and constructed to withstand the expected ~~velocity~~velocity of flow from a 100-year frequency storm without erosion.

(b) Exposed Slopes.

The following control measures shall be taken to control erosion during construction.

1. No exposed slopes shall be steeper in grade than ~~five~~five (5) feet horizontal to ~~one~~one (1) foot vertical unless stabilized as describe below. This does not apply to utility construction.
2. At the foot of each exposed slope, a channel and berm shall be constructed to control runoff. The channeled water should be diverted to a sedimentation basin (debris basin, silt or silt trap) before being allowed to enter the natural drainage system.
3. Along the top of each exposed slope, a berm shall be constructed to prevent runoff from flowing over the edge of the slope. Where runoff collecting behind said berm cannot be diverted elsewhere and must be directed down the slope, appropriate measures shall be taken to prevent erosion. Such measures shall consist of either an asphalt-paved flow apron and drop chute laid down the slope or a flexible slope drain. At the base of the slope drain or flow apron, a gravel energy dissipater shall be installed to prevent erosion at the discharge end.
4. Exposed slopes shall be protected to whatever means will effectively prevent erosion considering the degree of slope, soils material and expected length of exposure. Slope protection shall consist of mulch, sheets of plastic, burlap or jute netting, sod blankets, fast growing grasses or temporary seeding of annual grasses. Mulch consists of hay, straw, wood chips, cornstalks, bark

or other protective material. Mulch shall be anchored to slopes with stakes, and netting, or shall be worked into the soil to provide additional slope stability.

5. Control measures, other than those specifically stated above, may be used in place of the above measures if it can be demonstrated they will as effectively protect exposed slopes.

(3) Preservation of Natural Drainageways.

(a) Waterways.

1. The natural drainage system shall be used as far as is feasible for storage and flow of runoff water. Untreated stormwater drainage may be discharged to retention basins or other treatment facilities. Only treated stormwater may be discharged to wetlands, marshlands or swamps. Diversion of treated stormwater to wetlands, marshlands or swamps shall be considered for existing or planned surface drainage. Marshlands and swamps used for treated stormwater shall provide for natural or artificial water level control. Temporary storage areas or retention basins scattered throughout developed areas shall be encouraged in order to reduce peak flow, erosion damage and construction cost.
2. The widths of a constructed waterway shall be sufficiently large to channel runoff from a 100 year storm. Adequacy shall be determined by the expected runoff when full development of the drainage area is reached.
3. No fences or structures shall be constructed across the waterway that will reduce or restrict the flow of water.
4. The banks of the waterway shall be protected with permanent vegetation.
5. The banks of the waterway should not exceed ~~five~~five (5) feet horizontal to ~~one~~one (1) foot vertical in gradient.
6. The gradient of the waterway bed should not exceed a grade that will result in a velocity that will cause erosion of the banks of the waterway.
7. When possible, existing natural watercourses and vegetated soil surfaces shall be used to convey, store, filter and retain runoff before discharge into public waters or a stormwater conveyance system. If the waterway must be constructed, the bed of the waterway should be protected with turf, sod or other approved

stabilizing materials. If turf or sod will not function properly, rip rap may be used.

8. If the flow velocity in the waterway is such that erosion of the turf sidewall will occur and said velocity cannot be decreased via velocity control structures, then other materials may replace turf on the side walls. Either gravel or rip rap would be allowed to prevent erosion at these points.
9. Development of housing and other structures shall be restricted as stated in this Ordinance.

(b) Sediment Control of Waterways.

1. To prevent sedimentation of waterways, sediment control structures shall be incorporated throughout the contributing watershed. Such structures would serve as temporary sediment control features during the construction state of development.
2. Sediment control structures consist of sediment basins (debris basins, de-silting basins or silt traps) and shall be utilized to remove sediment from runoff prior to its disposal in any permanent body of water.

(4) Wetland Preservation.

(a) General Provisions and Policy.

To the extent possible, all wetlands shall be retained in their natural state to serve as natural water ecosystems and also as wildlife habitat. The rules and regulations applicable to wetlands and set forth by the Minnesota Wetland Conservation Act and Minnesota Clean Water Act are hereby incorporated.

It is the policy of the City to:

1. Achieve no net loss of wetlands in the City, in conformance with the Minnesota Wetland Conservation Act (WCA) and associated rules (Minnesota Rules Chapter 8420).
2. Encourage wetland avoidance for all new developments and land disturbing activities.
3. Require mitigation of unavoidable wetland disturbance by replacing the lost wetland functions and values in the same major watershed with a wetland of equal or greater value.

4. Require transportation projects to pursue wetland mitigation projects to the extent practical along the transportation corridor. (This does not preclude the use of the BWSR Replacement Program.)
 5. Identify and preserve wetlands for water retention, recharge, soil conservation, wildlife habitat, aesthetics, and natural enhancement of water quality.
 6. Manage changes in volume and quality of local stormwater systems to minimize negative impacts to existing wetland functions, value, or biological diversity.
 7. Replace affected wetlands where avoidance is not feasible and prudent.
- (b) Discharges into Wetlands.
1. No part of any sewage disposal system requiring on-land or in-ground disposal of waste shall be located closer than 150 feet from the normal high water mark unless it is proven by the applicant that no effluent will immediately or gradually reach the wetland because of existing physical characteristics of the site or the system.
 2. Organic and other waste which would normally be disposed of at a solid waste disposal site or which would normally be discharged into a sewage disposal system or sewer shall not be directly or indirectly discharged to the wetland.
 3. Stormwater runoff from construction sites may be directed to the wetland only when substantially free of silt, debris and chemical pollutants and only at rates that will not disturb vegetation or increase turbidity.
- (c) Building Constraints.
1. The lowest floor elevation of buildings if used for living quarters or work area shall be at least two (2) feet above the seasonal high water level of any/all wetland(s) in the vicinity.
 2. Development that will result in unusual road maintenance costs or utility line breakages due to soil limitations, including high frost action, shall not be permitted.
 3. The minimum setback for all buildings shall be 50 feet from the delineated edge of any/all wetland(s) in the vicinity unless a

wetland buffer easement or conservation easement is of record on the lot, in which case the structure shall be allowed to be located up to, but not encroaching on said easement or buffer area.

(d) Regulations.

1. No person or political subdivision shall drain, fill, excavate or otherwise alter a wetland or public waters wetland without first obtaining the approval of a wetland replacement plan from the local government unit with jurisdiction over the activity.
2. For any parcel created or redeveloped after the effective date of this Ordinance, a buffer shall be maintained around the perimeter of all wetlands and public waters wetlands. The buffer provisions of this Ordinance shall not apply to any parcel of record as of the date of this Ordinance until such parcel is subdivided or developed. The ~~City~~City of New Prague has been enforcing a generalized 40 ~~foot~~ wetland buffer since 2002 and since 2008 has been enforcing the establishment of conservation easements around wetlands based on the requirements of this ordinance.
3. The buffer portions of this Ordinance do not apply to any wetland or public waters wetland with a surface area equal to or less than the area of wetland impact allowed without replacement as de minimus under the Wetland Conservation Act (WCA), and to those portions of wetlands that will be filled under approved wetland replacement plans per the WCA.

(e) Criteria.

1. Any drainage, filling, excavation or other alteration of a public waters wetland or wetland shall be conducted in compliance with Minnesota Statutes, section 103G.245, the WCA, and regulations adopted thereunder.
2. A public waters wetland or wetland may be used for storm water storage and treatment only if the use will not adversely affect the function and public value of the wetland as determined by the ~~City~~City.
3. Wetland replacement/mitigation sighting must follow the priority order below:
 - a. Mitigation on-site.
 - b. Mitigation within the same subwatershed.

- c. Mitigation within the Scott Watershed Management Organization boundaries.
 - d. Mitigation within Scott County/ Le Sueur County.
 - e. Mitigation within the same major watershed.
4. A wetlands functional assessment for vegetative diversity must be completed with each wetland, and public waters wetlands, delineated for a project and buffers established according to the following table. The functional assessment and wetland rankings will be determined using the Minnesota Routine Assessment Method version 3.0 (MnRAM 3.0, as amended). Rankings are summarized as follows.

Buffer Requirement		Exceptional	High	Medium	Low	Stormwater Ponds
Average Width	Buffer	65 feet	50 feet	35 feet	25 feet	0
Minimum Width	Buffer	25 feet	25 feet	25 feet	25 feet	0

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“Exceptional” Wetland – Wetlands assigned the exceptional rating using MnRAM 3.0 for evaluating wetland functions. These wetlands are most susceptible to human impacts, are most unique, have the highest community resources significance such as rare species habitats, and similar characteristics.

“High” Wetland – Wetlands assigned the high rating using MnRAM 3.0 for evaluating wetland functions. These wetlands are relatively undisturbed but exhibit evidence of more disturbance or degradation than Exceptional wetlands. High wetlands have conditions and functions that are susceptible to human impacts, are connected to other wetlands or watercourses, and may contain locally significant or rare wetland types.

“Moderate” Wetlands – Wetlands assigned a moderate rating using MnRAM 3.0 for evaluating wetland functions. These wetlands typically provide a diversity of habitats, and are connected to other wetland or upland habitats to provide wildlife habitat.

“Low” Wetlands – Wetlands assigned a low rating using the MnRAM 3.0 for evaluating wetland functions. These wetlands tend to be less susceptible to further impacts than the other wetland management classifications. They also have low diversity and connectivity to other wetlands and watercourses.

Stormwater Ponds – are designated strictly for treating and retaining stormwater.

- 5. All structures shall have a minimum setback of 50 feet from the delineated edge of wetlands and public waters wetlands unless a

wetland buffer easement or conservation easement is of record on the lot, in which case the structure shall be allowed to be located up to, but not encroaching on said easement or buffer area.

6. The first 25 feet of a wetland buffer as measured from the wetland or public waters wetland cannot be disturbed during project construction (i.e., cleared or graded, except for temporary disturbances for public roads and utility construction) and must be protected from disturbance with temporary fencing prior to construction. Vegetation can be replaced and site soils preparation work completed within this first 25 feet if necessary to establish acceptable vegetation in accordance with ~~(Section 6.002 (U) (4), (E)(8))~~ of this Ordinance.
7. Buffer requirements shall apply whether or not the wetland or public waters wetland is on the same parcel as a proposed development. An applicant is required to delineate the boundary for any wetland or public waters wetland on the project land. An applicant shall not be required to delineate wetlands on adjacent property, but must review available information to estimate the wetland boundary.
8. Buffer vegetation shall be established and maintained as follows:
 - a. Where acceptable natural vegetation exists in buffer areas, the retention of such vegetation in an undisturbed state is required unless an applicant receives approval to replace such vegetation. A buffer has acceptable natural vegetation if it:
 - i. Has a continuous, dense layer of perennial grasses that has been uncultivated or unbroken for at least ~~five-5~~ consecutive years; or
 - ii. Has an overstory of trees or shrubs that has been uncultivated or unbroken for at least ~~five-5~~ consecutive years; or
 - iii. Contains a mixture of the plant communities described in this Ordinance above that has been uncultivated or unbroken for at least ~~five-5~~ years.
 - b. Notwithstanding the performance standards set forth in of this Ordinance, the ~~CityCity~~ may determine existing buffer vegetation unacceptable if:

- i. It is composed of undesirable plant species including but not limited to common buckthorn, purple loosestrife, leafy spurge or noxious weeds; or
 - ii. It has topography that tends to channelize the flow of runoff; or
 - iii. For some other reason it is unlikely to retain nutrients and sediment.
- c. Where buffers are not vegetated or have been cultivated or otherwise disturbed within ~~five~~ 5 years of the permit application, such areas shall be replanted and maintained. The buffer plantings must be identified on the permit application. The buffer landscaping shall comply with the following standards:
 - i. Buffers shall be planted with a seed mix approved by MnDOT, BWSR, NRCS or SWCD, with the exception of a one-time planting with an annual nurse or cover crop such as oats or rye.
 - ii. The seed mix shall be broadcast according to MnDOT, BWSR, NRCS or SWCD specifications of the selected mix. The annual nurse cover crop shall be applied at a minimum rate of 30 pounds per acre. The MnDOT, BWSR, or NRCS seed mix selected for permanent cover shall be appropriate for the soil site conditions and free of invasive species.
 - iii. Native shrubs may be substituted for native forbs. All substitutions must be approved by the ~~City~~City. Such shrubs may be bare root seedlings and shall be planted at a minimum rate of 60 plants per acre. Shrubs shall be distributed so as to provide a natural appearance and shall not be planted in rows.
 - iv. Any groundcover or shrub plantings installed within the buffer are independent of any landscaping required elsewhere by the ~~City~~City.
 - v. Grasses and forbs shall be seeded or planted using a method of application that shall be approved by the ~~City~~City prior to planting or seeding.

- vi. No fertilizer shall be used in establishing new buffers, except on highly disturbed sites when necessary to establish acceptable buffer vegetation and then limited to amounts indicated by an accredited soil testing laboratory.
 - vii. All seeded areas shall be mulched immediately with clean straw at a rate of 1.5 tons per acre. Mulch shall be anchored with a disk or tackifier.
 - viii. Buffers (both natural and created) shall be protected by erosion and sediment control measures during construction in accordance with ~~(Section 6.002 (U2) (2))~~ of this Ordinance. The erosion and sediment control measures shall remain in place until the area crop is established.
- d. Buffer vegetation shall be established and maintained in accordance with the requirements found in this Ordinance. During the first ~~two (2)~~ full growing seasons, the owner must replant any buffer vegetation that does not survive. The owner shall be responsible for reseeding/or replanting if the buffer changes at any time through human intervention or activities. At a minimum the buffer must be maintained as a “no mow” area.
9. When a buffer is required the applicant shall, as a condition to issuance of a permit:
- a. Submit to the ~~CityCity~~ for its approval a conservation easement for protection of approved buffers, or include the buffer in a dedicated outlot as part of platting and subdivision approval. The easement shall describe the boundaries of the wetland or public waters wetland and buffer, identify the monuments and monument locations, and prohibit any the alterations set forth in ~~(Section 6.002 (U) (4), (Ec) (10))~~ of this Ordinance below and the removal of the buffer monuments within the buffer, wetland, or public waters wetland. Outlot descriptions shall provide for an equivalent level of protection of the buffer and prohibit any alterations set forth in ~~Section 6.002 (U) (4) (c) (10) (Section 4, (E) (10))~~ of this Ordinance below.

- b. File the approved easement for record and submit evidence thereof to the ~~City~~City, or complete preliminary and final plats including dedicated outlot(s); and
 - c. Install the signage required by Section 6.002 (U) (4) (e) (12) ~~(Section 4, (E) (12))~~ of this Ordinance below.
- 10. Subject to the requirements of this Ordinance below, alterations including building, storage, paving, mowing, plowing, introduction of noxious vegetation, cutting, dredging, filling, mining, dumping, grazing livestock, agricultural production, yard waste disposal or fertilizer application, are prohibited within any buffer. Noxious vegetation, such as European buckthorn, purple loosestrife and reed canary grass, may be removed. Permitted alterations would not include plantings that enhance the natural vegetation or selective clearing or pruning of trees or vegetation that are dead, diseased or pose similar hazards.
- 11. The following activities shall be permitted with any buffer, and shall not constitute prohibited alterations under this Ordinance above:
 - a. Use and maintenance of an unimproved access strip through the buffer, not more than 20 feet in width, for recreational access to the watercourse or wetland and the exercise of riparian rights;
 - b. Placement, maintenance, repair or replacement of public roads, and utility and drainage systems that exist on creation of the buffer or are required to comply with any subdivision approval or building permit obtained from the ~~City~~City or County, so long as any adverse impacts of public road, utility and drainage systems on the function of the buffer have been avoided or minimized to the extent practical;
 - c. Construction, maintenance, repair, reconstruction or replacement of existing and future public roads within a buffer, so long as any adverse impacts of the road on the function of the buffer have been avoided or minimized to the extent practical.
 - d. Clearing, grading and seeding is allowed if part of an approved wetland replacement plan.

12. Buffers shall be signed to clearly designate the boundaries of all buffers within new residential developments. A sign shall be required at each parcel line where it crosses a buffer strip and shall have a maximum spacing of 200 feet along the edge of the buffer. Additional signs shall be placed as necessary to accurately define the edge of the buffer. A sign shall consist of a post and a buffer sign. The signs shall be obtained from the ~~City~~City and includes warnings about fines for disturbing and/or developing buffers. The signs shall be a minimum of 12 inches wide by 12 inches vertical, and shall be securely mounted on a post to a minimum height of ~~four~~ (4) feet above grade.
13. Other activities which would change the character of a wetland shall not diminish the quantity, quality or biological diversity of the wetland.
14. A land disturbing activity within a wetland may require a permit under ~~(Section 6.002 (U734))~~ of this Ordinance.
15. An activity within a wetland that alters or fills a floodplain may require a permit under ~~Section 6.002 (U) (Section 734)~~ of this Ordinance.

(5) Bluff Preservation

(a) Criteria

Minimum Bluff Standards: Any land disturbing activity, development or the redevelopment of land in a Bluff Overlay District shown on “Map 1: Bluff Overlay District of Scott County WMO” shall require a topographic survey to determine if a bluff is present. At its discretion, the ~~City~~City may waive the topographic survey requirement where a review of the available contour information clearly indicates a bluff is not present.

1. Where bluffs deemed unsuitable for land disturbance activity are present, the following rules shall apply:
 - a. All grading, clear cutting, removal of vegetation and/or other land disturbing activities are prohibited in the bluff impact zone and bluff face;
 - b. Access to any buildings (except stairways and landings) shall not be placed within the bluff impact zone;
 - c. Setback from top or toe of bluff to any structure in any district shall be no less than 30 feet;

- d. All storm water ponds, swales, infiltration basins, or other soil saturation-type features shall be set back a minimum of 50 feet from the top of bluff.
- 2. For those bluffs deemed suitable for land disturbance activity, the following rules shall apply:
 - a. Grading, clear cutting, removal of vegetation and/or other land disturbing activities may be allowed within the bluff impact zone provided the activity is in compliance with the storm water management plan's minimum performance standards. The Plan shall, at a minimum, require the following:
 - i. The identification of any bluff preservation areas where disturbance would be prohibited by the ~~City~~City Code.
 - ii. The minimum erosion and sediment control BMP's include site stabilization and slope restoration measures needed to ensure the proposed activity shall not result in:
 - Adverse impact to adjacent and/or downstream properties or water bodies;
 - Unstable slope conditions; or
 - Degradation of water quality due to erosion, sedimentation, flooding and other damage as stated in this Ordinance.
 - iii. Prohibit all activities that would result in disturbances or destabilization of the bluff face.
 - iv. Preservation of existing hydrology and drainage patterns. Land disturbing activities shall not result in any new water discharge points along the bluff.
 - b. The following activities shall be permitted within the bluff face, and shall not constitute prohibited activities under this Ordinance.
 - i. Maintenance, repair or replacement of public roads, and utility and drainage systems that exist on creation of the Bluff Overlay District.
 - ii. Disturbances that are part of a ~~City~~City-approved plan to repair, grade or re-slope existing bluff faces that are

eroding or unstable as necessary to establish stable slopes and vegetation.

- iii. Vertical cuts into the bluff face up to 10 vertical feet, measured from the existing top of bluff, provided that no storm water is directed over the bluff face and storm water runoff, including roof drainage, is collected and conveyed to a stable discharge point.
- iv. Plantings that enhance the natural vegetation or the selective clearing of noxious, exotic or invasive vegetation or the pruning of trees or vegetation that are dead, diseased or pose similar hazards.

(b) Standards for ~~CityCity~~-Sponsored Projects

The ~~CityCity~~ must demonstrate that any ~~CityCity~~-proposed activity in the bluff does not: 1) impact adjacent properties, 2) result in unstable slope conditions and, 3) result in the degradation of water bodies from erosion, sedimentation, flooding and other damage as stated in ~~(Section 6.002 (U) (2) (aA) (6, 7, 8, and 9))~~.

(c) Exceptions

- 1. Where the ~~CityCity~~ has determined mining is appropriate, mining activities shall be exempt from ~~Section 6.002 (U) (2) (a) (1) and (2) (Section 6, (A) (1)&(2))~~ provided that:
 - a. An extractive use site development and restoration plan is developed, approved by the ~~CityCity~~, and followed over the course of the project;
 - b. The mining operation is conducted in such a manner as to minimize interference with the surface water drainage outside of the boundaries of the mining operation;
 - c. That erosion and sediment control is provided in a manner consistent with ~~6.002 (U) (2) (a) (Section 2, (A))~~ of this Ordinance; and
 - d. The landowner complies with all other applicable state and local regulations governing mining.
- 2. Disturbances, grading or re-grading of abandoned mine slopes necessary to establish stable slopes and vegetation are exempt from this Section.

3. For the purposes of constructing public improvement projects, land disturbances in the bluff impact zone and bluff Face may be permitted provided that the project proposed demonstrates to the CityCity an appropriate need for these activities to occur and that avoidance and minimization sequencing was followed.

(6) Groundwater Preservation.

The CityCity has a Wellhead Protection Plan. A Wellhead Protection Area (WHPA) was delineated in this plan and is shown on the plan in “Figure 1: WHPA’S and DWSMA – WELLHEAD PROTECTION PLAN – PART II”.

(a) Policy

Groundwater is the primary source of potable water for the residents of the CityCity. It is the policy of the CityCity to:

1. Support identification and reduction of groundwater contamination from both point and nonpoint sources;
2. Require that all ISTS on a property be removed once sanitary sewer service is available to the property;
3. Continue to support programs that promote efficient administration of groundwater pollution programs;
4. Target high priority water bodies for water quality projects: including working with those waters listed as “impaired” by the MPCA for listing under Section 303(d) of the Clean Water Act. These include waters listed for excess nutrients and fecal coliform bacteria where failing individual sewage treatment systems and contaminated groundwater contribute to the impairment;
5. To allow constructed infiltration practices within the Wellhead Protection Area, within 400 feet of a community water system or within 100 feet of a private well.

(b) Regulation

The CityCity requires all ISTS on a property be removed once sanitary sewer service is available to the property. If sanitary sewer service is not available to the property, the CityCity shall require all known non-compliant individual sewage treatment systems in the 10-year capture area of Wellhead Protection Area (WHPA) to be upgraded to conform to Minnesota Rule Chapter 7080 within 3three years of adoption of this Ordinance.

(c) Exceptions

An exception may be granted by the CityCity where non-compliant systems will be provided with municipal sewer service within ~~five~~5 years. However, in no case should noncompliant systems remain in violation for more than ~~five~~5 years from the date of establishment of this Ordinance or ~~five~~5 years of establishment of the wellhead protection area.

(7) Storm Water Management

(a) Findings.

The CityCity hereby finds that uncontrolled and inadequately planned use of wetlands, woodlands, natural habitat areas, areas subject to soil erosion and areas containing restrictive soils adversely affects the public health, safety and general welfare by impacting water quality and contributing to other environmental problems, creating nuisances, impairing other beneficial uses of environmental resources and hindering the ability of the CityCity of New Prague to provide adequate water, sewage, flood control and other community services. In addition, extraordinary public expenditures may be required for the protection of persons and property in such areas and in areas that may be affected by unplanned land usage.

(b) Purpose.

The purpose of this Ordinance is to promote, preserve and enhance the natural resources within the CityCity. The CityCity will protect water quality and unique and fragile environmentally sensitive land from adverse effects occasioned by poorly sited development or incompatible activities by regulating land disturbances or development activities. The Ordinance's purpose is also to control or eliminate storm water pollution along with soil erosion and sedimentation in the CityCity. The CityCity intends to minimize conflicts and encourage compatibility between land disturbances and development activities, and water quality and environmentally sensitive lands. The CityCity will do this by requiring detailed review standards and procedures for land disturbing or development activities proposed for such areas, thereby achieving a balance between urban growth and development and protection of water quality and natural areas. This Ordinance establishes standards and specifications for conservation practices and planning activities, which minimize storm water pollution, soil erosion and sedimentation.

(c) Scope and Effect.

1. Applicability.

All applicants shall comply with current NPDES/SDS permitting requirements. No permit shall be issued until approval of the

storm water pollution prevention plan (SWPPP) or a waiver of the approval requirement has been obtained from the CityCity in conformance with the provisions of this Section. At a minimum, these pollution abatement practices must conform to those in the current version of the Minnesota Pollution Control Agency's publication "Protecting Water Quality in Urban Areas."

2. Exemptions.

The provisions of this Section do not apply to:

- a. Any land disturbing activity for which plans have been approved by the CityCity within ~~six months~~ 6 months prior to the effective date of this Section;
- b. A lot for which a building permit has been approved on or before the effective date of this Section, provided that improvements are completed in compliance with previous approvals;
- c. Installation of fences, signs, telephone and electric poles and other kinds of posts or poles;
- d. Emergency work to protect life, limb or property; or
- e. Projects involving less than 500 cubic yards of material.

3. General Policy.

For rivers and streams, storm water discharge rates from storm water treatment basins shall not increase over the predevelopment ~~2 two~~-year, 10 year and 100 year peak storm discharge rates. Also, accelerated channel erosion must not occur as a result of the proposed activity. All on-site storm water conveyance channels shall be designed and constructed to withstand the expected velocitycity of flow from a 100-year frequency storm without erosion. As land is annexed into the CityCity, the land being annexed carries with it the existing condition.

4. Grading Plan.

The storm water pollution prevention plan's measures, the limit of disturbed surface and the location of buffer areas shall be marked on the approved grading plan, and identified with flags, stakes, signs etc. on the development site before work begins.

(d) Storm Water Pollution Prevention Plan Approval Procedures.

1. Application.

- a. A written application for storm water pollution prevention plan approval, along with the proposed storm water pollution prevention plan, shall be filed with the Zoning Administrator and shall include a statement indicating the grounds upon which the approval is requested, that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this Section. Prior to applying for approval of a storm water pollution prevention plan, an applicant may have the storm water pollution prevention plan reviewed by the appropriate departments of the ~~City~~City.
- b. ~~Two~~Two (2) sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the Zoning Administrator and shall be accompanied by a receipt evidencing the payment of all required fees for processing and approval as set forth and a bond if required.
- c. Drawings shall be prepared to scale appropriate to the site of the project and suitable for the review to be performed.

2. Storm Water Pollution Prevention Plan.

At a minimum, a storm water pollution prevention plan (SWPPP) must contain the following information:

- a. Existing Site Map: A map of existing site conditions showing the site and immediately adjacent areas, including:
 - i. The name and address of the applicant; a legal description of the property directly associated with the request; north point; date; scale of drawing; and number of sheets;
 - ii. Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;
 - iii. Existing topography with a contour interval appropriate to the topography of the land;

- iv. A delineation of all streams, rivers, public waters, and wetlands located on and immediately adjacent to the site, including depth of water, a description of vegetation which may be found in the water, a statement of general water quality, and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, or the United States Army Corps of Engineers;
 - v. Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating in which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetland, and setting forth those areas of the unaltered site where storm water collects;
 - vi. Vegetative cover and clearly delineating any vegetation proposed for removal; and,
 - vii. 100 year floodplains, flood fringes and floodways.
- b. Site Construction Plan: A site construction plan including:
 - i. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
 - ii. Locations and dimensions of all temporary soil or dirt stockpiles;
 - iii. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this Section;
 - iv. Schedule of anticipated starting and completion dates of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Section; and
 - v. Provisions for maintenance of the construction site erosion control measures during construction.
- c. Plan of Final Site Conditions: A plan of final site conditions on the same scale as the existing site map showing the site changes including:

- i. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
- ii. A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and settling forth the areas of the site where storm water will be allowed to collect;
- iii. The proposed size, alignment and intended use of any structures to be erected on the site; and
- iv. Any other information pertinent to the particular project, which in the opinion of the applicant, is necessary for the review of the project.

(e) Criteria.

Stormwater pollution prevention plans shall comply with the following criteria:

1. A hydrograph method based on sound hydrologic theory must be used to analyze runoff for the design or analysis of flows and water levels. Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the ~~City~~City Engineer. Plan specification 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 ~~City~~City Engineer.
2. Runoff rates for the proposed activities, development or redevelopment within the ~~City~~City shall:
 - a. Not exceed existing runoff rates for the two-year, 10-year and 100-year critical duration storm events;
 - b. Not accelerate on or off-site water course erosion, downstream nuisance, flooding or damage as demonstrated by the applicant according to this Ordinance below; and
 - c. Runoff rates may be restricted to less than the existing rates when necessary for the public health, safety and general welfare of the ~~City~~City.

3. As land is annexed into the ~~City~~City, the land being annexed carries with it the existing condition. Parcels developed after the date of this Ordinance within unincorporated areas will be regulated using pre-settlement conditions and this would then become the existing condition for the ~~City~~City once the area is annexed. If agricultural land is annexed, agriculture is the existing condition. If roads or streets are present, they are considered to be part of the existing condition.
4. An assessment of the potential for adverse impacts downstream of site improvements, whether on- or off-site, is required except when the proposed activity, development or redevelopment is less than 20 acres and less than ~~8%eight percent~~ of the site is covered by impervious surface, or when the rate control provisions of this Ordinance, as applicable, are met; and the proposed activity, development or redevelopment does not increase runoff volume for the two-year critical duration event (not including snow melt). To demonstrate that the proposed activity does not accelerate on or off-site erosion, downstream nuisance, flooding or damage, the applicant must complete an evaluation downstream to the point where the proposed activity is ~~10-percent~~10% of the drainage area (e.g. a 10 acre development must evaluate downstream to the point where the drainage area is 100 acres). The evaluation at a minimum must consist of an assessment as described in Scott County WMO Rule D.
 - a. Potential impacts to areas surrounding landlocked lakes or ponds, or lakes or ponds with inadequate outlets where flood levels would be increased by added runoff volume.
 - i. Evaluations must include:
 - 1) An assessment of water levels in the water body resulting from the contributing watershed's full annual runoff yield during a 100-year wet year using the Simplified Hydrologic Yield Method (SHYM), or more rigorous methods for back to back 100-year critical events, for both existing conditions and fully developed watershed conditions; and
 - 2) The identification of public and private structures (including low floor and entry elevations of residences, and individual sewage

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treatment systems (ISTS)), and infrastructure (sanitary sewer, stormwater pipes and facilities, and roads) surrounding the water body and located within ~~two-two~~ (2) vertical feet of the future conditions water level elevation predicted using the SHYM, or the elevation for the back to back 100-year critical event. Information regarding the SHYM can be found in the Scott WMO's Comprehensive Water Resource Management Plan Rules Attachment 1: Simplified Hydrologic Yield method.

- ii. If there are public or private structures or infrastructure located within ~~two~~ (2) vertical feet of the future conditions SHYM, or back-to-back 100-year critical event elevation, the applicant must demonstrate that no adverse impacts to health, safety and welfare, or property damage, would occur; or provide corrective actions. Corrective actions shall include the following as necessary to mitigate in proportion to the proposed project impact:

- 1) Controlling runoff rates to less than existing conditions within the ~~City~~City as described in (~~Section- 6.002 (U) (7)8; (cE)~~ (2)) of this Ordinance;
- 2) Protecting or re-locating impacted structures or infrastructure, or securing easements for additional flooded areas; or
- 3) Other actions necessary to mitigate the impact.

- b. Potential impacts to downstream infrastructure, public and private structures, and erosion along the drainage path and downstream public waters.

- i. Evaluations must include:

- 1) The identification of existing public and private drainage easements;
- 2) The locations, condition, and dimensions of the existing drainage infrastructure;

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- 3) The location and elevation of structures with low floors, or entries within ~~two~~-two (2) vertical feet of the 100-year critical storm flood level;
- 4) The location and description of known existing flooding problems;
- 5) A hydrologic and hydraulic assessment of flooding impacts of the proposed project on downstream public and private structures.
- 6) An assessment of existing and potential watercourse erosion, bank stability, bank protection, and watercourse slope;
- 7) An assessment of the hydrologic and hydraulic ~~capa~~citycapacity of the downstream public and private infrastructure;
- 8) An assessment of property damages; and health, safety and welfare impacts relative to increased flooding of public and private infrastructure. Minnesota Department of Transportation guidelines shall be used to assess safety of flood levels at downstream driveways and road crossings.

ii. If property damage, erosion, public health, safety and welfare impacts are identified the applicant must provide corrective action. Corrective actions shall include the following as necessary to mitigate in proportion to the proposed project impact:

- 1) Actions described in this Ordinance;
- 2) Obtaining easements;
- 3) The installation of stream bank stability and protection measures;
- 4) The upgrading, protecting or re-locating impacted infrastructure; or
- 5) Other actions necessary to mitigate the impact.

c. Potential impacts to exceptional value wetland.

i. Evaluation must include:

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- 1) Delineation and functional assessment of wetlands according to of this Ordinance;
- 2) A hydrologic and hydraulic analysis of the before and after project water level bounce and period of inundation for wetlands with exceptional vegetative diversity for the ~~one~~ year, ~~two~~ year and 10-year critical duration events.

- ii. The applicant must provide corrective actions that mitigate in proportion to the proposed project impact as specified in this Ordinance; if the water level bounce and period of inundation created by the storms evaluated in ~~(Section 6.002 (U) (74), (cE) (4) (c) (i+)~~ ~~(2b))~~ of this Ordinance exceeds the limit specified in the following table.
- iii. Corrective actions shall consist of runoff rate and volume controls necessary to keep the water level bounce and period of inundation within the limits specified in the following table.

- 5. The minimum design capacity of all drainage systems shall accommodate the runoff from a 10-year storm event. All drainage systems and facilities shall be designed to withstand the runoff from the critical ~~one hundred~~ 100-year event or accumulative antecedent conditions without damage to the system or facility, downstream areas or significant risk to public health, safety and welfare unless waived for limited use, low maintenance road crossings.

Hydroperiod Standard	Highly Susceptible	Moderately Susceptible	Slightly Susceptible
Storm bounce	Existing	Existing plus 0.5 feet	Existing plus 1 foot
Discharge Rate	Existing	Existing	Existing or less
Inundation period for 1 & 2 year precipitation event	Existing	Existing plus 1 day	Existing plus 2 days
Inundation period for 10 year precipitation event or greater	Existing	Existing plus 7 days	Existing plus 14 days
Run-out control elevation (free flowing)	No change	No change	0 to 1 feet above existing run out
Run-out control elevation (landlocked)	Above delineated wetland	Above delineated wetland	Above delineated wetland

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6. Regional detention basins shall be utilized to manage peak flow rates and runoff volumes, and meet water quality objectives when feasible. On-site detention basins, volume control facilities, and permanent sedimentation and water quality ponds will be utilized for land disturbing activities, the development or redevelopment of land that creates greater than ~~one~~ one (1) acre of impervious surface when regional basins are not in place or feasible, or would not otherwise meet requirements for the protection of downstream areas according to this Ordinance that are located between the project and the regional basin.

The ~~City~~City may approve alternative BMPs instead of permanent sedimentation and water quality ponds if it finds that the water quality performance of the proposed alternative BMPs is equivalent to that of a permanent sedimentation and water quality pond designed according to the criteria set forth for permanent sedimentation and water quality ponds in this Ordinance below. Water quality treatment facilities are designed to provide wet volume equivalent to the site runoff from a 2.5-inch rainfall. In cases where a site's water quality treatment will be provided by BMPs other than ponds, the requirement becomes at least 60 ~~percent~~% removal of total phosphorus and 90 ~~percent~~% removal of total suspended solids on an average annual basis. Accepted technical methodologies, such as the PondNET model for phosphorus and the P-8 model for TSS, and/or scientifically valid field studies must be used to evaluate the effectiveness of these practices.

7. The design flood events are the 100-year, 24-hour Type II rainfall event or 100-year, 10-day snowmelt event. Design of flood storage, design of pond outlet and overland conveyance capacities, determination of freeboard and other important flood control parameters are based upon the flood event that produces the highest water level.
8. Landlocked water basins may be provided with outlets if an outcome based analysis and resource oriented management review regarding downstream impacts is completed that demonstrates that:
- a. A hydrologic regime is maintained that complies with this Ordinance;

- b. Dead storage is provided to retain the fully developed future conditions SHYM predicted water volumes, or the back to back 100-year critical event water volume, above the highest anticipated groundwater elevation to the extent possible while preventing damage to property adjacent to the basin;
 - c. The outlet does not create adverse downstream flooding or water quality conditions, or materially affect stability of downstream watercourses according the criteria in this Ordinance;
 - d. Proposed development tributary to the land-locked basin has incorporated runoff volume control practices to the extent practical;
 - e. There is a demonstrated need for an outlet to protect existing structures and infrastructure; and
 - f. The outlet design is part of an approved comprehensive local water management plan.
9. Detention basins shall be designed to provide:
- a. An outlet structure to control the ~~2-two~~-year, 10-year and 100-year critical storm events to runoff rates specified in ~~(Section 6.002 (U) (78), (cE) (2) and (3))~~ of this Ordinance;
 - b. An identified overflow spillway and downstream route sufficiently stabilized to convey a 100-year critical storm event;
 - c. Access for future maintenance; and
 - d. A normal water elevation above the OHW of adjacent waterbodies or normal water level (NWL) where an OHW is not established.
10. Storm Water Management Criteria for Permanent Facilities.
- a. An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the ~~2-two~~-year, 10 year, and 100 year storm peak discharge rates existing before the proposed development shall not be increased, and accelerated channel erosion will not occur as a result of the proposed

land disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development and maintenance of regional storm water management facilities designed to serve multiple land disturbing and development activities undertaken by ~~one~~ one (1) or more persons, including the applicant.

- b. All storm water treatment basins, with the exception of commercial or institutional private storm water treatment basins become ~~CityCity~~ property after project completion. The ~~CityCity~~ will clean private storm water treatment basins and charge/assess the owner. The ~~CityCity~~ will require access rights as part of the development process.
- c. 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.
- d. Permanent sedimentation and water quality ponds shall be designed to provide:
 - i. Water quality features consistent with NURP criteria and best management practices;
 - ii. A permanent wet pool with dead storage of at least the runoff from a 2.5-inch storm event or the water quality volume required by the meeting NPDES General Construction Permit, whichever leads to a higher level of water quality treatment..
 - iii. Pond outlets shall be designed to prevent short circuiting of the flow from pond inputs to the outlet;
 - iv. An outlet skimmer to prevent migration of floatables and oils for at least the 1-year storm event;
 - v. Access for future maintenance by the ~~CityCity~~;
 - vi. A permanent pond surface area that is at least equal to ~~2%~~two percent of the impervious area draining to the pond ~~1% -or one percent~~ of the entire area draining to the pond, whichever amount is greater;

- vii. An average permanent pool depth of ~~four~~four (4) to ~~six~~six (6) feet and a maximum depth no greater than ~~six~~six (6) feet; and
 - viii. A minimum protective shelf extending 10 feet into the permanent pool with a slope of ~~10-to-one~~ (10:1), beyond which slopes should not exceed a ~~four-to-one~~ (4:1) ratio.
- e. Any new residential, commercial, industrial or other habitable structures shall be constructed with the following freeboard requirements:
- i. All new structures must be constructed a minimum ~~two~~two (2) feet above the peak water surface elevation for the critical flood event and at least ~~one-one~~ one (1) foot above the as-built emergency overflow elevation from any area where surface water is impounded during a flood event. The low structure elevation is defined as the lowest ground elevation adjacent to the structure.
 - ii. When a structure is located less than 50 feet horizontal from the 100-year calculated high water level, then the structure's low floor elevation must be at least ~~two-two~~two (2) feet above the 100-year high water level.
 - iii. Under no circumstances should the low floor elevation be below the planned normal water level of a stormwater basin or other naturally occurring water body.
 - iv. Land development within the official floodplain will be regulated to ensure that floodplain capacity and flood elevations are not adversely impacted by development and that new structures are protected from damage.
 - v. Where structures are proposed below the overflow elevation for a land-locked basin, the low structure elevation must be a minimum of ~~two-two~~two (2) feet above the peak water elevation as determined by the critical back to back 100-year flood event, or ~~five~~five (5) feet above a critical single 100-year flood event.
- f. All new development and redevelopment shall not increase runoff volume discharged from the site on an average

annual basis. To meet this policy, it shall be sufficient to establish that the volumetric discharge for the 1.5-year event is maintained at existing conditions. Concentrated infiltration is precluded in locations where the hazardous materials are handled or in any commercial and industrial land use within a well-head protection area. Concentrated infiltration is not recommended when seasonal high water table is within ~~three~~three (3) feet of the ground surface. Diffuse infiltration and volume management techniques such as reduced imperviousness, impervious disconnection, runoff water recycling etc., are not constrained in by water table elevation or by location in a well-head protection area.

11. The design must explicitly address the use of best management practices to limit the loss of pervious area, and limit runoff volume increases from impervious areas to the extent feasible considering site-specific conditions.
 - a. When using infiltration for volume control, infiltration volumes and facility sizes shall be calculated using the appropriate hydrological soil group classification and saturated infiltration rate from the table below, and shall be capable of infiltrating the required volume within 72 hours. Documented site-specific infiltration or hydraulic conductivity measurements completed by a licensed soil scientist or engineer may be used in place of the values in the following table.

Hydrologic Soils Type	Infiltration Rate	Soil Texture
A	0.30 inches/hour	Sand, loamy sand, or sand loam
B	0.15 inches/hour	Silt loam or loam
C	0.07 inches/hour	Sandy clay loam

- i. Infiltration areas must be limited to the horizontal areas subject to prolonged wetting.
- ii. Areas of permanent pools tend to lose infiltration capacity over time and will not be accepted as an infiltration practice.
- iii. Before infiltrating runoff, pretreatment shall be required for parking lot runoff and for runoff from new road

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construction that will enter the infiltration system. The pretreatment shall be designed to protect the infiltration system from clogging and to protect groundwater quality. Pretreatment options may include, but are not limited to, oil/grease separation, sedimentation, biofiltration, filtration, swales or filter strips. To minimize potential groundwater impacts, it is desirable to infiltrate the cleanest runoff. To achieve this, a design should propose greater infiltration of runoff from low pollutant sources such as roofs, and less from higher pollution source areas such as parking lots.

- iv. Infiltration systems must be designed to bypass higher flows.
- v. Infiltration areas must be fenced or otherwise protected from disturbance before the land disturbing activity starts.
- b. Constructed infiltration practices where runoff water is concentrated shall not be used for volume control under the following conditions:
 - i. For runoff from fueling and vehicle maintenance areas,
 - ii. On areas with less than ~~three~~ 3-(3) feet vertical separation from the bottom of the infiltration system to the elevation of seasonal high groundwater or top of bedrock,
 - iii. For areas with runoff from industrial, commercial and institutional parking lots and roads where there is less than five (5) feet separation from the bottom of the infiltration system to the elevation of the seasonal high groundwater,
 - iv. On areas with Type D soils.
- c. Constructed infiltration practices are not allowed in the Wellhead Protection Area shown on Map 2 of the ~~CityCity~~'s "Wellhead Protection Plan within 400 feet of a community water system or within 100 feet of a private well.
 - i. In such cases other runoff volume control measured must be used.

- d. Credits will be allowed toward the volume control requirement, and may be used as corrective actions for downstream impacts if required under of this Ordinance. To receive credit, applicants must request the credits, and provide calculations and documentation showing that criteria are met. All credit criteria can be found in the Scott County WMO Rules.

12. Watershed Management and Groundwater Management Plans

Storm water pollution prevention plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with State law and as approved by the Minnesota Board of Water and Soil Resources and the Minnesota Pollution Control Agency.

13. An assessment of the potential for adverse impacts downstream of site improvements, and corrective actions in proportion to the proposed project input is required. At a minimum an assessment must include:

- a. Potential impacts to areas surrounding landlocked lakes or ponds, or lakes or ponds with inadequate outlets.
- b. Potential impacts to public or private structures or infrastructure located near potential flood prone areas with corrective actions that mitigate in proportion to the impact.
- c. Potential impacts to downstream infrastructure, public and private structures, and erosion along the drainage path and downstream public waters, with corrective actions that mitigate in proportion to the impact.
- d. Potential impacts to wetlands with exceptional vegetative diversity, with corrective actions that mitigate in proportion to the impact.

The site developer must assess downstream impacts from each new development. The assessed area is limited to a drainage area equal to 10 times the proposed development area. If existing or potential problems are found, they need to be mitigated in proportion to the proposed project's impacts. The ~~City~~City's Surface Water Management Plan outlines the downstream assessment procedure.

(f) Plan Review Procedure.

1. Process.

Storm water pollution prevention plans meeting the requirements of this Ordinance shall be submitted by the Zoning Administrator to the ~~City~~City Engineer and the Planning Commission for review in accordance with the standards of this Ordinance. The Planning Commission shall recommend approval, recommend approval with conditions, or recommend denial of the storm water pollution prevention plan to the ~~City~~City Council. Where additional control measures are needed, they will be specified at the discretion of the ~~City~~City Engineer. Following Planning Commission review, the storm water pollution prevention plan will be submitted to the ~~City~~City Council at its next available meeting.

2. Duration.

Approval of a storm water pollution prevention plan submitted under the provisions of this Section shall expire ~~one~~ year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the Zoning Administrator for an extension of time to commence construction setting forth the reasons for the requested extension, the ~~City~~City Council may grant ~~one~~ ~~one~~ (1) extension of not greater than ~~one~~ ~~one~~ 1 year. Receipt of any request for an extension shall be acknowledged by the Zoning Administrator within 15 days. The Zoning Administrator, after consulting with the ~~City~~City Engineer and the Public Works Department, shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

3. Conditions.

A storm water pollution prevention plan may be approved subject to compliance with conditions reasonable and necessary to ensure that the requirements contained in this Section 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 to the ~~City~~City or other public entity of certain lands or interests therein.

4. Inspections.

At a minimum, inspections to ensure compliance with of the storm water pollution prevention plan shall be done weekly by the CityCity Engineer or a designated CityCity employee, and after every storm or snow melt event large enough to result in runoff from the site.

In all cases, the CityCity inspectors will attempt to work with the applicant and/or builder to maintain proper erosion and sediment control at all sites. In cases where cooperation is withheld, construction stop work orders may be issued by the CityCity, until erosion and sediment control measures meet specifications.

The applicant shall allow the CityCity and its authorized representatives, upon presentation of credentials to:

- a. Enter upon the permitted site for the purpose of obtaining information, examination of records and conducting investigations or surveys;
- b. Bring such equipment upon the site 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 this permitted site;
- d. Inspect the storm water pollution control measures; and
- e. Sample and monitor any items or activities pertaining to storm water pollution control measures.

5. Financial Securities.

The total security amount in the project's development agreement with the CityCity shall also provide security for the performance of the work approved by the CityCity in the storm water pollution prevention plan and any storm water pollution prevention plan related remedial work, if the development agreement's security totals \$3,000 per acre for the maximum acreage of soil that will be simultaneously exposed during the project's construction. If this security is less than the \$3,000 per acre value, then it shall be increased to at least that amount.

The CityCity may request a greater financial security, if the CityCity considers that the development site is especially prone to erosion, or the resource to be protected is especially valuable. A rate schedule of security amounts shall be set annually by the

CityCity as the amount the CityCity deems necessary to cover potential liabilities to the resources.

- a. The security or letter of credit must be in a form acceptable to the CityCity and from a bank or surety licensed to do business in Minnesota.
- b. The security shall be in favor of the CityCity and conditioned upon the applicant's performance of the authorized activity in compliance with the permit and applicable laws, including these Ordinances, and the payment when due of any fees or other charges authorized or required by the permit, and these Ordinances.
- c. The security shall be issued for a minimum term of 1-one year. Security with a shorter term may be deposited with the CityCity provided it is replaced at least 30 days before its expiration.
- d. If at any time during the course of the work, the secured amount falls below 50-~~percent~~% of the required deposit, the applicant shall make another deposit in the amount necessary to restore the deposit to the required amount within 30 days. Otherwise the CityCity may:
 - i. Withhold the scheduling of inspections and/or the issuance of a Certificate of Occupancy.
 - ii. Revoke any permit issued by the CityCity to the applicant for the site in question and any other of the applicant's sites within the CityCity's jurisdiction.
 - iii. When more than one-half (1/2) of the applicant's maximum exposed soil area has achieved final stabilization, the CityCity can reduce the total required amount of the financial security by one-half (1/2), if recommended by the CityCity Engineer.
- e. The CityCity may act against the financial security if any of the conditions listed below exist. The CityCity shall use funds from this security to finance any corrective or remedial work undertaken by the CityCity or a contractor under contract to the CityCity and to reimburse the CityCity for all direct costs incurred in the process of remedial work including, but not limited to staff time and attorney's fees. The applicant ceases land disturbing

activities or filling and abandons the site prior to completion to the grading plan

- i. The applicant ceases land disturbing activities and/or filling and abandons the site prior to completion to the grading plan.
 - ii. The applicant fails to conform to any CityCity approved grading plan and/or the storm water pollution prevention plan as approved by the CityCity.
 - iii. Constructed infiltration practices are not allowed in the Wellhead Protection Area shown on Map 2 “Wellhead Protection Areas of the CityCity of New Prague” (attached to this Ordinance), as amended; and within 400 feet of a community water system or within 100 feet of a private well.
 - iv. The applicant fails to reimburse the CityCity for corrective action.
 - v. The applicant defaults under the permit.
 - vi. The applicant fails to replace any security at least 30 days before its expiration.
- f. If circumstances exist such that noncompliance with this Section poses an immediate danger to public health, safety and welfare, as determined by the CityCity Engineer, the CityCity may take emergency preventative action. The CityCity shall also take every reasonable action possible to contact and direct the applicant to take any necessary action. Any cost to the CityCity may be recovered from the applicant’s financial security.
- g. Any unspent amount of the financial security deposited with the CityCity for faithful performance of the storm water pollution prevention plan and any remedial work must be released not more than 1 yearone (1)-year after the completion of the installation of all such measures and establishment of final stabilization.
- h. Fees.
- All applications for storm water pollution prevention plan approval shall be accompanied by a processing and

approval fee as specified by the CityCity Council through ordinance.

The fee shall cover the cost of the review and analysis of the proposed activity, including services for engineering, legal, and other consultants. The CityCity may require a deposit to cover the cost of review at the time of filing. The CityCity will provide a statement of review charges. In all cases the review fee shall be payable before a permit will be issued.

(g) Approval Standards.

1. Standards Required.

No storm water pollution prevention plan that fails to meet the standards contained in this Section shall be approved by the CityCity Council.

2. Site Dewatering.

Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosion or flooding of the site or receiving channels or a wetland.

3. Waste and Material Disposal.

All waste and unused building materials, including but not limited to, garbage, cleaning wastes, debris, wastewater, toxic materials or hazardous materials, shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

4. Entrances and Cleaning.

Each site shall have graveled roads, access drives, and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

5. Drain Inlet Protection.

All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or

equivalent barrier meeting accepted design criteria, standards, and specifications contained in the Minnesota Pollution Control Agency publication entitled "Protecting Water Quality in Urban Areas".

6. Site Erosion Control.

The following requirements apply only to construction activities that result in runoff leaving the site.

- a. Channeled runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
- b. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any ~~one- one (1)~~ time.
- c. Runoff from the entire disturbed area on the site shall be controlled by meeting either Subsections ~~(i)4~~ and ~~(2)ii~~ or ~~(i)4~~ and ~~(iii)3~~ below, or (a) and (b) ~~or (a) and (e)~~ above.
 - i. All disturbed ground left inactive for ~~14~~ or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.
 - ii. For sites with more than 10 acres disturbed at ~~one- one (1)~~ time, or if a channel originates in the disturbed area, ~~one- one (1)~~ or more temporary or permanent sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least ~~1%-one percent~~ of the area draining to the basin and at least ~~three three (3)~~ feet of depth and constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of ~~three three (3)~~ feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
 - iii. For sites with less than 10 acres disturbed at ~~one- one (1)~~ time, silt fences, straw bales, or equivalent control measures shall be laced along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences

shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.

7. Vegetated Buffer Protection.

At the minimum a vegetated buffer strip on each bank of a river or stream the width of either the 100-year floodplain or 100 feet whichever is larger, shall be provided. If possible such a buffer strip shall consist of predevelopment native vegetation. Buffer width shall be increased at least ~~two-two (2)~~ feet for ~~1%every-one percent~~ of slope of the surrounding land. Natural wetlands adjacent to rivers and streams are not counted as buffers, and therefore their widths are not counted as part of the channel's buffer strip. Such wetlands rate their own vegetated buffer strip as stated in Section 6.002 (U) (7) (c).~~(Section 4, (E)) of this Section.~~

- a. Detailed buffer design is usually site specific. Therefore the ~~CityCity~~ Engineer may require a larger buffer than the minimum.
- b. For newly constructed buffer sites, the design criteria should follow common principles and the example of nearby natural areas. The site should be examined for existing buffer zones and mimic the slope structure and vegetation as much as possible.
- c. The applicant or designated representative shall maintain the buffer strip for the first year. After that time period, the ~~CityCity~~, or a party designated by the ~~CityCity~~, shall maintain the buffer strip.
- d. Drain tiles will short-circuit the benefits of vegetated buffer strips. Therefore drain tiles on the development site shall be identified and rendered inoperable.
- e. Buffer strips can be made into perpetual conservation easements.
- f. Buffer strips shall be marked as such with permanent markers.
- g. The ~~CityCity~~ Engineer may allow buffer area averaging in cases where averaging will provide additional protection to

either the resource or environmentally valuable adjacent upland habitat.

- h. Water courses used solely for drainage, such as road ditches, are exempt from these requirements.

8. Other Permits Required.

All sand, gravel or other mining operations taking place on the development site shall have a Minnesota Pollution Control Agency National Pollutant Discharge Elimination System General Storm Water permit for industrial activities and all required Minnesota Department of Natural Resource permits.

9. Easements.

Applicants shall establish, in a form acceptable to the City, temporary and perpetual easements, or dedicated outlots, for ponding, flowage and drainage purposes over hydrologic features such as waterbodies and stormwater basins. The easements, or outlots, shall include the right of reasonable access for inspection, monitoring, maintenance and enforcement purposes. If a storm water pollution prevention plan involves direction of some or all runoff off of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements or other property interests concerning flowage of water.

No trees, shrubs or other landscaping other than sod/seed shall be allowed within any drainage/utility easement or road right-of-way. The City or utility companies will remove any obstructions placed in easements. The City is not responsible for any damage to plantings placed within any drainage and utility easement or road right-of-way.

10. Covenants.

The City may require that the land be subjected to restrictive covenants or a conservation easement, in a form acceptable to the City, to prevent the future expansion of impervious surface and the loss of infiltration capacity.

(h) Waivers.

- 1. The City may waive the volume control requirement for environmentally sensitive developments. Developments will be considered environmentally sensitive when:

- a. The total impervious surface footprint is less than ~~8%~~ 8 percent of the development;
 - b. A minimum of ~~25% percent~~ of the site is protected in natural conservation areas that are protected with conservation easements; ~~(see Section 4 for allowed and prohibited uses in conservation easements);~~
 - c. Buffers and wetlands are protected in accordance with this Ordinance;
 - d. Rooftop runoff is disconnected as noted in Chapter 52 of ~~CityCity~~ Code;
 - e. Runoff rate control is provided in accordance with this Ordinance;
 - f. Stormwater runoff has been treated in accordance with this Ordinance;
 - g. Downstream impacts have been assessed and corrective actions have been incorporated in accordance with this Ordinance;
 - h. Buffers are recorded as conservation easements on outlots; ~~(see Section 4 for allowed and prohibited uses in conservation easements);~~ and
 - i. The maintenance and preservation of the disconnection(s) and environmental features are made part of a recorded restrictive covenant.
2. The ~~CityCity~~ may waive the on-site runoff rate and water quality control design criteria in this Ordinance for those areas of the ~~CityCity~~ where regional runoff rate and water quality facilities have been implemented in conformance with the ~~CityCity~~'s Surface Water Management Plan (approved March 17, 2008).
 3. Design for the 100-year actual storm event required pre this Ordinance may be waived for limited use, low maintenance road crossings.
- (i) Maintenance.

All storm water management structures and facilities shall be maintained in perpetuity to assure that the structures and facilities function as originally designed. The responsibility for maintenance of the structures and facilities within the ~~CityCity~~ shall be assumed by the ~~CityCity~~. The

permittee shall be responsible for proper operation and maintenance of all erosion and sediment controls, and soil stabilization measures, in conformance with best management practices, and in conformance with the maintenance requirements in the NPDES General Construction Permit.

(j) Exceptions.

No permit or storm water pollution prevention plan shall be required under this Ordinance for the following land disturbing activities where the ~~city~~City has demonstrated that the infrastructure has ~~capa~~citycapacity:

1. Minor land disturbing activities such as home gardens, repairs and maintenance work.
2. Construction, installation and maintenance of individual sewage treatment systems where ~~City~~City sewer service is not available and other than those on steep slopes or riparian lots within a Shoreland District or in a bluff impact zone.
3. Construction, installation and maintenance of public utility lines or individual service connections unless the activity disturbs more than ~~one- one~~ one (1) acre.
4. Construction of any structure on an individual parcel in a subdivision with a storm water pollution prevention plan approved by the ~~City~~City, so long as any land disturbing activity complies with the approved plan.
5. Development or redevelopment of, or construction of a structure on, an individual parcel with a land disturbing activity that does not cause off-site erosion, sedimentation, flooding or other damage, and creates less than one (1) acre of cumulative impervious surface.
6. Installation of any fence, sign, telephone or electric poles, or other kinds of posts or poles.
7. Emergency activity necessary to protect life or prevent substantial harm to persons or property.
8. Redevelopment projects are exempt from rate and volume control provisions in this Ordinance. Projects within the B-1 zoning district are exempt from the volume control provisions of this Ordinance. For the purposes of this Ordinance, if an activity creates more than ~~one- one~~ one (1) acre of new or additional impervious surface, the activity is considered new development

and this exception does not apply to this increased (new) impervious surface.

9. Development or redevelopment of land in incorporated areas shall be exempt from runoff volume control provisions of this Ordinance where the CityCity has demonstrated the infrastructure has capacity for increased runoff volumes.
10. Minor wetland impacts that have received a “certificate of exemption or no loss” determination by the CityCity administering the Wetland Conservation Act, as amended.
11. All maintenance, repair, resurfacing and reconditioning activities of existing road, bridge and highway systems, which do not involve land disturbing activities outside of the existing surfaced roadway.
12. Land disturbing activities associated with the construction of conservation practices by the SWCD or the Natural Resources Conservation Services (NRCS) provided that erosion prevention and sediment control practices are used in a manner consistent with this Ordinance.

(k) Other Controls.

In the event of any conflict between the provisions of this Section and the provisions of other sections of the Unified Development CodeZoning Ordinance, the more restrictive standard shall prevail.

(8) Drainage Alterations

(a) Policy

It is the policy of the CityCity that surface water may be drained only in a manner that does not unreasonably burden upstream or downstream land.

(b) Regulations

No person or political subdivision shall artificially drain surface water, nor obstruct or redirect the natural flow of runoff, so as to affect a drainage system established under Minnesota Statutes, Chapter 103E, or harm the public health, safety and general welfare of the CityCity and County, without first obtaining a permit from the CityCity.

(c) Criteria

The applicant for a drainage alteration shall:

1. Describe the overall environmental impact of the proposed drainage alteration and demonstrate that:
 - a. There is a reasonable necessity for such drainage alteration;
 - b. Reasonable care has been taken to avoid unnecessary injury to upstream and downstream land;
 - c. The utility or benefit accruing to the land on which the drainage will be altered reasonably outweighs the gravity of the harm resulting to the land receiving the burden;
 - d. That downstream impacts have been controlled or mitigated according to the requirements of this Ordinance;
 - e. The drainage alteration is being accomplished by reasonably improving and aiding the normal and natural system of drainage according to its reasonable carrying ~~capacity~~capacity, or in the absence of a practicable natural drain, a reasonable and feasible artificial drainage system is being adopted.
 2. Provide a hydraulic design which complies with Section 6.002 (U) (4) and (8) ~~(Section 8 and 4) of of~~ this Ordinance, and if the alteration involves a landlocked basin, the alteration must comply with the requirements of this Ordinance for outlets from landlocked basins.
 3. Provide a stable channel and outfall.
 4. Obtain a permit under from the ~~City~~City pursuant to this Ordinance if the drainage alteration is part of a land disturbing activity or a development or redevelopment of land.
- (d) Exhibit
- The ~~City~~City shall require the submittal of exhibits with an application necessary for review and determination of compliance with this Ordinance.
- (e) Exceptions
1. No permit shall be required under this Ordinance for the alteration of drainage in connection with the use of land for agricultural activities.
 2. The ~~City~~City may waive the requirement of ~~(Section 9, (3) (a) (4)) of this Ordinance the exhibit required in Section 6.002 (U) (8) (d)~~

above if the applicant submits easements or other documentation in form acceptable to the ~~City~~City evidencing the consent of the owner of any burdened land to the proposed alteration. Such easements or other documentation shall be filed for record and evidence thereof submitted to the ~~City~~City.

3. All drainage alterations not required by this Ordinance to obtain a permit shall nevertheless be conducted in full compliance with these Ordinances.

~~(S)~~(T) Swimming Pools

(1) Zoning and Building Requirements

- (a) Property lines must be located prior to installing a pool. The ~~City~~City does not provide a survey service to locate the property lines. It is the responsibility of the landowner to locate the property lines.
- (b) All swimming pools for which a permit is required and granted shall include permanent fencing. On aboveground pools which have a ~~four~~four (4) foot or higher, vertical or outward inclined side walls, a fence is only required to be provided around the means of access, unless the means of access is removed and locked away from the pool when not in use.
- (c) Permanent fences shall be at minimum ~~four~~four (4) feet in height and shall not exceed ~~six~~six (6) feet in height. The fence must completely enclose any in-ground or above-ground swimming pools.
- (d) The bottom of the fence must not be more than ~~four~~four (4) inches from a hard surface ground or ~~two~~two (2) inches from a soft surface ground.
- (e) Fences shall be constructed with a non-corrosive material that is not easily climbable by small children.
- (f) The fence shall have self-closing and self-latching devices placed at a minimum of ~~four~~four (4) feet from the ground surface so that the device is inaccessible to all small children.
- ~~(g) A fence is only required to be provided around the means of access on aboveground pools which have a four foot or higher, vertical or outward inclined side walls.~~
- ~~(h)~~(g) Prior to filling the pool, the approved fence or an approved temporary fence must be completely in place, inspected and approved by the ~~City~~City Building Official.

(+)(h) In all residential districts, swimming pools shall only be allowed in the rear or side yard and shall be set back a minimum of ~~six~~^{six} (6) feet from all property lines.

(+)(i) Swimming pools shall not be located in drainage and utility easements or required buffers.

(+)(j) Swimming pools erected on corner lots shall not be within the ~~30 feet~~^{required front} building setback line for the district in which it is located and shall not be constructed closer to the front property lines than the primary structure. -The swimming pool shall adhere to the same right-of-way setbacks as the house.

(+)(k) All swimming pools shall be at minimum of ~~five~~⁽¹⁰⁻⁵⁾ feet away from any principal structure, building or frost footings.

(+)(l) The fencing requirements and standards stated in this Section are required even if a swimming pool cover is used.

(+)(m) The drainage of discharged water from the pool must not drain across or onto any adjoining property.

(+)(n) Above ground hot tubs or spas with a locking safety cover which complies with ASTM Standard F 1346-91, provided the cover is locked at all times when the hot tub or spa is not in use, shall be exempt from the fencing requirements of this Section.

Commented [KO160]: We are getting asked quite frequently if certain ASTM covers are used if they can get by without having a fence. Have you seen this? The argument is that fences are always up and pool covers are not always on. That said, gates can be propped open. Anyways, just curious if some cities are allowing covers only.

Commented [FN161R160]: I have not seen covers only as an allowed option, but we could include this if you want

(2) Required Inspections

The ~~City~~^{City} shall inspect the pool during the following points of construction:

- (a) Pool Footing: Before pouring concrete, pool has been dug and forms have been erected.
- (b) Pool Fence or Temporary Fence – Prior to filling the pool.
- (c) Gas Line: Air test must be performed.
- (d) Final: Prior to filling the swimming pool and when the pool, pool enclosure (fence) and any surrounding deck is completed.

(3) Permit Checklist

Property irons shall be found or a Certificate of Survey shall be completed. The following information must be submitted along with the building permit application. (Note: A Certificate of Survey for the property may be on file at ~~City~~^{City} Hall.)

- (a) Location and size of the pool and equipment.

- (b) Setbacks of pool from the property lines and other structures.
- (c) Location and height of the fence enclosure.
- (d) Detail showing self-closing and self-latching devices for fencing.
- (e) Complete plans and specification for the construction of the pool.

~~(T)~~(U) Residential Erosion Control, Turf Establishment and Tree Requirements for New Residential Construction

(1) Purpose

- (a) The purpose of this section is to establish performance standards for the installation of residential erosion control, turf establishment and trees to preserve the appearance, character, health, safety and welfare of the community. Specifically, this section will provide appropriate ground cover vegetation establishment for controlling soil erosion.

(2) Requirements

- (a) These requirements will be used to review and evaluate site plans for residential homes and accessory structures in the RL-70R-1, RL-84R-2, RL-90R-3, RM, and RH Zoning Districts.
- (b) All developed, improved or built upon lots or parcels must include sod/seed which will function as a soil retention cover.
- (c) An erosion control plan must be provided with all new construction residential home permit applications which must indicate location of soil stockpiles, location of silt fence, location of sod/seed and the location and species of the required tree.
- (d) Sodding/seeding must be completed after the site has been brought to finished grade with a minimum of ~~four~~four (4) inches of topsoil. The topsoil must be of a quality at least equal to the quality prior to development and must also be free from heavy clay, coarse sand, stones, plants, roots, sticks and other foreign materials.
- (e) No trees, shrubs or other landscaping other than sod/seed shall be allowed within any drainage/utility easement or road right-of-way. The ~~City~~City or utility companies will remove any obstructions placed in easements. The ~~City~~City is not responsible for any damage to plantings placed within any drainage and utility easement or road right-of-way.
- (f) The planting of ~~one~~one (1) tree per lot is required in the front yard. If the lot is a corner lot fronting ~~two~~two (2) streets, a tree shall be planted in each front yard.

Commented [KO162]: This section applies only to new construction residential homes, might need clarifying language that its for "new" only.

Commented [FN163R162]: Added "New Residential Construction" in heading

Commented [KO164]: This entire "e" section seems like it should more appropriately be in a more general section of the UDC as it applies regardless of the situation.

Commented [FN165R164]: Added into other landscaping requirements and easement requirements of the subdivision standards

- (g) When ~~one~~ one (1) or more healthy, significant tree(s) are present per dwelling unit in the front yard, no tree is required to be planted. A significant tree shall be any healthy deciduous tree that measures ~~six~~ six (6) inches in diameter 4.5 feet up from the ground or any healthy coniferous tree that measures ~~six~~ six (6) feet in height.
- (h) Sod/seed and the minimum required tree must be guaranteed for 30 days from the time planting has been completed which comprises the warranty period. All sod/seed and the minimum tree must be alive, of good quality and disease free at the end of the warranty period or must be replaced. Any replacement sod/seed or tree must be warranted for ~~30~~ thirty (30) days from the time of planting.
- (i) Lots shall have sod or seed installed to completely cover the portion of the lot where required buffers, wetlands, trees and other landscaping do not exist.
- (j) Where slopes on a lot are greater than ~~44:1~~ to 1 (25%), seed and hydroseed are not allowed. Seed and hydroseed will also not be allowed within drainage and utility easement areas designed to carry surface water drainage. In such cases of slopes greater than ~~4:1~~ (25%) 4 to 1 or drainage and within utility easements designed to carry surface water, sod or an erosion control blanket with seed must be used.
- (k) Portions of lots not sodded must be seeded or hydroseeded, and silt fence, a double row of sod with staggered seams, or erosion control blanket with seed shall be installed around the area to be seeded or hydroseeded until the new vegetation is established as determined by the building official or his/her appointed representative. Acceptable methods of seeding shall include hydroseeding or utilizing a disc seeder, spike seeder, turf seeder, slit seeder or equivalent. ~~Also acceptable as a method of seeding is hydroseeding.~~
- (l) Hydroseed mixture, if used, must contain a combination of seed, mulch with a minimum of 50 ~~percent~~ % wood material, fertilizer and a tackifier. It must also be applied at a rate of 2,500 lbs. /acre.
- (m) Seed mixture must not contain in excess of 0.5 ~~percent~~ % weed or 0.5 ~~percent~~ % crop seed and inert matter shall not be present in excess of 6.0 ~~percent~~ % of the mixture by weight. The grass seed species shall be appropriate for New Prague's climate zone. Temporary seed mixtures will not be accepted in any case as counting towards turf establishment.
- (n) The sod/seed and tree requirements shall be completed before a final certificate of occupancy will be issued. If the sod/seed is not established

and occupancy is requested by a builder, a temporary certificate of occupancy may be issued. The builder/owner is required to complete the sod/seed and tree requirements within 60 days after the temporary certificate of occupancy is issued.

- (o) Homes that are completed between October 15th and before May 15th shall have until July 1st to complete the sod/seed and tree requirements but will only be issued temporary certificate of occupancy until that time. Final grading does not need to be done before a temporary certificate of occupancy is issued, but erosion control must be maintained until a final certificate of occupancy is issued.

~~(3) Tree Size and Condition.~~

- ~~(a) The required tree planting shall meet the following minimum nursery stock size standards:~~

- ~~1. A deciduous tree shall have a trunk a minimum of 1.5 inches in diameter as measured six inches above ground level.~~
- ~~2. A coniferous tree shall be a minimum of six feet in height as measured from ground level after the tree is planted.~~

~~(4) Prohibited Trees~~

- ~~(a) The following species of trees shall not be planted to comply with the required tree planting requirement nor will they count as existing significant trees, but they may be planted on a property in addition to the minimum requirement:~~

- ~~1. Box Elder~~
- ~~2. Silver Maple~~
- ~~3. Northern Catalpa~~
- ~~4. Mulberry~~
- ~~5. Cottonwood (varieties with seeds only)~~
- ~~6. Willow~~
- ~~7. Poplars~~
- ~~8. Ginkgo (Female only)~~
- ~~9. Russian Olive~~
- ~~10. Siberian Elm~~

~~11. — Ash (Excluding Mountain Ash)~~

~~(5)(3)~~ Escrow

- (a) The ~~CityCity~~ shall collect a cash escrow specifically for the sod/seed, erosion control and tree requirement before any building permit is issued. The escrow amount shall be established annually by the ~~CityCity~~ Council and shall be refunded to the party who deposited the escrow when all of the following are completed and approved by the ~~CityCity~~:
 - 1. Final grade requirements are completed.
 - 2. Required tree is installed and alive at the end of the 30 day warranty time period.
 - 3. Sod/seed is installed and alive at end of the 30 day warranty time period and with sufficient coverage to control erosion.
 - 4. If weeds are present at the end of the 30 day warranty time period, documentation of an application of weed treatment shall be provided.
- (b) Failure to have completed and received ~~CityCity~~ approval for the ~~four~~four (4) items listed above within the time period listed above, following written notice, will cause the ~~CityCity~~ to enter the property and complete such sod/seed and tree requirements. The ~~CityCity~~ will draw upon the escrow deposit for the cost of completion.
- (c) Fees for additional inspections beyond the initial 30 day warranty period shall be charged at the rate established in the ~~CityCity~~ Fee Schedule. If deemed necessary by the inspector the ~~CityCity~~ may hire a contractor to ensure established ground vegetation and draw upon the escrow deposit for the cost of completion.

~~(6)(4)~~ Required Inspections

- (a) The following inspections shall apply to this section:
 - 1. Final grade requirements completed.
 - 2. Required tree is installed.
 - 3. Sod/seed inspection before Final Certificate of Occupancy is issued.

(V) Tree Preservation

- (1) Intent and purpose. It is the intent of the City to protect, preserve and enhance the natural environment of the community, and to encourage a resourceful and

prudent approach to the development and alteration of wooded areas in the City.
This section has the following specific purposes:

- (a) Recognize and protect the natural environment consistent with the City's mission statement and goals of the comprehensive plan through preservation and protection of significant trees.
- (b) Promote protection of trees for the benefits provided, including beauty, protection against wind and water erosion, enhancement of property values, noise reduction, air quality, energy reduction, buffering, privacy and natural habitats.
- (c) Establish requirements related to cutting, removal or destruction of existing trees, especially significant trees.
- (d) Establish reasonable requirements for replacement of significant trees.
- (e) To allow the development of wooded areas in a manner that minimizes and mitigates the removal and destruction of trees, preserves aesthetics, property values, and the nature and character of the surrounding area.
- (f) To provide for the fair and effective enforcement of the regulations contained herein.

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(2) Application. This section applies to the following:

- (a) All new public or private development on either platted or unplatted property.
- (b) New construction on vacant building sites on lots platted before January 1996.
- (c) Redevelopment of sites platted prior to January 1996, where existing structures are removed or destroyed.

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(3) Tree Size and Condition.

- (a) The required tree planting shall meet the following minimum nursery stock size standards:
 - 1. A deciduous tree shall have a trunk a minimum of 1.5 inches in diameter as measured six (6) inches above ground level.
 - 2. A coniferous tree shall be a minimum of six (6) feet in height as measured from ground level after the tree is planted.

(4) Acceptable species.

- (a) Coniferous trees. Coniferous trees are considered to be significant for purposes of this section at a height of 12 feet or more. Species of coniferous trees required to be surveyed for tree preservation plan approval are as follows:

<u>Cedar, White (Arborvitae)</u>	<u>Pine, Eastern White</u>
<u>Cedar, Red</u>	<u>Pine, Jack</u>
<u>Fir, Balsam</u>	<u>Pine, Ponderosa</u>
<u>Fir, Douglas</u>	<u>Pine, Red (Norway)</u>
<u>Fir, Frasier</u>	<u>Pine, Scots</u>
<u>Fir, White</u>	<u>Spruce, Black</u>
<u>Larch, American</u>	<u>Spruce, Black Hills</u>
<u>Larch, European</u>	<u>Spruce, Norway</u>
<u>Larch, Japanese</u>	<u>Spruce, White</u>
<u>Larch, Siberian</u>	

- (b) Deciduous trees. Deciduous trees are considered to be significant at six (6) diameter breast height (DBH) inches or more. Species required to be surveyed are as follows:

<u>Alder, European Black</u>	<u>Hawthorn, Thornless</u>
	<u>Cockspur</u>
<u>Apricot, Manchurian</u>	<u>Hickory, Bitternut</u>
<u>Birch, Paper</u>	<u>Honeylocust, Thornless</u>
<u>Birch, River</u>	<u>Hop Tree</u>
<u>Buckeye, Ohio</u>	<u>Hophornbeam (Ironwood)</u>
<u>Burning Bush</u>	<u>Hornbeam, American</u>
<u>Catalpa, Northern</u>	<u>Lilac, Japanese Tree</u>
<u>Cherry, Sour</u>	<u>Linden, American</u>
<u>Cherry, Amur Choke</u>	<u>Linden, Littleleaf</u>
<u>Cherry, Black</u>	<u>Linden, Crimean</u>
<u>Coffeetree, Kentucky</u>	<u>Linden, Redmond</u>
<u>Coffeetree, Espresso</u>	<u>Maackia, Amur</u>
<u>Coffeetree, Stately Manor</u>	<u>Magnolia, Cucumbertree</u>
<u>Corktree, Amur</u>	<u>Maple, Amur</u>
<u>Corktree, His Majesty</u>	<u>Maple, Freeman</u>
<u>Corktree, Sakhalin</u>	<u>Maple, Red</u>
<u>Corktree, Macho</u>	<u>Maple, Shantung</u>
<u>Corktree, Shademaster</u>	<u>Maple, Sienna Glen</u>
<u>Crabapple</u>	<u>Maple, Sugar</u>
<u>Dogwood, Pagoda</u>	<u>Maple, Tatarian</u>
<u>Eastern Wahoo</u>	<u>Mountain Ash, Korean</u>

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Elm, Accolade	Oak, Bicolor
Elm, Cathedral	Oak, Black
Elm, Jacan Japanese	Oak, Bur
Elm, New Horizon	Oak, Northern Pin
Elm, Patriot	Oak, Red
Elm, Princeton	Oak, White
Elm, Valley Forge	Pear, Ussurian
Ginkgo (Male trees)	Serviceberry, Allegheny
Hackberry	Serviceberry, Downy
Hawthorn, Downy	Viburnum, Nannyberry

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(c) Heritage trees.

1. A heritage tree is any tree listed in Section 6.002 (X) (4) (a) or (b) in fair or better condition which equals or exceeds the following diameter size:

<u>Tree Type</u>	<u>Tree Diameter Size</u>	<u>Examples</u>
<u>Large hardwoods</u>	<u>27" DBH</u>	<u>Oaks</u>
<u>Large coniferous</u>	<u>24" DBH</u>	<u>Pine</u>

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2. A tree in fair or better condition must meet the following criteria:

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- a. A life expectancy of greater than 10 years.
- b. A relatively sound and solid trunk with no extensive decay or hollow.
- c. No major insect or pathological problem.
- d. A lesser size tree can be considered a heritage tree if a certified forester determines it is a rare or unusual species or of exceptional quality.
- e. A lesser size tree can be considered a heritage tree if it is specifically used by a developer as a focal point in the project.

- (d) Other trees. Trees not included in the above species lists may be included for credit as part of the tree inventory subject to City approval and the following criteria:

1. A life expectancy of greater than 10 years.

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2. A relatively sound and solid trunk with no extensive decay or hollow.
3. No major insect or pathological problem.
4. A certified forester determines it is a rare or unusual species or of exceptional quality.
5. It is specifically used by a developer as a focal point in the project.

(5) Prohibited Trees

- (a) The following species of trees shall not be planted to comply with the required tree planting requirement nor will they count as existing significant trees, but they may be planted on a property in addition to the minimum requirement:

1. Box Elder
2. Silver Maple
3. Northern Catalpa
4. Mulberry
5. Cottonwood – (varieties with seeds only)
6. Willow
7. Poplars
8. Ginkgo (Female only)
9. Russian Olive
10. Siberian Elm
11. Ash (Excluding Mountain Ash)

- (6) Tree preservation plan approval required. It is unlawful for any person to engage directly or indirectly in land alteration, as defined in this Ordinance, unless such person has first applied for and obtained approval of a tree preservation plan from the City's Zoning Administrator. No preliminary plat, building permit, grading and excavating permit, or other City required permit shall be granted unless approval of a tree preservation plan has first been obtained.

- (a) Meeting with City staff. Prior to submittal of a preliminary plat application where there is impact to trees, the applicant may meet with City staff to discuss alternative designs for the development of a site. This meeting

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may also be part of a concept plan review, permitted under the subdivision regulations.

(b) Alternative analysis. The following guidelines shall be considered when developing or reviewing proposed development alternatives:

1. It is capable of being done from an engineering point of view;
2. It is in accordance with accepted engineering standards and practices;
3. It is consistent with reasonable requirements of the public health, safety, and welfare;
4. It is an environmentally preferable alternative based on a review of social, economic, and environmental impacts;
5. It would create no truly unusual problems; and
6. Any plans reviewed by the City as part of this alternative analysis shall be kept on file at the City.

(c) Determination of impact minimization. The applicant shall provide justification that the preferred alternative will minimize impacts to trees. The following guidelines shall be used:

1. The location of existing structural or natural features that may dictate the placement or configuration of the project;
2. The sensitivity of the site design to the natural features of the site, including topography, hydrology, existing vegetation, preservation of natural vistas, and impacts on adjacent property. In cases of infill development, consideration shall be placed on sensitivity to adjacent properties; and
3. The value, function, and spatial distribution of the trees on the site.

(7) Tree preservation permit process.

(a) Application. Application for approval of a tree preservation plan shall be made in writing to the zoning administrator. This application may be made separately or may be included as part of a development application. Information to be included in the application includes at least the following:

1. A tree inventory which includes the following information for each significant tree on the site and any off-site/bordering trees whose critical root zone is on the property:

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- a. Identification number for each tree.
 - b. Tree type: significant or heritage.
 - c. Tree size (diameter breast height).
 - d. Tree species.
 - e. Indication of preservation or removal.
 - f. Total number of significant and heritage trees on site.
 - g. Total number of significant trees and heritage trees proposed to be preserved/removed.
2. A tree preservation plan exhibiting a stamp/certification and signature of the certified forester, arborist, or landscape architect. The tree preservation plan shall be prepared at the same scale as the proposed development plan and shall show the following:
- a. Survey location of all significant trees with identification number.
 - b. Identification of critical root zones extending from trees located on adjacent tracts, including the location of the trees.
 - c. A graphic delineation of the following areas:
 - i. Proposed significant tree retention areas.
 - ii. Proposed afforestation and reforestation areas.
 - iii. Proposed limits of disturbance.
 - iv. Steep slopes of 25% or more.
 - v. Delineated wetlands, including any required buffers and conservation easements.
 - vi. Topographic contours and intervals.
 - d. Such other information that the City determines is necessary to implement this section.
3. A simplified tree preservation plan may be submitted where trees do not currently exist on the site or where existing trees will not be cut, cleared, or graded for the proposed development, and where adequate tree protection devices and long-term agreements are established for the protection of existing significant trees. This

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simplified plan may be included on the existing conditions survey required as part of the preliminary plat.

4. Tree replacement plan. A scaled drawing of the site depicting where the replacement trees will be planted is required to be submitted with the following:
 - a. Locations of all preserved and replacement trees;
 - b. Plant list including tree species and size in DBH; and
 - c. Easements, right-of-way, construction limits, building pads, driveway and utilities.

(b) Allowable tree removal.

1. Following the concept plan review and the alternative analysis criteria listed above, significant trees may be destroyed without any required replacement within the width of required easements for public streets, utilities and stormwater ponding areas.
2. In areas outside of the exempted areas listed above, up to 35% of the total diameter at breast height inches of all significant trees may be removed without replacement or restitution.
3. Vacant lot development on lots platted prior to January 1996. On individual lots, up to 35% of the total diameter at breast height inches of all significant trees may be removed for the installation of utilities, driveways and the building pad without tree replacement or restitution.
4. Redevelopment of lots platted prior to January 1996, and developed lots. On previously platted and developed lots where the structures have been removed or destroyed to more than 50% of the current market value, up to 35% of the total diameter breast height inches of all significant trees may be removed for the installation of utilities, driveways and building pads without tree replacement or restitution.
5. ~~e.~~ Significant trees in excess of the limitations of this section may be removed, provided all trees removed in excess of the limitations shall be replaced in accordance with the tree replacement formula.

(c) Tree replacement formula. Replacement of removed or disturbed trees in excess of the percentage allowed in subsection (7) (b) of this section

requires a tree replacement plan and shall be according to the following guidelines:

1. For development which exceeds the percentage of allowable removal of significant trees, all trees shall be replaced at the ratio of one-half caliper inch per one (1) diameter at breast height inch removed.
2. For each heritage tree saved, the developer may receive credit toward the required replacement trees. This credit will be at a rate of two (2) caliper inches for each one (1) diameter at breast height inch saved. To receive this credit, the applicant must demonstrate that extraordinary measures have been taken to preserve the heritage trees that otherwise would not be saved.
3. The Zoning Administrator, in their sole discretion, may allow a portion of the requirement for replacement trees to be satisfied through an approved landscape plan that may include understory trees, shrubs, and landscape beds; however, in any case, 80% of the required replacement trees shall be satisfied through overstory trees. The overall landscape plan must be approved prior to construction of any lots within the development. This option is at the discretion of the Zoning Administrator.
4. Required replacement trees shall be planted on private property on the site being developed. If the applicant demonstrates to the satisfaction of the Zoning Administrator that it is not practical or reasonable to plant all or some of the required replacement trees on private property on the site, the applicant may meet the tree replacement requirements through one (1) or a combination of the following:
 - a. Trees may be planted on City owned or managed land on the site being developed as approved by the Zoning Administrator;
 - b. Trees may be planted on City owned or managed land off the site being developed as approved by the Zoning Administrator or his/her designee;
 - c. Trees may be planted on other private property within the City with permission of the property owner as approved by the Zoning Administrator. If a buffer area as defined by the natural resource corridor map is on the property, replacement trees shall be planted in the buffer area first; or

Commented [K0166]: Use "their" instead?

- d. Upon request of the applicant, applicant may make a cash payment to City to be used for planting of trees within the City or to subsidize trees sold to the City's residents; such payment shall be per caliper inch required as reflected in the current City fee schedule.
 - e. The above-listed options are listed in the order that the City will consider replacement.
- 5. Minimum sizes for replacement trees shall be:
 - a. Deciduous: two (2) caliper inches.
 - b. Coniferous: six (6) feet in height.
- 6. Replacement trees shall be from balled and burlapped, certified nursery stock as defined and controlled by Minn. Stats. ch. 18H. Replacement trees may also be from bare root stock, provided the trees are planted no later than May 15 and the planting is inspected by the City.
- 7. Replacement trees shall be covered by a minimum one-year guarantee.
- 8. Replacement trees shall be of a species similar to other trees found on the site where removal has taken place or shall be selected from the list of significant coniferous and deciduous trees found in this section. Selection of replacement tree types for use on public sites shall be at the sole discretion of the City.
- 9. Where heritage trees have been removed, replacement trees shall consist of the same species as the removed heritage tree or a tree that has the same potential value as the removed heritage tree. This value shall be certified by a certified forester or arborist. For the purposes of this subsection, the term "value" is defined as a species which has the same growth and life potential as the removed tree.
- 10. New subdivision trees, as required by the subdivision regulations, may be counted towards required replacement. New subdivision trees must meet the size requirements listed in the applicable subdivision requirement.
- 11. Replacement trees may be utilized to meet landscaping requirements if placement, species, and location are consistent with necessary landscaping provisions.

(d) Certification of compliance with approved tree preservation plan. Upon completion of the required tree replacement, the developer shall notify the City and request an inspection of the work. Following the inspection, the City shall notify the developer that all work has been satisfactorily completed, or what work is still required. The required warranty period outlined below shall begin on the date of the letter satisfactory completion issued by the City. The City may, at the discretion of the zZoning aAdministrator, hire a consultant to verify and advise the City on matters involving this division. All costs incurred by the City in hiring a consultant shall be reimbursed by the developer, if not included within a development contract.

(e) Warranty requirement.

1. Sites of new development. The developer shall provide a financial guarantee, in a form satisfactory to the City, prior to the approval or issuance of any permit for land alteration.
 - a. The amount of the guarantee shall be 125% of the estimated cost to furnish and plant replacement trees. The estimated cost shall be provided by the developer subject to approval by the City. The estimated cost shall be at least as much as the reasonable amount charged by nurseries for the furnishing and planting of replacement trees. The City reserves the right in its sole discretion to determine the estimated cost in the event the developer's estimated cost is not approved.
 - b. The security shall be maintained for at least 1 year from the inspection approval. Upon expiration of the year, the City may release that portion of the security being held for the replacement trees which are alive and healthy at the end of such year. Any portion of the security not entitled to be released at the end of the year shall be maintained and shall secure the developer's obligation to remove and replant replacement trees which are not alive or are unhealthy at the end of such year and to replant missing trees. Upon completion of the replanting of such trees, the entire security may be released.
2. Reimbursement of security by City. The City may retain from the security required in subsections (7) (e) (1) and (2) and (3) of this section as reimbursement an amount expended by the City to enforce the provisions of this section.

~~(8) Entry on private property and interference with inspection. The City's zoning administrator may enter upon private premises at any reasonable time for the purposes of enforcing the regulations set forth in this section. No person shall unreasonably hinder, prevent, delay or interfere with the City's zoning administrator while they are engaged in the enforcement of this section.~~

~~(9) Applicability. This section does not apply to dead and diseased trees.~~

~~(U) Building Design Requirements for Multi-Family Residential Buildings Containing 5 or more units~~

~~(1) Predominant exterior building materials must be of high quality, including brick, wood, stucco, natural or artificial stone, or concrete. When concrete or tilt-up concrete panels are used, detail using color, textures, and material treatments must be integrated to provide a higher degree of aesthetic treatment. Prefabricated steel panels are prohibited as predominant building materials but may be used for aesthetic treatment.~~

~~(2) Building mass and scale must be controlled through roof line variations, repeating patterns of color, materials, and textures, and windows.~~

~~(3) All facades of a building that are visible from adjoining properties or public streets shall contribute to the pleasing scale features of the building and encourage community integration by featuring characteristics similar to a front facade.~~

~~(4) Internal pedestrian walkways must be provided from perimeter sidewalks to building entrances.~~

~~(5) Multi-family buildings with 5 or more units located in the B-1 Central Business District must comply with the provisions of Section 726 of the Zoning Ordinance.~~

Formatted: ____ (1) Level

Commented [KO167]: Would it make sense to move these design requirements up to those for the commercial and industrial districts?

Commented [FN168R167]: Yes, moved

Commented [KO169]: Can you add this into the commercial design requirements too?

Commented [FN170R169]: yes

§ 6.003 SUBDIVISION DESIGN STANDARDS

(A) Conformance to Design Standards

All subdivisions must conform to the design standards set forth in this ~~chapter~~Ordinance, except in cases of changes permitted in a planned unit development, by the ~~City~~City Council approval of a ~~variance~~Variance, or by specific exceptions designated by this ~~chapter~~Ordinance.

(B) Monuments

When completed, all subdivisions must have block corner monuments replaced. Survey error may not be more than one (1) foot² in 7,500 feet².

- (1) The monuments shall be as approved by the Scott County or LeSueur County Surveyor's Office for use as judicial monuments and shall be set at each corner or angle on the outside boundary of the final plat or in accordance with a plan as

approved by the ~~city~~City. The boundary line of the property to be included with the plat to be fully dimensioned; all angles of the boundary excepting the closing angle to be indicated; all monuments and surveyor's irons to the indicated, each angle point of the boundary perimeter to be so monumented.

- (2) Pipes or steel rods shall be placed at each lot corner and at each intersection of street center lines. All United States, Minnesota, county or other official bench marks, monuments or triangular stations in or adjacent to the property shall be preserved in precise position and shall be recorded on the plat. All lot and block dimensions shall be shown on the plat and all necessary angles pertaining to the lots and blocks, as an aid to future surveys shall be shown on the plat.

(C) Street Improvements

- (1) Street locations. The street layout of every subdivision shall be in conformity with the comprehensive plan or circulation element thereof, and shall provide for the continuation of major streets which serve property contiguous to the subdivision. Street networks shall provide ready access for fire and other emergency vehicles, and the ~~City~~City Council may require additional access points if such are found to be beneficial or necessary to protect the public safety.

- (a) Where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the un-subdivided portion must be prepared and submitted by the subdivider.

- (b) Reserved strips controlling access to streets are prohibited.

- (2) Street access.

- (a) No land situated in the ~~city~~City which has been subdivided or laid out into separate tracts shall be sold for use for dwellings unless such tracts of land shall abut upon a public street or public highway. This limitation shall not apply to planned unit developments approved by the ~~City~~City Council pursuant to the Unified Development Code zoning ordinance.

- (b) Street access shall not be denied by creation of parcels of land of substandard depth which are held in private ownership.

- (3) Classification of streets. Classification of streets shall be determined with reference to the comprehensive plan and official street maps including arterial, collector and local streets.

- (a) Cul-de-sacs/dead end streets. Cul-de-sacs may only be used in areas where topography prohibits the use of through streets, to preserve natural features, when residential lots abut public parks but may require public access to the park or when residential lots' rear yards abut a major

roadway. Cul-de-sacs or dead end streets designed to have ~~one~~ one (1) end permanently closed or in the form of cul-de-sac, (turn-around) shall be provided at the closed end with a turn-around having a minimum right-of-way radius of not less than 60 feet, or with a Y or T permitting comparable ease of turning. Such streets shall not exceed 500 feet in length, and a right of way radius of not less than 60 feet. Where dead end streets are constructed and have the possibility of extending to adjacent property a temporary cul-de-sac shall be provided. Cul-de-sac design shall meet the approved design specification, ~~which is generally described as an elongated roundabout with an island. The island of the cul-de-sac can be either landscaped or paved. A landscaped cul-de-sac island will require a maintenance agreement be approved by the City. The required cul-de-sac detail plate is attached as an exhibit to this chapter.~~

Commented [KO171]: Probably don't need this part of the code...I think the preceding line is adequate.

- (b) Curved streets. The location of all curved streets must be so arranged as to fit the natural topography as closely as possible and to make possible desirable land subdivisions and safe vehicular traffic.
 - (c) Half streets. Half streets are prohibited.
 - (d) Local streets. Local streets must be designed so their use by through traffic will be discouraged.
 - (e) Private streets. Private streets are not permitted. Driveways, as defined by this ordinance, are not considered private streets.
- (4) Classification of alleys. Alleys within subdivisions must have a minimum width of 20 feet and must be improved to the same standards provided for streets generally. Dead end alleys and alleys with sharp changes in direction are prohibited.
- (5) Design Standards - Streets.
- (a) Curb radius. The minimum curb radii for thoroughfares, collector streets, local streets and alleys shall be as follows:
 - 1. Arterial streets - 25 feet.
 - 2. Collector and local streets – 15 feet.
 - 3. Alleys - 4 feet.

Collector and arterial streets as well as reconstruction projects, curbs and gutters shall be installed as per Minnesota Department of Transportation Construction Specifications as they may be amended from time to time.

- (b) Reserve curves. Minimum design standards for collector and arterial streets shall comply with Minnesota State Aid Standards.

- (c) Reserve strips. Reserve strips controlling access to streets shall be prohibited.
- (d) Street alignment. Connecting street center lines deflecting from each other at any point more than 10 degrees shall be connected by a curve with at a least 100 foot radius for collector and local streets, and at least a 300 foot radius for arterial streets. A tangent that is at least 100 feet long shall be introduced between curves on arterial streets.
- (e) Street grades.
 - 1. Whenever feasible, street grades shall not exceed the following, with due allowance for reasonable vertical curves:

Street Type	Percent Grade
Arterial	4- percent %
Collector	6- percent %
Local	7- percent %
Marginal Access	7- percent %

- 2. All streets shall be graded in accordance with the specifications of the ~~City~~City Engineer. Such grading shall be for the full right-of-way width of the dedicated street.
- (f) Street intersections. Street intersections shall be as nearly at right angles as is practicable. No street should intersect any other street at less than 80 degrees. Wherever possible, local and collector streets should be designed so as to not intersect with arterial roadways at intersections closer than 500 feet. In general, provisions shall be made at intervals not exceeding one-half mile for through streets (streets running through the subdivision in a fairly direct manner).
- (g) Street jogs. Street jogs with center line offsets of less than 125 feet are prohibited.
- (h) Surfacing. All streets shall be surfaced for the full roadway or curb to curb width as described in this ~~chapter~~Ordinance. Such surfacing shall consist of a gravel base over a suitable sub-grade and an approved bituminous or concrete surface in accordance with the specifications of the ~~City~~City Engineer. Any ditches required for suitable drainage shall be constructed in the unpaved portion of the street and shall be sodded. Unsuitable soil lying within ~~one- one~~ (1) foot of the subgrade shall be removed and replaced with suitable material. The drop from the centerline of the street to the outer edge of the street shall be a minimum of a ~~3%~~three-percent slope.

- (i) Tangents. A tangent at least 500 feet long must be introduced between reverse curves on collector streets and a tangent of at least 50 feet in length must be introduced between reverse curves and vertical curves on all other streets.

(6) Minimum street/access standards.

Street Class	R/W Width (ft)	Curb Width (ft)	Grade Max (%)	Sidewalk Width (ft)	Trail Width R/W Paved (ft)
Arterial	100/150	44-68	4	6	20/10
Collector	80/120	36-40	6	5	15/8
Local	60	28-32	7	5	15/8
Cul-de-sac	60' radius	45' radius	7	5	15/8
Alley	25	14-20	7	N/A	N/A

*The CityCity Council may require larger or smaller than minimum widths upon recommendation of the Planning Commission, CityCity Staff or the CityCity Engineer. A street which intersects or crosses a railroad shall have a right-of-way of sufficient width to permit construction of a grade-separated crossing.

**A sidewalk is required on both sides of all public streets, except as otherwise noted in Section 6.003 (I)068 of this chapterOrdinance.

- (7) Street Spacing Requirements. When designing streets and intersections within a subdivision, the following spacing requirements shall apply to intersection streets. The CityCity's Comprehensive Land Use Plan's Future Functional Classification Map defines the functional classification of all streets for the purposes of the minimum spacing table below:

Functional Classification of Existing or Proposed Street	Functional Classification of Existing or Proposed Street			
	Local	Collector	Minor Arterial	Principal Arterial
Local	No Restriction	660'	1,320'	Not Permitted
Collector	660'	660'	1,320'	Not Permitted
Minor Arterial	1,320'	1,320'	1,320'	Not Permitted
Principal Arterial	Not Permitted	Not Permitted	Not Permitted	1 mile (grade separated access only)

(D) Public Utilities

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Public utilities must be provided to all subdivisions. Private systems will not be allowed in any case. Where sewer and water systems are installed, the mains shall be of adequate size to accommodate future growth and utilization. Stubs shall be provided to each lot from the utility main to the lot line for future connection. Wherever practical, similar utilities must be placed in the same general location on streets of the same direction.

- (1) Sanitary sewers. Sanitary sewer lines must be extended to the edges of the subdivision to facilitate future subdivisions.
- (2) Water. Water distribution facilities including pipe fittings, hydrants, valves, etc., must be installed to serve all properties within the subdivision. Water mains must be a minimum of eight (8) inches in diameter in residential areas and 12 inches in diameter in commercial and industrial areas, unless approved by the CityCity Engineer. Where mains larger than eight (8) inches are required to serve future growth, the cityCity may elect to participate in the cost of such water mains. Looping of all water mains is required and must conform to the cityCity's comprehensive water plan.
- (3) Storm water. All subdivision designs shall incorporate adequate provisions for storm water runoff consistent with the New Prague Surface Water Management Plan, as amended, and be subject to review and approval of the CityCity Engineer.
- (4) Electric/telephone/cable/fiber optics. All new electric distribution lines (excluding main line feeders and high voltage transmission lines), telephone service lines, cable television lines, fiber optic lines and services constructed within the confines of and providing service to customers in a newly platted residential area must be buried underground. Such lines, conduits or cables must be placed within easements or dedicated public ways in a manner that will not conflict with other underground services. Transformer boxes must be located so as not to be hazardous to the public and must be out of sight triangles at intersections of roadways. The CityCity Council may waive the requirements of underground services as set forth in this section if, after study and recommendation by the Planning Commission, it is established that such underground utilities would not be compatible with the planned development or unusual topography, soil or other physical conditions that would make underground installation unreasonable or impractical.

(E) Erosion and Sediment Control

Grading and drainage requirements for each subdivision shall be subject to approval of the CityCity Engineer. Section 6.002 (U)734 of the Unified Development Code Zoning Ordinance-titled "Land and Water Preservation" (as may be amended) shall be used as the erosion and sediment control standards.

(F) Lot and Block Standards

- (1) Lot standards. Lots must be designed to meet the following minimum standards:
- (a) Area. The minimum lot area, width and depth must be sufficient to satisfy all Unified Development Code Zoning Ordinance requirements.
 - (b) Corner lots. Corner lots for residential uses must have additional width to permit appropriate building setbacks from both streets as required in the Unified Development Code Zoning Ordinance.
 - (c) Double frontage lots. Double frontage lots (or “through” lots) should be avoided, except where the subdivision abuts an arterial or collector roadway. A planting screen easement that is at least 10 feet in width in which there may be no right of access, shall be provided along the line of lots abutting such traffic artery or other disadvantageous use.
 - (d) Features. In the subdividing of land, due regard shall be shown for all natural features, such as tree growth, watercourses, bluffs, historic sites or similar conditions which, if preserved, will add attractiveness and stability to the proposed subdivision.
 - (e) Frontage/access. Every lot must have the minimum frontage on a ~~city~~City approved public or private street other than an alley, as required by the Unified Development Code Zoning Ordinance, except where permitted under a planned unit development.
 - (f) Lot boundaries. No lot shall be divided by a boundary line between registered land and abstract property.
 - (g) Lot corners at street intersections. Curbs at street intersections shall be in accordance with Section 6.003 (C) - § 067(5E)(1)a.
 - (h) Lot line angles. Side lot lines shall be straight lines running within 20 degrees of perpendicular to the road upon which the lots front. Side lot lines on curved roads should run at or near radially to the curve.
 - (i) Lot pads. The top of the foundation and the garage floor of all structures shall at minimum provide for a ~~2%two percent~~ slope towards the street surface. Exceptions to this standard may be approved by the ~~City~~City Engineer for special circumstances such as increased setback, site topography, flooding potential, septic system operation and the like, provided that proper site and area drainage is maintained and the elevation of the structure is in keeping with the character of the area.
 - (j) Lot remnants. All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, rather than being permitted to remain as unusable parcels., unless they are platted as outlots to be added to an adjacent future development site.

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- (k) Re-subdivision of lots. When a tract is subdivided into larger than normal building lots or parcels, such lots or parcels shall be so arranged as to permit the logical location and openings of future streets and appropriate re-subdivision, with provision for adequate utility connections for such re subdivision.
 - (l) Setback lines. On the preliminary plat, setback or building lines shall be shown on all lots intended for residential use and shall not be less than the setback required by the Unified Development CodeZoning Ordinance, as may be amended.
 - (m) Turn-around access. Where proposed residential lots abut an arterial or collector street, they should be platted in such a manner as to encourage turn-around access and egress on each lot.
 - (n) Watercourses. Lots abutting a watercourse, wetland, ponding area or stream shall have additional depth and width to meet all applicable buffers and setback requirements as required under the provisions of the Unified Development CodeZoning Ordinance.
- (2) Block standards. All blocks shall be designed to meet the following minimum standards:
- (a) Block access. Paved pedestrian ways or bicycle trails that are 10 feet in width may be required between streets paralleling a block if pedestrian access to schools or other areas of pedestrian destination is deemed desirable by the Planning Commission and CityCity Council.
 - (b) Arrangement. A block shall be so designated as to provide ~~two-two~~ (2) tiers of lots, unless it adjoins a railroad or limited access collector or arterial roadway or unless topographical conditions necessitate a single tier of lots.
 - (c) Block length. In general, intersecting streets in determining block lengths, shall be provided as such intervals so as to serve cross-traffic adequately and to meet existing streets. Where no existing plats control, blocks in residential subdivisions should not exceed 1200 feet in length nor be less than 400 feet in length, except where topography or other conditions may justify a departure from these requirements. In blocks longer than 800 feet, pedestrian ways or easements through the block may be required near the center of the block to provide for alternate means of pedestrian ingress and egress.
 - (d) Block shape. Blocks shall be shaped so that all blocks fit readily into the overall plan of the subdivision and their design must evidence consideration of lot planning, traffic flow and public open space areas.

- (e) Block use. Blocks intended for commercial, institutional and industrial use must be designated as such and the plan must show adequate off-street areas to provide for parking, loading docks and such other facilities that may be required to accommodate motor vehicles.

(G) Park and Public Land Dedication

- (1) Intent and purpose. This section is adopted for the purpose of providing for the recreation, health, safety and welfare of the public through the orderly development of recreation areas and the conservation of natural resources and scenic beauty in the ~~City~~City of New Prague. It will also provide for a variety of activities within the park system, including various cultural and social activities, active and passive recreation and ensure that all areas of the ~~city~~City have equal access to parks and open space areas by providing for equal distribution of parks and open spaces throughout all sections of the ~~city~~City relative to user population densities with the goal of parks and natural features being within a 10-minute walk for all New Prague residents.

The ~~city council~~CityCity Council finds that:

- (a) The preservation and development of parks, significant natural communities, features of significant historical interest, playgrounds, trails, and open space areas within the ~~city~~City are essential to maintaining a healthy and desirable environment for residents and persons employed within the ~~city~~City. The presence of parks, trails, and open space amenities also enhance the value and attractiveness of residential, commercial and industrial subdivisions to landowners, developers, purchasers, employers, and employees. The ~~city~~City must not only provide for its present citizens, but provide for the future.
- (b) New subdivisions place a burden upon the ~~city~~City's parks and open space system. New facilities must be developed concurrently with development in order to provide the desired level of service and the quality of the environment for all. Therefore, new subdivisions shall be required to contribute toward the ~~city~~City's park system in rough proportion to the relative burden that they will place upon the park system.
- (c) The ~~city council~~CityCity Council recognizes that the need for such parks, trails, and public open spaces is directly related to the density and intensity of population and development permitted and allowed in the ~~city~~City. Urban development results in increased population, increased intensity of use, and greater demands for such public areas and facilities.
- (d) The ~~city council~~CityCity Council recognizes that residential subdivisions create approximately 90-~~percent~~% of the park/public land dedication need

and commercial/industrial subdivisions create approximately 10-~~percent~~% of this need.

- (e) Subdivision of land for schools and religious institutions may create additional demand on the ~~city~~City's park and recreational land and facilities. The ~~city~~City may enter into agreements with these organizations that foster cooperative use of property for recreational activities.
- (2) Land or Cash Dedication Required for Parks, Trails and Open Space. Minnesota Statute Section 462.358, subdivision 2b provides that municipal subdivision regulations may require that a reasonable portion of the buildable land of a proposed subdivision be dedicated to the public or preserved for public use as parks, recreational facilities, playgrounds, trails, wetlands, or open space, and that the municipality may alternatively accept an equivalent amount in cash based upon the average fair market value of the unplatted land for which park fees have not already been paid.
- (a) The form of contribution (cash, land, or any combination thereof) shall be decided by ~~City~~City Council based upon need and conformance with the comprehensive plan and the park plan therein.
 - (b) The ~~city council~~CityCity Council shall establish the administrative procedures deemed necessary to implement the provisions of this section.
- (3) Park Board Recommendation. For each subdivision, the Park Board shall, prior to the time that the Planning Commission completes its public hearings on the preliminary plat, review the preliminary plat and recommend to the Planning Commission the total area and location of the land that should be dedicated within the subdivision for public use. These recommendations shall be based on the comprehensive plan. The Park Board shall forward these recommendations to the Planning Commission and ~~City~~City Council. In those instances where the Park Board concludes that a cash equivalency payment should be made by the subdivider in lieu of dedication of land, the Park Board shall recommend to the Planning Commission the percentage of the total park dedication requirement to be paid to the ~~city~~City in cash. In the event that review at a regular meeting of the Park Board would result in a delay in the review and approval process so that statutory time limitations may not be met, the requirement of review by the Park Board may be waived by the ~~City~~City Council at the time of its review of the application.
- (4) General Standards for determination.
- (a) The Park Board shall develop and recommend to ~~City~~City Council for adoption general standards and guidelines for determining which portion of a subdivision should reasonably be required for public dedication. Such

standards and guidelines may take into consideration the zoning classification to be assigned to the land to be subdivided, the particular use proposed for such land, amenities to be provided, and factors of density and site development as proposed by the subdivider.

- (b) The Park Board shall develop and recommend standards for design and construction of public parks, trails, and open space areas in the ~~city~~City.

(5) Dedicated land requirements.

- (a) Any land to be dedicated as a requirement of this section shall be reasonably useable for ~~one~~ one (1) or more of the above public purposes for which it is acquired. Factors used in evaluating the utility of the area proposed to be dedicated shall include size, shape, topography, drainage, geology, tree cover, rare species and other significant wildlife habitats, access, and location.
- (b) The required dedication or payment of fees in lieu of land dedication shall be made at the time of final plat approval.

(6) Dedication Required. Area of dedicated land.

- (a) For all vacant platted residentially zoned lots where the final plat was approved by the ~~city~~City prior to the effective date of this Ordinance, a park dedication fee equivalent to .25 ~~percent~~% of the value of the new dwelling unit improvement shall be required to be paid to the ~~City~~City at the time of issuance of the building permit for the home. For all subdivisions occurring after the effective date of this Ordinance, the following required dedication or payment of fees in lieu of land dedication shall be applicable. Subdividers shall be required to dedicate to the ~~city~~City for use as parks, recreational facilities, playgrounds, trails open space or areas of natural and environmental significance as the amount calculated as below or equivalent fair market value in cash in lieu as set out below:

1. Residential Subdivisions. In all new residential subdivisions, a minimum of 11.8% of the net area subdivided shall be dedicated for public park use. The net area shall be the gross area of the subdivided property minus the area of wetlands, lakes and streams below the ordinary high water mark. Land areas so conveyed or dedicated for park, playground, trail and open space purposes shall be in addition to property dedicated for streets, easements, drainage, ponding or other public ways. Cash in lieu shall be determined by the City's Official Fee Schedule. A residential subdivision's proportional share is the product of (1) Per Capita

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~~Residential Share (established in the City's Official Fee Schedule)~~
~~and (2) the number of residents anticipated in the subdivision at~~
~~full build out.~~

2. Commercial and Industrial Subdivisions. A commercial or industrial subdivision's proportional share is the product of (1) Per Capita Commercial/Industrial Share (established in the City's Official Fee Schedule) and (2) the number of employees expected in the subdivision at full build out.
 3. Mixed Use Subdivisions. A mixed use subdivision's proportional share is the sum of the proportional share for the residential portion plus the proportional share for the commercial or industrial portion.
- (b) Cash in lieu. In no event shall the cash in lieu of land payment exceed 11.8~~percent~~% of the total buildable undeveloped fair market land value in the subdivision.
- (c) Schools and religious institutions. The amount to be dedicated shall be determined by City Council based on discussion with the school district or religious institution. Determinations shall be based on anticipated use of city park facilities by the school or religious institution, and any agreements for cooperative use of recreational facilities. Subdivision of land for school purposes creates an additional demand on the City's park and recreational system to the extent that the school serves students who do not live within the city.
- (d) Determination of fair market value. To determine the fair market value of the unplatted land, the subdivider shall submit an appraisal at the time of preliminary plat application. The city will then obtain its own appraisal as a validation of the subdivider's appraisal. If city staff and the subdivider are unable to agree on fair market value, the city council shall make the determination of fair market value. The subdivider shall bear all appraisal costs for both parties. The appraisers must be designated as an SRA, SRPA or MAI, or equivalent designation.
- (e) Lands designated on parks, trails, and open space plan or comprehensive plan. Where a proposed park, playground, trail, or open space area indicated in the city's parks, trails, and open space plan or comprehensive plan is located in whole or in part within a proposed subdivision, all or part of the proposed site shall be designated as such and should be dedicated to the city based on the area of land dedication required by this chapter ordinance.

- (f) Deviation from required dedication. The dedication requirements based on the subdivision's proportional share of the ~~city~~City park system are presumptively appropriate.
 - (g) Wetlands, ponding areas and floodplain. Existing wetlands and drainage ways dedicated to the ~~city~~City shall not be considered as part of the required park land or cash contribution to the ~~city~~City.
 - (h) Existing Utility Easements. Land encumbered by a utility easement such as petroleum or electric power transmission lines shall not be considered as part of the required land dedication or cash contribution, except in instances where such easement is a standard platting requirement of the ~~city~~City or when the ~~city~~City determines that the land within the easement is useable for public purposes.
 - (i) In the event that the subdivision's proportional share cannot be determined due to the lack of an accompanying development proposal, the subdivider shall dedicate land to the public or cash equivalent equaling the lesser of:
 - 1. 11.8~~percent~~% of the unplatted buildable land value, less any applicable credits if residential, or,
 - 2. the maximum possible proportional share for the subdivision under the applicable zoning district's future land use plan designation by the comprehensive plan, less any applicable credits.
 - (j) Previously subdivided property from which park dedication has been received that is being re-subdivided with the same number of lots is exempt from park dedication requirements. If the number of lots is increased, the park dedication requirement shall only apply to the additional lots.
- (7) Land dedication/payment of fees.
- (a) When land is to be dedicated to satisfy the park dedication requirement, separate lots or outlots shall be indicated on the plat drawings for the area to be dedicated. Such lots or outlots shall be dedicated or deeded to the ~~city~~City prior to the issuance of any building permits within the subdivision. The subdivider shall be responsible for finishing the grading, installing the ground cover, and the construction of trails on all land to be dedicated to the ~~city~~City. No credit toward the required park dedication shall be given for this work, except that a credit for the cost of improvements to trails included in the ~~city~~City's trail plan may be given.
 - (b) In the event that a cash fee is to be paid in lieu of land dedication, the payment of such fee shall be required as follows:

Commented [KO174]: Is this typical language to not give credit for some of this work?

Commented [FN175R174]: From what I have seen, yes

1. The fee shall be paid prior to the cityCity's release of the signed final plat mylars for recording with the county. The amount of any required cash contribution shall be calculated based on the rates established by the cityCity and in effect as of the date of the release of the final plat for filing.
2. In plats that include outlots for future development, the subdivider may pay to the cityCity the subdivision's proportional share for the entire subdivision, including the outlots; or the subdivision's proportional share excluding such outlots, providing that the park dedication requirement will be satisfied when such outlots are replatted. At that time, the amount of any required cash contribution shall be calculated based on the rates established by the cityCity and in effect as of the date of the release of the final plat for filing.

(8) Park fund.

- (a) Cash payments received from subdividers in lieu of land dedications shall be deposited by the cityCity into a separate fund to be used only for the purposes for which the cash was obtained, including acquisition of land, the development of existing public sites or for debt retirement in connection with land previously acquired. The CityCity Council shall establish separate budgeting and accounting procedures to oversee said fund.
- (b) Annual financial report. Each year the Park Board shall present to the CityCity Council, in such detail as CityCity Council shall require, its estimate of the financial needs of the Park Board for the ensuing fiscal year.
- (c) Gifts and donations. The Park Board is authorized to receive gifts, devises, bequests, endowments, or other donations of money and property on behalf of the cityCity. All monies received shall be deposited in the park fund.

(9) Park Boundary Markers.

- (a) Where park land which abuts adjacent platted property, excluding right-of-way and other public lands, the subdivider shall install permanent boundary stakes at every other lot corner which clearly identifies the area as public park property.

(H) Easements

- (1) Drainage. Where a subdivision is traversed by a watercourse, there shall be provided a drainage way, channel, outlot, or drainage right-of-way conforming

substantially with the lines of such watercourse, together with such further width of construction of both, as will be adequate for storm water run off. All drainage easements shall be identified on the plat and shall be graded and sodded in accordance with Section ~~6.003 (N) 73~~ of this ~~chapter~~Ordinance. ~~20Twenty~~ foot wide easements for drainage purposes must be centered on rear and front lot lines. ~~10Ten~~ foot wide easements for drainage purposes must be centered on side lot lines, unless the side lot line abuts a public right-of-way, in which case it must be 20 feet in width.

Commented [KO176]: Change reference

- (2) Public trails/walkways. In addition to other required open space, easements to provide connections to public trails will be required where shown on the comprehensive plan. ~~20Twenty~~ foot wide pedestrian easements shall be required where deemed essential to provide circulation, or access to schools, playgrounds, shopping centers, transportation and other community facilities.
- (3) Utilities. ~~20Twenty~~ foot wide utility easements must be centered on rear and front lot lines. ~~10Ten~~ foot wide utility easements must be centered on side lot lines, unless the side lot line abuts a public right-of-way where the easement must be 20 feet wide. Utility easements shall have continuity of alignment from block to block, unless infrastructure deems larger easements necessary. At deflection points, utility easements for pole-line anchors shall be provided where necessary.

(I) Landscaping, ~~and~~ Walkways, ~~and~~ Trails

- (1) Planting, gateways, entrances. The type and spacing of trees to be planted on public property shall be determined by the ~~CityCity~~ Council. No planting of trees or vegetation, installation of gateways or entrances or similar improvements shall be made on public property except with permission and approval of the ~~CityCity~~ Council. This requirement includes boulevard trees, if permitted.
- (2) Treatment Along Arterial and Collector Streets. When a subdivision abuts or contains an existing or proposed arterial or collector street, the ~~CityCity~~ Council may require screen planting contained along the rear property line of residential lots for the adequate protection of residential properties from the effect of the adjacent roadways.
- (3) Sidewalks/pedestrian ways. ~~Concrete sidewalks of not less than five feet in width shall be provided on both sides of each street, except for cul-de-sacs less than 300 feet in length in a residentially zoned area where a sidewalk on one side will be sufficient. The City may also consider a sidewalk on only one side of a street where the residential density is less than three (3) dwelling units per net acre in a residentially zoned area. In areas where a sidewalk is only required on one side, consideration for the location of the sidewalk must be made to provide connection to or continuation of existing adjacent sidewalk or trail routes. Where a proposed subdivision abuts or includes an arterial street, sidewalks of not less than six feet~~

~~in width shall be provided on both sides of the street, unless a trail is included on one side of the street as designated by the comprehensive plan. In such case, the trail must be located on one side of the street and a sidewalk on the other.~~

(a) Required sidewalks/trails.

1. Sidewalks or trails shall be required for all new subdivisions where a means of pedestrian access from the subdivision to schools, parks, churches, business or industrial developments, adjacent neighborhoods, transportation facilities, or for unusually long blocks is necessary in order to meet the purpose and objectives of the comprehensive plan and of this section. Subsection (c) of this section contains the guidelines for the location, installation and maintenance of sidewalks and trails within the City. The ~~city council~~CityCity Council shall make the final determination of the type and location of sidewalks and trails to be installed.
2. Paved or concrete sidewalks or trails that may not strictly follow the street may be permitted by the ~~city council~~CityCity Council.
3. Sidewalks or trails in common areas or other locations away from streets which are typically found in planned unit developments or cluster developments generally should be integrated into the detailed area plan or layout permitting visual surveillance of the path from the street or nearby houses.

(b) Standards.

1. Sidewalks shall be constructed of concrete, five (5) feet wide. An eight (8) foot concrete sidewalk will be required in high density areas where safety is a concern, including, but not limited to, commercial and industrial areas, multifamily areas and school zones.
2. Sidewalks shall be located at least one (1) foot inside a public right-of-way, public easement, or common area. A border area or grass strip located between the street edge of the sidewalk and curb face shall be installed to provide a visual break between the paved surface of the street and sidewalk, a suitable location for snow storage, and to provide pedestrian safety by further moving the sidewalk from the road surface in accordance with ~~engineer~~ specifications.
3. A continuous sidewalk, without a grass strip, will be required where the City determines that turf maintenance will likely be a problem and pedestrian traffic is considerable.

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Commented [FN177]: Does New Prague have an engineer design manual?

Commented [KO178R177]: We have a set of design details that we use if that's what you mean.

4. Sidewalk street crossings shall be located at a point along the road that offers adequate sight distance as determined by the City.
5. Barrier curbs (vertical curbs) six (6) inches high shall be provided along collector streets or streets located in commercial or industrial areas adjacent to sidewalks to help prevent vehicles from leaving the roadway, control drainage, protect pavements edges and protect sidewalks, lawns, utilities signs and street trees from encroachment by vehicles, unless otherwise required by federal, state or county guidelines.
6. Curb cuts and ramps shall be installed in accordance with the engineer specifications.
7. When sidewalks cross streets, a treatment such as striping, landscaping medians, colored or stamped concrete or signs to identify the crosswalk as approved by the City shall be installed by the subdivider.
8. In subdivisions that contain hills or steep topography, the sidewalk pattern shall conform as closely as possible to the standards found herein and to connecting sidewalks and trails.
9. Where possible, new sidewalks shall be a logical extension of the existing sidewalks in adjacent subdivisions.
10. All sidewalks and trails must be compliant with the Americans with Disabilities Act.

Commented [FN179]: See above comment

(c) Guidelines for location, construction and maintenance of sidewalks/trails in new developments.

<u>Street Type</u>	<u>Sidewalk required on both sides</u>	<u>Installation Paid by Developer/City/1</u>	<u>Maintained by Owner/City</u>
<u>Local</u>	<u>Yes</u>	<u>Developer</u>	<u>Owner/City</u>
<u>Collector</u>	<u>Yes</u>	<u>Developer</u>	<u>Owner/City</u>
<u>Minor arterial</u>	<u>Yes</u>	<u>Developer/City/1</u>	<u>Owner/City</u>
<u>Principal arterial</u>	<u>Yes</u>	<u>Developer/City/1</u>	<u>Owner/City</u>

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- (d) Additional guidelines. If a public improvement is not listed in the City's capital improvement program (CIP), the subdivider will be responsible for cost and installation of sidewalk system. The City may require that sidewalks be installed on local streets or on one (1) side of a minor

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collector when a trail also serves the street or where topographical or traffic conditions warrant.

- (4) Sodding. ~~One~~ one (1) row of good quality weed-free sod must be installed along boulevards adjacent to the curb. If a sidewalk is located in the front of the lot, the subdivider is responsible for sodding the boulevard between the sidewalk and the curb before a certificate of occupancy will be issued. All drainage swales must be graded and the turf established with a good quality sod approved by the Public Works Director or his or her designated representative. (See Section 6.002 (W)736 of the Unified Development CodeZoning Ordinance)
- (5) Trees. Requirements for trees on individual lots shall meet the provisions listed in Section 6.002 (W) Section 736 of the Unified Development CodeZoning Ordinance. Pre-development trees with a diameter of eight (8) inches or more as measured ~~three~~three (3) feet above the base of the trunk shall not be removed unless such tree is within the right-of-way of a street as shown on the final plat. Removal of trees shall be subject to the approval of the CityCity Council.

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(J) Street Names

- (1) All street names shall be approved by the CityCity Council and shall conform to an established numbering and naming system based on the CityCity's existing street names and quadrants of the CityCity (i.e.: NW/SW/NE/SE).
- (2) Proposed street names shall be substantially different so as not to be confused in sound or spelling with present names except that streets that join or are in alignment with streets of an abutting or neighboring subdivision shall bear the same name.
- (3) No street shall change direction by more than 90 degrees without a change in the street name.
- (4) The subdivider shall install street name signs as required and approved by the Community DevelopmentPlanning Department.

Commented [KO180]: Community Development

(K) Required Improvements

(1) Developer's Agreement

The subdivider shall not be considered to have complied with all of the conditions and requirements of this ~~chapter~~Ordinance until the subdivider executes a developer's agreement, as approved by the CityCity Council, for the new subdivision which contains satisfactory assurance that the subdivider will provide the following improvements at the subdivider's expense.

(a) General Required Improvements.

1. Monuments at all lot corners, block corners, angle points, points of curves and streets and at intermediate points as required by the CityCity Engineer.
2. Streets graded and surfaced in accordance with standards of the cityCity, and subject to the inspection and approval of the CityCity Engineer.
3. Concrete curbs, gutters, drainage ways and facilities in accordance with standards of the cityCity, and subject to the inspection and approval of the CityCity Engineer.
4. Drain tiles placed for all lots in order to provide adequate sump pump connection access.
5. Street name signs at all street intersections within or abutting the subdivision of a type approved by the cityCity and placed in accordance with the standards of the cityCity. Note the cityCity may elect to order and place the street signs and charge said expense to the subdivider.
6. Installation of sanitary sewer and water mains including the extension of both to the extremities of the property being subdivided.
7. Connection of each lot to the cityCity's sanitary sewer system subject to the approval of the CityCity Engineer.
8. Water mains and service connections sufficient to serve all lots in the subdivision, stubbed to the property line.
9. Provisions shall be made for the proper drainage of all streets through the installation of adequately designated culverts, storm sewers and retention ponds and the installation thereof shall be considered part of the essential street construction requirements. The subdivider will be responsible for the first cleaning of any stormwater ponds. Stormwater ponds will not be accepted by the cityCity for maintenance until approved by the CityCity Engineer and Public Works Director.
10. Provisions shall be made for the installation of sidewalks or trails at locations designated by the cityCity.
11. Decorative street lighting with underground wiring in accordance with the cityCity specifications.

12. Plans for final grading and planting of appropriate ground cover on vacant lots may be required of the subdivider as a condition of cityCity acceptance of the public improvements identified in this section.
13. Franchised and public utilities including telephone, cable TV, fiber optics, electric, and gas service lines are to be placed underground. Conduits, pipes or cables shall be placed within easements or in rights of ways adjacent to streets in such manner as not to conflict with other underground services.
14. Every buildable lot shall be identified by a sign that indicates the lot and block number, and is approved by cityCity staff prior to issuing any building permits. These signs can be removed as lots are developed.
15. Mailbox placement and mailbox construction must conform to United States Postal Service standards. Mailboxes must be grouped into as few locations as possible.
16. The subdivider shall pay the cost of a "saw and seal" the first seal coating application of all public streets in the subdivision at a rate established in the cityCity's official fee schedule.
17. The subdivider shall pay all other costs associated and applicable to the subdivision as established in the cityCity's official fee schedule.

(L) Participation by the CityCity

The cityCity may elect to install any, all, or none of the required improvements subject to a cash escrow agreement or other financial arrangement with the subdivider. The terms of these arrangements shall be specified in the developer's agreement.

(M) Inspection

All required improvements must be inspected by the CityCity Engineer during construction at the expense of the subdivider. The contract shall contain a provision for supervision of details of construction by the CityCity Engineer and shall grant to the CityCity Engineer the authority to correlate the work to be done under such contract by any subcontractor authorized to proceed there under with any other work being done or contracted by the cityCity in the vicinity.

(N) As-Built Drawings

Upon completion of the project, as-built drawings of all improvements shall be filed with the Public Works Director and Community DevelopmentPlanning Department. Such as-

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built drawings shall show the date of construction and shall be drawn in such a manner and on such materials to meet the standards of the ~~city~~City, including in electronic format. As-built drawings must be completed and filed with the ~~Community Development Director~~Zoning Administrator and Public Works Director within 120 days of the completion of such improvements. If as-built drawings are not filed within the time period specified, the ~~City~~City Engineer may be authorized to conduct surveys and complete drawings, with all of the costs pursuant thereto to be paid by the subdivider, and the ~~City~~City Council may elect to withhold building permits for construction within the subdivision.

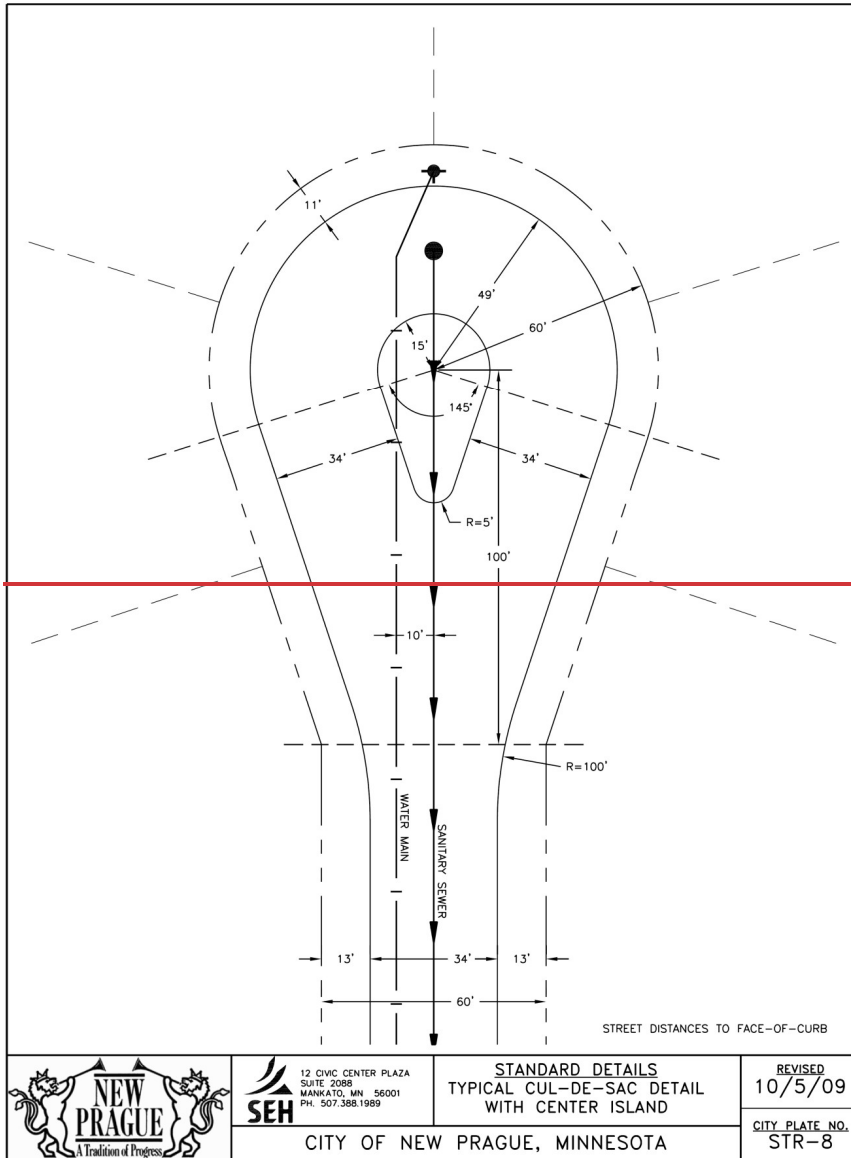


Exhibit A — Cul-de-sac Detail Plate

Commented [FN181]: Update with new graphic to show no island

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SECTION 7 EFFECTIVE DATE

This ordinance shall become effective upon passage by the ~~City~~City Council and its publication.

Passed and adopted this ~~7th~~ day of ~~September~~, ~~2010~~2025.

Published in the New Prague Times this ~~16th~~ day of ~~September~~, ~~2010~~2025.

~~Duane J. Jirik~~Charles L. Nickolay, Mayor

ATTEST:

Joshua M. Tetzlaff, ~~City~~City Administrator