

## **Chapter 113 - ZONING<sup>1</sup>**

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## ARTICLE I - IN GENERAL

### *Sec. 113-1 - Purpose and intent*

The purpose and intent of this chapter is to:

- (1) Protect and promote the health, safety, comfort, convenience and general welfare of the people who are citizens of, reside in, transact business in or own property in the city;
- (2) Divide the city into zones and districts to restrict and regulate therein the location, construction, reconstruction, alteration and improvements of land and structures thereon;
- (3) Promote the orderly development of the residential, business, industrial, recreational, and public uses;
- (4) Provide adequate light, air, and convenience of access to property;
- (5) Limit congestion in the public rights-of-way;
- (6) Prevent overcrowding of land and undue concentration of structures by regulating the use of land and buildings and the bulk of buildings in relation to the land and buildings surrounding them;
- (7) Provide for the compatibility of different land uses and the most appropriate use of land throughout the city;
- (8) Stage development and redevelopment to coincide with the availability of necessary public services;
- (9) Protect the character and maintain the stability of residential, business, and commercial and industrial areas within the city, and prohibit uses, buildings, or structures which are incompatible with the character of development in such areas;
- (10) Provide adequate privacy;

- (11) Provide protection against fire, explosions, obnoxious fumes, and other hazards in the interest of public health, safety and comfort;
- (12) Prevent environmental pollution;
- (13) Prevent the destruction or improvident exploitation of community resources;
- (14) Preserve the value of land and buildings throughout the city;
- (15) Provide for the gradual elimination of those uses of land, buildings, structures, and improvements, and of those buildings, structures and improvements, which do not conform to the standards for the areas in which they are located and which may adversely affect the development and the value of property in such areas;
- (16) Provide for the regulation and control of such nonconforming buildings, structures, or improvements and uses of land as is necessary or appropriate for the rehabilitation of the areas blighted thereby;
- (17) Provide for the enforcement of this chapter, to define and limit the powers and duties of the administrative officers and agencies responsible therefor, and to provide penalties for the violation of the provisions herein contained;
- (18) Provide for the wise use and conservation of energy resources; and
- (19) Assist in the implementation of the comprehensive city plan.

(Code 1993, § 9-1.01)

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

***Sec. 113-2 - Chapter cumulative***

- (a) *No consent or permit implied.* Nothing contained in this chapter shall be deemed to be a consent, license or permit to use any property or to locate, construct or maintain any building, structure, facility, improvement or to carry on any trade, industry, occupation or activity.
- (b) *Provisions cumulative.* Except as herein provided, the provisions of this chapter are cumulative, both with respect to the provisions herein contained and with respect to other laws and ordinances, not in effect or hereafter ordained or enacted, governing the same subject matters as this chapter. It is noted, however, that the land use districts are mutually exclusive in that uses permitted include only those listed and are not cumulative from district to district. Land uses not listed as permitted are prohibited.

(Code 1993, § 9-1.02(1))

***Sec. 113-3 - Definitions***

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

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

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

*Administrator* means the zoning administrator of the city.

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

- (1) *Adult entertainment center* means an enclosed building or a part of an enclosed building, no portion of which enclosed building is licensed to sell liquor, which contains one or more coin-operated mechanisms which when activated permit a customer to view a live person unclothed or in such attire, costume or clothing as to expose to view any portion of the female breast below the top of the areola, or any portion of the pubic hair, anus, cleft of the buttocks, vulva or genitals, or the charging of any admission or fee for the viewing of any such activity.
- (2) *Adults-only bookstore* means an establishment having as a substantial or significant portion of its stock in trade, books, magazines, films for sale or viewing on premises by use of motion picture devices or other coin-operated means, and other periodicals which are distinguished or characterized by their principal emphasis on matters depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined in this section, or an establishment with a segment or section devoted to the sale or display of such material, for sale to patrons therein.
- (3) *Adults-only motion picture theater* means an enclosed building used regularly and routinely for presenting programs, material distinguished or characterized by an emphasis on matter depicting, describing or relating to nudity, sexual conduct, sexual excitement or sadomasochistic abuse, as defined in this section, for observation by patrons therein.
- (4) *Massage parlor* means an establishment or place primarily in the business of providing massage services but not a therapeutic massage enterprise as defined in this section.
- (5) *Rap parlor* means an establishment or place primarily in the business of providing nonprofessional conversation or similar services for adults.
- (6) *Sauna* means an establishment or place primarily in the business of providing a steam bath and massage services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Attorney* means the city attorney of Falcon Heights.

*Auto or motor vehicle reduction yard* means a lot or yard where one or more unlicensed motor vehicles, or the remains thereof, are kept for the purpose of dismantling, wrecking,

crushing, repairing, rebuilding of parts, sale as scrap, storage, or abandonment. (See also Junkyard.)

*Automobile repair establishments* means establishments primarily engaged in general automotive repair, including the installation, repair, or sale and installation of automotive exhaust systems and automotive transmissions.

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

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

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

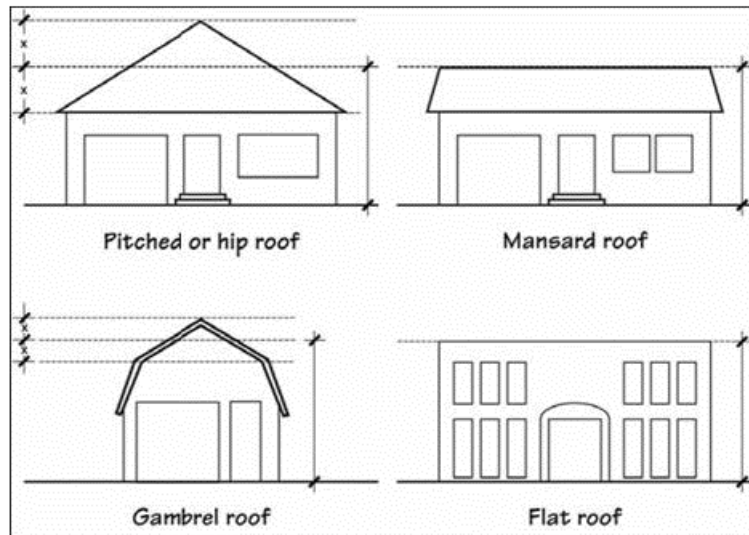
*Beauty shops* means establishments primarily engaged in furnishing beauty or hairdressing services. Beauty and cosmetology schools are included in this industry. Beauty shops include beauty and barber shops (combined), beauty culture schools, beauty shops or salons, cosmetology shops or salons, facial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

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

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

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

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



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

*Building official* means the officer or other designated authority, certified by the state, charged with the administration and enforcement of the Minnesota State Building Code, or his or her duly authorized representative.

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

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

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

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

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

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

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

*Club or lodge* means a nonprofit association of persons who are bona fide members paying annual dues, and the use of their premises being restricted to members and their guests. Serving

of alcoholic beverages to members and their guests may be allowed providing such serving is secondary and incidental to the operation of a dining room for the purpose of serving food and meals.

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

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

*Commercial food producing farm operations.* See Farm, rural.

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

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

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

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

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

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

*Condominium.* See Dwelling, multiple or apartment building.

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

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

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

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

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

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

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

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

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

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

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

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

*Drugstores/pharmacies* means establishments engaged in the retail sale of prescription drugs, proprietary drugs, and nonprescription medicines, and which may also carry a number of

related lines, such as cosmetics, toiletries, tobacco, and novelty merchandise. These stores are included on the basis of their usual trade designation rather than on the stricter interpretation of commodities handled. This industry includes drugstores which also operate a soda fountain or lunch counter.

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

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

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

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

*Dwelling, multiple or apartment building*, means a residential building, or portion of a building, containing two or more dwelling units which may or may not be served by a common entrance.

*Dwelling, seasonal*, means a residential building not capable of yearround occupancy due to nonwinterized construction or inadequate nonconforming yearround on-site sewer treatment systems.

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

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

*Dwelling unit* means a residential accommodation including complete kitchen and bathroom facilities, permanently installed, which is arranged, designed, used, or intended for use exclusively as living quarters for one family.

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

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

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

*Engineer* means the City Engineer of Falcon Heights.

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

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

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

*Exterior storage (includes open storage)* means the storage of goods, materials, equipment, manufactured products, and similar items not fully enclosed by a building.

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

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

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

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

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

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

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

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

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

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

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

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

*Flood* means a general and temporary condition of partial or complete inundation of normally dry land areas from overflow of inland or tidal waves, or the unusual and rapid accumulation or runoff of surface waters from any source.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Governing body* means the city council.

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

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

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

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

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

*Home occupation* means any gainful occupation or profession, engaged in by the occupant only, of a dwelling and carried on within a dwelling unit and not in any accessory building.

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

and lodging), motels, recreational hotels, resort hotels, seasonal hotels, ski lodges and resorts, tourist cabins, and tourist courts.

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

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

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

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

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

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

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

*Laundries, power*, means establishments primarily engaged in opening mechanical laundries with steam or other power. Included are family and commercial power laundries, and laundry collecting and distributing outlets operated by power laundries.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Lot, through and double frontage* mean:

- (1) Any lot other than a corner lot which abuts more than one street. On a through lot, all the street lines shall be considered the front lines for applying this chapter; or
- (2) A lake or stream frontage lot having a public road as one lot line and a water body at the opposite lot line.

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

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

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

reduction yards; foundry; forge; casting of metal products; rock, stone, cement products, poultry keeping, processing and slaughter.

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

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

*Manure* means any solid or liquid containing animal excreta.

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

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

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

*Miscellaneous retail establishments* means retail establishments which fall into the following categories: drugstores, liquor stores, used merchandise stores (including antiques), miscellaneous shopping goods stores (sporting goods and bicycles, books, stationary, jewelry, hobby and toys, camera and photographic supplies, gift and novelty, luggage and leather, and sewing), nonstore retailers (catalog and mail order houses, automatic merchandising machine operators, and direct selling establishments), florists, tobacco stores and stands, news dealers and newsstands, optical goods stores and other miscellaneous retail establishments.

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

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

*Mobile storage structures* means any assembly of materials which is so designed, constructed or reconstructed to make it portable and capable of movement from one site to

another, designed to be used without a permanent foundation, designed with the purpose of storing tangible property and not for occupancy by persons.

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

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

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

*Municipality* means the City of Falcon Heights.

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

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

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

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

*Nonconforming use or lot* means any legal use or lot already in existence, recorded or authorized before the adoption of official controls or amendments thereto that would not have been permitted to become established under the terms of the official controls as now written.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*Precious metals* means silver, gold, and platinum.

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

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

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

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

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

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

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

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

- (1) It is not used as the permanent residence of the owner or occupant;
- (2) It is used for temporary living quarters by the owner or occupant while engaged in recreation or vacation activities;
- (3) It is towed or self-propelled on public streets or highways incidental to such recreation or vacation activities;
- (4) Examples of such vehicles include van campers, tent camping trailers, self-contained travel trailers, pick-up campers, camping buses, and self-contained self-propelled truck chassis mounted vehicles providing living accommodations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (2) *Sign area.* The entire area within the continuous perimeter enclosing the extreme limits of such sign. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part of border of the sign. The maximum square footage of multifaced signs shall not exceed two times the allowed square footage of a single-faced sign.
- (3) *Sign, business.* A sign that directs attention to a business or profession or to the commodity, service, or entertainment sold or offered upon the premises where such sign is located or to which it is attached.
- (4) *Sign, courtesy bench.* A sign which is affixed to a courtesy bench or shelter.
- (5) *Sign, dynamic display.* Any characteristics of a sign that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure or any other component of the sign. This includes displays that incorporate technology or methods allowing the sign face to change the image without having to physically or mechanically replace the sign face or its components as well as any rotating, revolving, moving, flashing, blinking or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, digital ink or any other method or technology that allows the sign face to present a series of images or displays.
- (6) *Sign, flashing.* An illuminated sign which has a light source not constant in intensity or color at all times while such sign is in use.
- (7) *Sign, ground.* A sign which is supported by one or more uprights, poles, or braces in or upon the ground.
- (8) *Sign, identification.* A sign which identifies the inhabitant of the dwelling or occupant of a building.
- (9) *Sign, illuminated.* A sign which is lighted with an artificial light source.
- (10) *Sign, motion.* A sign that has moving parts or signs which produce moving effects through the use of illumination.
- (11) *Sign, nameplate.* A sign which states the name and/or address of the business, industry, or occupant of the site and is attached to said building or site.
- (12) *Sign, pedestal.* A ground sign usually erected on one central shaft or post which is solidly affixed to the ground.
- (13) *Sign, permanent.* Any sign on a lot or parcel of land more than 365 consecutive days.
- (14) *Sign, real estate.* A sign offering property (land and/or buildings) for sale, lease, or rent.
- (15) *Sign, roof.* A sign erected upon or above a roof or parapet of a building.
- (16) *Sign, shopping center or industrial park.* A business sign designating a group of shops or offices (more than three).
- (17) *Sign, structure.* The supports, uprights, braces, and framework of the sign.

- (18) *Sign, temporary or seasonal.* A sign placed on a lot or parcel of land for a period not to exceed 90 days out of any 12-month period.
- (19) *Sign, wall.* A sign attached to or erected against the wall of a building with the exposed face of the sign a plane parallel to the plane of said wall.
- (20) *Sign, warning.* A sign which warns the public of a danger, or hazard in the immediate vicinity and is obviously not intended for advertising purposes.

*Solar* means rays from the sun.

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

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

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

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

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

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

*Solar energy easement* See "renewable energy easement."

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

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

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

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

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

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

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

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

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

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

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

- (1) Any permanent place of worship, stadium, athletic field, arena, theatre, auditorium;
- (2) Any event conducted on the campus of the University of Minnesota or the grounds of the Minnesota State Fair;
- (3) Special events or activities sponsored by the city;
- (4) Family gatherings, including family reunions, graduation parties, baptisms, confirmations, weddings, wedding receptions, funerals and funeral processions;
- (5) Garage sales and residential boutique sales as regulated in section 113-174;
- (6) Block parties and neighborhood meetings;
- (7) Any event attended by fewer than 150 persons at one time which does not require any special services and does not involve the sale of alcohol;
- (8) Any event that is otherwise regulated by the city through the use of another regulatory manner, such as an interim use permit or conditional use permit; and
- (9) The use of traditional public forums as alternative channels of communication by the public, provided that such use is for the free exercise of constitutionally protected activities and does not disrupt or interfere with traffic on public streets or the use of public places by other members of the public.

*Special flood hazard area* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as zone A on the FHB (Flood Hazard Boundary Map). After detailed ratemaking has been completed in preparation for publication of the flood insurance rate map, zone A usually is refined into zones A, AO, AH, A1—30, AE, A99, AR, AR/A1—30, AR/AE, AR/AO, AR/AH, AR/A, VO,

or V1—30, VE, or V. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "area of special flood hazard."

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

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

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

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

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

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

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

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

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

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

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

*Substantial improvement* means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition "substantial

improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure regardless of the actual work performed. The term does not, however, include either (1) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a historic structure.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) *Yard, front setback*, means a yard extending across the front of the lot between the inner side yard lines and lying between the front line of the lot and the nearest building line.
- (2) *Yard, rear setback*, means a yard extending across the rear of the lot between the inner side yard lines and lying between the rear line of the lot and the nearest building line.
- (3) *Yard, required setback*, means a yard area which may not be built on or covered by structures because of the setbacks for said structures within the zoning district.
- (4) *Yard, side setback*, means a yard between the side line of the lot and the nearest building line.

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

(Code 1993, § 9-1.02(2), subd. 2; Ord. No. 0-91-2, 1-23-1991; Ord. No. 0-91-8, § 1, 5-22-1991; Ord. No. 0-93-06, § 2, 6-23-1993; Ord. No. 0-94-05, § 1, 3-23-1994; Ord. No. 0-95-01, § 1, 5-10-1995; Ord. No. 95-04, § 1, 5-24-1995; Ord. No. 0-97-01, § 2, 2-12-1997; Ord. No. 97-07, § 1, 9-24-1997; Ord. No. 0-99-09, § 1, 12-15-1999; Ord. No. 00-02, § 1, 7-26-2002; Ord. No. 03-02,

§ 1, 2-12-2003; Ord. No. 05-01, § 1, 1-12-2005; Ord. No. 06-03, § 1, 9-13-2006; Ord. No. 07-03, § 1, 1-10-2007; Ord. No. 08-03, § 1, 8-27-2008; Ord. No. 09-02, § 1, 8-12-2009; Ord. No. 10-06, § 1, 9-8-2010; Ord. No. 12-03, § 1, 5-9-2012; Ord. No. 13-01, § 1, 4-10-2013; Ord. No. 13-02, § 1, 5-22-2013; Ord. No. 13-05, § 1, 11-13-2013; Ord. No. 19-04, § 1, 5-8-2019)

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

#### ***Sec. 113-4 - Application and interpretation***

- (a) *Interpretation.* In the interpretation and application of the provisions of this chapter, the provisions thereof shall be held to be the minimum requirements for the promotion of the public health, safety, convenience and welfare of the citizens and residents of the city.
- (b) *Conformance.* No structure or improvement shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose nor in any manner that is not in conformity with the provisions of this chapter.
- (c) *District uses.* The uses as set out in the provisions for the various districts shall be the uses allowed under this chapter.

(Code 1993, § 9-2.01)

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

- (a) *Nonconformities .* Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this chapter, unless:
  - (1) The nonconformity or occupancy is discontinued for a period of more than one year; or
  - (2) Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.

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

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

derived may be completed and occupied in accordance with the requirements of any valid building permit issued therefor prior to such effective date.

- (d) *Change from one nonconforming use to another.* A nonconforming use may be changed only to a use permitted in the district in which it is located; except that if no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restrictive classification, and provided such change is approved by the city council. Once changed to a conforming use, no building or land shall be permitted to revert to a nonconforming use. A nonconforming use, all or partially conducted in a building or buildings, may be changed to another nonconforming use only upon determination by the city council, after a public hearing, that the proposed new use will be no more detrimental to its neighborhood and surroundings than is the use it is to replace and that there is no conforming use available for the building or buildings. In determining relative "detriment," the planning commission shall take into consideration, among other things, traffic-generated, nuisance characteristics, such as emission of noise, dust, and smoke; fire hazard; and hours and manner of operation.
- (e) *Additions and enlargements.*
  - (1) *Conforming use.* A nonconforming building or structure for a conforming use may be expanded provided that the expansion does not increase the nonconformity of the building or structure and is in compliance with other Code requirements.
  - (2) *Nonconforming use.* A nonconforming building or structure designed or intended for a nonconforming use may not be added to or enlarged structurally.
  - (3) *Land.* The nonconforming use of land, not involving a building or structure, or in connection with which any building or structure thereon is incidental or accessory to the principal use of the land, shall not be expanded, intensified or extended beyond the area it occupies.
- (f) *Relocation of building or structure.*
  - (1) *Requirements.* Whenever an existing building is to be moved from its present location to a location within the city, the person or business association proposing to move said structure should first comply with the following specific requirements:
    - a. File an application for a permit within 60 days of the moving date with the zoning administrator providing the following information:
      - 1. Location from which structure or building is being moved;
      - 2. Location within the city to which the building or structure is being moved;
      - 3. Construction plans for the building, if available;
      - 4. The site plan for the location in the city upon which the building or structure is going to be placed;
      - 5. Plans and specs which shall include the foundation; exterior repairs and improvements, including windows and doors; roofing, electrical and plumbing modifications; heating systems; and any necessary interior reconstruction decorating, all to be in accordance with applicable building codes and which shall indicate that the structure once moved shall be in reasonable conformance

with surrounding property including but not limited to sodding, grading and planting.

- b. Upon presentation of this application, deposit the fee as established by the city with the zoning administrator to defray costs incurred by the city in processing the application, inspecting the building and doing whatever else is necessary to determine whether the building conforms with or can be made to conform with existing codes. If any portion of the escrow payment required is not used, the amount remaining shall be returned to the petitioner following satisfactory completion of subsection (f)(1)d. of this section.
  - c. If the city requires an additional deposit to guarantee any street repairs that may be required following the process of moving the building, deposit such amount up to maximum established by the council with the zoning administrator. Any unused portion of such deposit will be returned to the petitioner following satisfactory completion of subsection (f)(1)d. of this section.
  - d. Furnish a surety bond to the city in the amount of 1½ times the estimated costs of remodeling, refurbishing or otherwise constructing or reconstructing such building in accordance with the plans and specifications and the city's building code and such bond shall be further conditioned that work will be completed within 90 days of issuance of the permit. The bond shall operate in favor of the city and shall hold the city harmless from any loss or damage by reason of improper or inadequate work performed by the holder of said license under the provisions of this chapter. In addition, the bond shall set forth that the site will be cleaned up and that all rubbish, material, extra fill, dirt, debris and leftover materials shall be removed within 15 days after the building is moved on to the site.
  - e. Deposit with the zoning administrator a copy of a certificate of insurance indicating that the petitioner has sufficient insurance to protect the municipality and public from any and all damage that may result either directly or indirectly from the moving of said building.
- (2) *Building inspection.* Upon receipt of the application, the zoning administrator shall inform the building inspector who shall inspect the building and be reimbursed for time and travel involved in making such inspection.
- (3) *Site alterations.* The city engineer shall determine whether or not drainage of the new site is feasible and available and in connection therewith may require any appurtenances or new installations all of which shall be at petitioner's expense.
- (4) *Review of application; approval requirements.* The city council shall review the application and grant the permit if all of the foregoing requirements have been met and so long as the council is satisfied that:
- a. The building is not too large to move without endangering persons or property in the city;
  - b. The building is not in such a state of deterioration or disrepair or is otherwise structurally so unsafe that it could not be moved without endangering persons and/or property in the city;

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

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

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

***Sec. 113-6 - Lot provisions***

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

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

***Secs. 113-7 – 113-30 - Reserved***

## **ARTICLE II - ADMINISTRATION AND ENFORCEMENT**

### **DIVISION I - GENERALLY**

***Sec. 113-31 - Enforcement; violations; penalties***

- (a) *Zoning administrator and city attorney.* The zoning administrator, with the assistance of the city attorney, shall have the authority to enforce, and be responsible for the enforcement of this chapter. Any complaint received shall be promptly investigated by the zoning administrator. If the matter cannot be adjusted by the zoning administrator to the satisfaction of the complainant, he or she shall promptly be reported to the city attorney, who shall then proceed to enforce the chapter according to its provisions following approval and receipt of instructions from the city council.
- (b) *Violations; cancellation of permits.* If any condition in any permit, including variances and conditional use permits, is violated, the zoning administrator shall serve notice on the owner of the permit that unless the violation is corrected in the time set by the zoning administrator, not to exceed ten days, the permit shall at the expiration of said period be terminated, provided, that if said owner shall within a period of 20 days from the service of said notice, correct the violation, the order shall be stayed until the appeal has been heard. Said notice shall be served either by personal service or by registered or certified mail, the period herein provided shall be extended by three days, not counting Saturdays, Sundays, or legal holidays. If an appeal is filed, it shall be processed as provided in this chapter. If there is no appeal, or if on appeal the zoning administrator is sustained, the permit shall terminate

and the zoning administrator shall refer the matter to the city attorney for such action as is required under this chapter.

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

(Code 1993, § 9-15.07)

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

***Sec. 113-32 - Zoning administrator***

- (a) *Establishment; appointment.* There is hereby established the office of zoning administrator, which shall be filled by the city administrator unless otherwise appointed by the city council.
- (b) *Duties.* The duties of the zoning administrator shall be to:
  - (1) Administer and enforce the provisions of this chapter either directly or through the building inspector;
  - (2) Issue building permits;
  - (3) Issue such other permits as are required by this chapter upon the determination thereof by the proper authority;
  - (4) Issue certificates of occupancy;
  - (5) Keep and maintain a permanent record of this chapter, to enter upon such record all amendments thereof, to provide for public inspection thereof at all times, and pursuant to the determination of the council to provide for the distribution or sale thereof;
  - (6) Keep secure the official land use map and the official zoning map and to make amendments thereof or additions thereto upon adoption thereof, to provide for public inspection thereof during official business hours of the city and pursuant to the determination of the council to provide for the distribution or sale thereof;
  - (7) Maintain all city plans (comprehensive municipal or guide plan and others) in an up-to-date condition;
  - (8) Assign conditional and other permit numbers to all land uses in the city which are automatically granted a permit upon enactment of the ordinance from which this chapter is derived; this may be done at such time as existing land uses change, alter, expand, construct, move or otherwise require an amendment due to change following enactment of the ordinance from which this chapter is derived;
  - (9) Prepare and submit to the planning commission, and the council, if appropriate, applications for building permits, variances, conditional use permits and appeals;
  - (10) Maintain records of all permits issued, appeals, variances, conditional use permits and the disposition thereof;

- (11) Receive, file and forward to the respective official bodies applications for variances, conditional uses and appeals;
  - (12) Publish and attend to the service of all notices required under the provisions of this chapter and to make or prepare and file affidavits of service thereof;
  - (13) Refer to the city attorney all violations of this chapter that cannot be handled administratively;
  - (14) Assure that all building permits comply with the terms of this chapter;
  - (15) Conduct inspections of buildings and land to determine compliance with the terms of this chapter.
- (c) *Discretion; interpretation.* The zoning administrator shall not have the discretion to vary the terms and provisions of this chapter. He or she shall have the power and the responsibility to interpret any provisions of this chapter that may be unclear. In the discharge of this duty the city attorney shall provide advice to him or her upon request. In the making of any such interpretation, the zoning administrator shall set forth a decision in writing, including reasons thereof.

(Code 1993, § 9-15.01)

***Sec. 113-33 - Conformity of building plan to regulations***

Upon application for a building permit, a detailed site and development plan, if applicable, shall be submitted to the zoning administrator indicating conformance with regulations of this chapter. Plan submission requirements shall be as noted herein and as may be requested by the zoning administrator.

(Code 1993, § 9-2.12)

***Sec. 113-34 - Payment of city expenses***

All applicants for the issuance of any permit or final plan approval shall pay in addition to the fees and charges for platting, subdividing, rezoning, and the permits for variances for land development or redevelopment within the city, all out-of-pocket expenses incurred by the city in employing the services of any engineer, legal counsel, or other professional consultants with regard to reviewing said plat, subdivision, application for rezoning and conditional use permit or variance.

(Code 1993, § 9-2.14)

***Sec. 113-35 - Amendments***

- (a) *Initiation of amendments.* An amendment to this chapter may be initiated by the city council, the planning commission, or by petition of a property owner whose property would be affected by the proposed amendment.

- (b) *Application for amendment.* All applications for amendments initiated by a property owner shall be filed with the zoning administrator on an official application form. The application shall be accompanied by a fee established by city council resolution and a cash escrow, in an amount determined by the zoning administrator, to reimburse the city for all out-of-pocket costs the city may incur in reviewing the application. When the amendment involves the changing of zoning district boundaries, the application shall be accompanied by an abstractor's certified property certificate listing the property owners within 350 feet of the boundaries of the property to which the amendment relates.
- (c) *Public hearing.* When a proposed amendment to this chapter has been properly initiated, the city clerk shall call a public hearing before the planning commission. A notice of the time, place, and purpose of the hearing shall be published in the city's official newspaper at least ten days prior to the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the date of the hearing to each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceeding, provided a bona fide attempt to comply has been made. The planning commission shall conduct the hearing and make a recommendation to the city council.
- (d) *Action by city council.* The city council shall not act upon a proposed amendment until it has received the recommendation of the planning commission or until 60 days after the first regular planning commission meeting at which the proposed amendment was considered.
- (e) *Consistency with comprehensive plan.* No amendment to this chapter shall be adopted which is in conflict with the city's comprehensive plan.
- (f) *Time deadline; approval requirements.* Pursuant to Minn. Stats. § 15.99, an application for an amendment must be approved or denied within 60 days from the date a properly completed application is received by the city unless the time period is waived by the applicant or extended as provided by statute. Approval of an amendment shall require a majority vote of all the members of the city council. Amendments which change all or part of the existing classification of a zoning district from residential to either commercial or industrial require a two-thirds majority vote of all members of city council.

(Code 1993, § 9-15.05; Ord. No. 97-06, § 1, 9-24-1997)

**State Law reference** – Amendments, Minn. Stats. § 462.357, subds. 2 – 4.

### ***Sec. 113-36 - Fees and costs***

The zoning administrator or other administrative office having jurisdiction therein shall charge each applicant, petitioner or other person requesting a permit, rezoning or other zoning approval or review such fees as may be prescribed therefor by ordinance or by resolution published in the same manner as an ordinance. Each applicant, petitioner or other person shall also pay all legal, engineering, planning, and similar out-of-pocket costs incurred by the city in connection with the respective matter. The zoning administrator with the approval of the council may require each applicant, petitioner or other person to deposit with the city in escrow a cash

amount based on an estimate by the zoning administrator of such fees and costs. Any surplus shall be refunded to and any additional costs paid by the applicant, petitioner or other person. The obligation to pay such fees and costs shall not be affected by the disposition of the matter.

(Code 1993, § 9-15.06)

***Secs. 113-37 – 113-60 - Reserved***

***DIVISION 2 - APPEALS AND VARIANCES***

***Sec. 113-61 - Board of adjustments and appeals***

The city council shall act as the board of adjustments and appeals.

(Code 1993, § 9-15.02)

**State Law reference** – Board of adjustments and appeals, Minn. Stats. § 462.354, subd. 2.

***Sec. 113-62 - Variances***

- (a) *Definitions.* The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Practical difficulties* means the same as that term defined in Minn. Stats. § 462.357, as may be amended, meaning that the property owner proposes to use the property in a reasonable manner not permitted by this chapter, the plight of the landowner is due to circumstances unique to the property not created by the landowner, and a variance, if granted, shall not alter the character of the locality. Economic considerations alone shall not constitute practical difficulties. Practical difficulties include but are not limited to inadequate access to direct sunlight for solar energy systems.

*Variance* means a modification of or variation from the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter.

- (b) *Purpose.* The purpose of this division is to provide the procedure and criteria for variances.
- (c) *Application.*
- (1) Any owner of property or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a variance, or the duly authorized agent of such appellant, may make application for a variance. The application shall be made on forms prepared by the zoning administrator.
  - (2) The application shall contain the legal description of the property, the zoning district in which it is located, a brief statement of the reasons the variance is requested, a statement of the ownership interest therein of the applicant and the names and addresses of the owners of all abutting property as listed on the current real estate tax rolls. The application shall be verified.

- (d) *Use variances prohibited.* Variances may not be approved for a use that is not allowed in the zoning district where the property is located.
- (e) *Review criteria.* The city council shall not approve any variance request unless they find that failure to grant the variance will result in practical difficulties on the applicant, and, as may be applicable, all of the following criteria have been met:
  - (1) The variance would be in harmony with the general purposes and intent of this chapter.
  - (2) The variance would be consistent with the comprehensive plan.
  - (3) That, there are practical difficulties in complying with this chapter.
  - (4) That the granting of the variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or endanger the public safety.
  - (5) That the requested variance is the minimum action required to eliminate the practical difficulties.
  - (6) Variances shall be granted for earth sheltered construction as defined in Minn. Stats. § 216C.06, subd. 14, when in harmony with this chapter. Variances may be approved for the temporary use of a one-family dwelling as a two-family dwelling.
- (f) *Conditions.* The city may attach conditions to the grant of the variance. A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.
- (g) *Procedure.*
  - (1) All applications for variances shall be referred to the planning commission for study and recommendation to the city council.
  - (2) Within 60 days, the planning commission shall forward its recommendations to the city council; if no recommendation is transmitted within 60 days after referral of the application for variance to the planning commission, the city council may take action without further awaiting such recommendation.
  - (3) Variances are granted or denied by motion of the city council.
- (h) *Termination.* The violation of any condition of the variance shall be the basis for the city council, following a hearing, to terminate the variance. If the property is not used or improvements substantially begun within a period of one year after the decision granting the variance, unless the variance decision provides otherwise, the variance shall be terminated. Unless the city council specifically approves a different time when action is officially taken on the request, approvals which have been issued under the provisions of this section shall expire without further action by the planning commission or the city council, unless the applicant commences the authorized use or improvement within one year of the date the variance is issued; or, unless before the expiration of the one-year period, the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by city council. The request for extension shall state facts showing a good faith attempt to complete or utilize the approval permitted in the variance. A request for an extension not exceeding one year shall be subject to the review

and approval of the zoning administrator. Should a second extension of time, or any extension of time longer than one year, be requested by the applicant, it shall be presented to the planning commission for a recommendation and to the city council for a decision.

(Code 1993, § 9-15.03; Ord. No. 11-01, § 1, 7-13-2011)

**State Law reference** – Variances, Minn. Stats. § 462.357, subd. 6(2).

***Secs. 113-63 – 113-82 - Reserved***

**DIVISION 3 - CONDITIONAL USE PERMITS<sup>2</sup>**

***Sec. 113-83 - Purpose and public policy***

Conditional uses are those uses authorized by this chapter which require special planning consideration due to traffic circulation and access needs or impacts, operational characteristics, proximity to other similar uses, impact on neighboring property, etc., and which therefore need special conditions imposed to establish or control these factors in order to protect the public health, safety and welfare and to assure compliance and harmony with the comprehensive plan of the city. In the enactment of the ordinance from which this chapter is derived, the city recognizes that there are certain uses that, because of their characteristics, limited number, or unique character, cannot be classified into any particular district or districts without providing for such districts extensive regulatory provisions herein. It is also recognized that there may be uses that are not provided for in this chapter. Certain uses, while generally not suitable in a particular zoning district, may, under some circumstances and conditions be suitable. A conditional use permit shall apply to the use and land and not to a particular person or firm; any change in land ownership, lease, rental, occupancy or similar change shall not affect the permit or its conditions except as may be specifically authorized and required by the city. Conditional use permits may be issued for any of the following:

- (1) Any of the uses or purposes for which such permits are required or permitted by the provisions of this chapter.
- (2) Public utility or public service uses or public buildings in any district when found to be necessary for the public health, safety, convenience or welfare.
- (3) To permit the location of any of the following uses in a district from which they are excluded by the provisions of this chapter: library, community center, church, hospital, any institution of an educational, philanthropic or charitable nature, cemetery or mausoleum.

(Code 1993, § 9-15.04(1))

***Sec. 113-84 - Application; information required***

- (a) *Generally; fee.* Any owner of property, or a person holding a contract to purchase property, or an optionee holding an option conditioned solely on the grant of a conditional use permit; or the duly authorized agent of such applicant, may make application for a conditional use permit; however, any proceedings to classify certain uses as conforming uses may be

initiated either by such application or by the city council or by the city planning commission. The application shall be made on forms prepared by the zoning administrator, and filed with him or her. The application shall contain the section number of the chapter which permits the issuance of the permit, a brief statement describing the use and why the applicant feels that it can be permitted, a statement of the ownership interest in the property of the applicant, as well as the additional information required below. An application for a conditional use permit shall be accompanied by payment of a fee as set from time to time by the city council in addition to the regular building permit fee, if any.

- (b) *Site plan and graphic or written material; location map, etc.* A site plan and supplementary graphic or written material shall be provided with the application, containing the following information and/or such additional or lesser information as may be required by the zoning administrator:
- (1) Name, address, and legal description of project/development.
  - (2) Location map, showing zoning district boundaries including area within one-half mile of the site.
  - (3) Name and mailing address of developer/owner and engineer/architect.
  - (4) Date of plan preparation.
  - (5) Scale and a north point indicator.
  - (6) Boundary line of property with their dimensions.
  - (7) Location identification and dimensions of existing and proposed:
    - a. Topographic contours of minimum intervals of two feet.
    - b. Adjacent streets and on-street right-of-way.
    - c. On-site streets and street right-of-way.
    - d. All utility and utility right-of-way easements.
    - e. Lighting plan, showing the lighting of parking areas, walks, security lights and driveway entrance lights.
    - f. Buildings and structures including:
      1. Elevation drawings of all proposed building and structures with dimensions.
      2. Elevation, height above mean sea level of all floors and roofs, when structure is sited in an area prone to flooding as determined by the city engineer.
      3. Gross square footage of existing and proposed buildings and structures.
      4. Exterior finish materials.
      5. Type of business, proposed number of employees, and times of operations.
    - g. All parking facilities.
    - h. Water bodies and drainage ditches.
    - i. Fences and retaining walls.

- j. Landscape plan, showing size and species of each planting.
  - k. On- and off-site traffic flow.
  - l. Parking plan.
- (8) Site statistics including square footage, percentage of coverage, dwelling unit density, and percentage of park or open space.
  - (9) Names and addresses of the owners of all property abutting the subject property, as contained in the current real estate tax rolls, including property located across the street, avenue or alley from the subject property.

(Code 1993, § 9-15.04(2))

***Sec. 113-85 - Hearing; development standards***

- (a) *Public hearing.* The planning commission shall hold a public hearing preceded by ten days' published and mailed notice. Mailed notice should be given to property owners within 350 feet of the property for which the conditional use permit is sought.
- (b) *Review of applicant's plan.* The planning commission and/or council shall consider to what extent the applicant's plan minimizes possible adverse effects of the proposed conditional use, what modifications to the plan and what conditions on approval could further minimize the adverse effects of the proposed use.
- (c) *General requirements.* The following development standards shall be considered general requirements for all conditional use permits except as hereinafter provided:
  - (1) The land area and setback requirements of the property containing such a use or activity meet the minimums established for the district.
  - (2) When abutting a residential use, the property shall be screened and landscaped.
  - (3) Where applicable, all city, county, state and federal laws, regulations and ordinances shall be complied with and all necessary permits secured.
  - (4) Signs shall not adversely impact adjoining or surrounding residential uses.
  - (5) Adequate off-road parking and loading shall be provided. Such parking and loading shall be screened and landscaped from abutting residential uses.
  - (6) The road serving the use or activity must be of sufficient design to accommodate the proposed use or activity, and such use or activity shall not generate such additional extra traffic as to create a nuisance or hazard to existing traffic or to surrounding land use.
  - (7) All access roads, driveways, parking areas, and outside storage, service, or sales areas shall be surfaced or grassed to control dust and drainage.
  - (8) All open and outdoor storage, sales and service areas shall be screened from view from public streets and from abutting residential uses or districts.
  - (9) All lighting shall be designed to prevent any direct source of light being visible from adjacent residential areas or from the public streets.

- (10) The use or activity shall be properly drained to control surface water runoff.
- (11) The architectural appearance and functional plan of the building and site shall not be so dissimilar to the existing buildings or area as to cause impairment in property values or constitute a blighting influence.
- (12) The proposed water, sewer and other utilities shall be capable of accommodating the proposed use.
- (13) That the proposed use conforms to the comprehensive municipal plan. Such a finding shall be based upon the following considerations:
  - a. That certain uses may not be considered appropriate within the interior of residential neighborhoods because of noise, traffic, or other conditions that would tend to affect adversely the residential character of the neighborhood and possibly reduce property values. These uses are considered appropriate only on the periphery of residential neighborhoods, or under such conditions as the planning commission may deem proper. The uses may represent "buffer" uses for those areas lying between single-family dwellings and nonresidential uses.
  - b. That certain uses are considered, as a rule, unsuitable in business districts because of inherent business characteristics (e.g. traffic, noise, glare), proximity to residential areas, the fact that they tend not to serve nearby residential areas, or may adversely affect nearby permitted business uses.
  - c. That certain temporary uses that are generally not suitable within a particular zoning district are potentially suitable on a temporary basis. This may be due to the lack of development on existing property, to a short-term need (such as highway construction), or to a limited degree of adverse effects upon adjacent land use.
- (d) *Exceptions.* These standards shall be strictly applied unless it is found in the particular case that the community safety, health and welfare can as well or better be served by modifying them. Any special requirements applicable to the particular case that are imposed elsewhere in this chapter shall be met in each case.
- (e) *Recommendations.* When applications are reviewed by the planning commission but acted upon by the city council, the planning commission shall recommend to the city council whatever action it deems advisable, including all recommended conditions on the granting of the conditional use permit.

(Code 1993, § 9-15.04(3))

### ***Sec. 113-86 - Action***

In acting upon applications for conditional use permits, consideration shall be given to the effect of the proposed use upon the health, safety, morals, comfort, convenience and welfare of the occupants of the surrounding lands, existing and anticipated traffic conditions, including parking facilities on adjacent sites. When applications are reviewed by the planning commission but acted upon by the city council, the city council may hold whatever public hearings it deems advisable or may return the application to the planning commission for further consideration.

- (1) *Approval.* If it is determined that the general and special requirements of this chapter will be satisfied by the applicant's plan, the city may grant such permit and may impose conditions relating to the general and special requirements in each case, including durational conditions. Approval shall be by resolution.
- (2) *Denial.* Conditional use permits may be denied by resolution. Such resolution shall state the reasons for denial, but may incorporate by reference the minutes and recommendations of the planning commission, staff reports, hearing testimony and any other material relevant to the decision.

(Code 1993, § 9-15.04(4))

***Sec. 113-87 - Violations; termination***

If compliance with all of the conditions of the conditional use permit has not taken place within the time prescribed by the city, the permit is deemed terminated, unless the council, in its sole discretion, extends the time for compliance for an additional permit not to exceed one year. Any violation of a continuing condition shall be grounds for revocation of the conditional use permit, after notice of violation served upon the permit holder in the manner of a civil summons at least ten days prior to hearing, and upon the council finding at the revocation hearing that the condition violated remains necessary to carry out the purposes of this section and that the permit holder is unable or unwilling to satisfy the condition. Such finding shall be made by majority vote, upon the preponderance of the evidence presented by the zoning administrator and anyone appearing on behalf of the permit holder.

(Code 1993, § 9-15.04(5))

***Sec. 113-88 - Performance bond***

The city may require a performance bond or other security, to guarantee performance of the conditions in any case where such performance is not otherwise guaranteed. Such security shall be provided prior to the issuance of building permits or initiation of work on the proposed improvements or development and shall be in an amount 1.25 times the approved estimated costs of labor and materials for the proposed improvements or development.

(Code 1993, § 9-15.04(6))

***Secs. 113-89 – 113-119 - Reserved***

***DIVISION 4 - INTERIM USE PERMITS***

***Sec. 113-120 - Purpose and intent***

The purpose and intent of allowing interim uses is to allow a use:

- (1) For a temporary period of time until a permanent location is obtained or while the permanent location is under construction.

- (2) That is presently judged acceptable by the city council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
- (3) Which is reflective of anticipated long-range change to an area and which is in compliance with the comprehensive plan provided that said use maintains harmony and compatibility with surrounding uses and is in keeping with the architectural character and design standards of existing uses and development.

(Code 1993, § 9-15.08(1); Ord. No. 03-02, § 2, 2-12-2003)

***Sec. 113-121 - Procedure***

Interim uses shall be processed according to the standards and procedures for a conditional use permit as established by article II, division 3 of this chapter.

(Code 1993, § 9-15.08(2); Ord. No. 03-02, § 2, 2-12-2003)

***Sec. 113-122 - General standards; termination***

- (a) An interim use shall comply with the following:
  - (1) Meet the standards of a conditional use permit set forth in section 113-85 of this chapter, except that screening and landscaping shall not be required unless specifically enumerated as a condition in the permit.
  - (2) Conform to the applicable general performance standards of article VI, division 3 of this chapter, except that screening and landscaping shall not be required unless specifically enumerated as a condition in the permit.
  - (3) The use is allowed as an interim use in the respective zoning district.
  - (4) The date or event that will terminate the use can be identified with certainty.
  - (5) The use will not impose additional unreasonable costs on the public.
  - (6) The user agrees to any conditions that the city council deems appropriate for permission of the use.
- (b) An interim use shall terminate on the happening of any of the following events, whichever occurs first:
  - (1) The date or event stated in the permit.
  - (2) Upon violation of conditions under which the permit was issued.
  - (3) Upon change in the city's zoning regulations that render the use nonconforming.

(Code 1993, § 9-15.08(3); Ord. No. 03-02, § 2, 2-12-2003)

***Secs. 113-123 – 113-142 - Reserved***

## ARTICLE III - ZONING DISTRICTS ESTABLISHED; ZONING MAP

### *Sec. 113-143 - Districts*

The city is hereby divided into the following use districts and groups of use districts:

- (1) Residential districts:
  - a. R-1 one-family residential district.
  - b. R-2 one- and two-family residential district.
  - c. R-3 medium density multiple-family residential district-apartment buildings.
  - d. R-4 high density multiple-family residential district-apartment buildings.
  - e. R-5M mixed use high density residential district.
- (2) Business districts:
  - a. B-1 limited business district.
  - b. B-2 limited business district.
  - c. B-3 Snelling and Larpenteur community business district.
- (3) Special purpose districts:
  - a. Planned unit development.
  - b. Public land (P-1).

(Code 1993, § 9-3.01; Ord. No. 10-06, § 2, 9-8-2010)

**Editor's note** – Ord. No. 10-06, § 2, adopted Sept. 8, 2010, set out provisions intended for use as § 113-144(1). For purposes of classification, and at the editor's discretion, these provisions have been included as § 113-143(1).

**State Law reference** – Zoning districts authorized, Minn. Stats. § 462.357, subd. 1.

### *Sec. 113-144 - Zoning district map*

- (a) *Adoption of zoning map.* The boundaries of the above districts are hereby established as shown on that certain original map entitled Zoning Map, City of Falcon Heights, Minnesota, which map is properly approved and filed, hereinafter referred to as the "zoning map." Said map and all of the notations, references and other information shown thereon shall have the same force and effect as if fully set down herein and are hereby incorporated by reference and made a part of this chapter.
- (b) *District boundary lines.* The district boundary lines on said map are intended to follow street right-of-way lines, street centerlines or lot lines unless such boundary line is otherwise indicated on the map. In the case of unsubdivided property or in any case where street or lot lines are not used as boundaries, the district boundary lines shall be determined by use of dimensions or the scale appearing on the map. Whenever any street or public way is vacated,

any zoning district line following the centerline of said vacated street or way shall not be affected by such vacation.

- (c) *Conditional use permits.* When any conditional use permit is issued which affects any zoning district in a substantial way, said permit shall be coded and noted on the zoning district map by the zoning administrator so as to clearly indicate the use so permitted which may not otherwise be clearly evident from the map or text of this chapter.

(Code 1993, § 9-3.02)

### ***Sec. 113-145 - Annexed territory***

Areas being annexed shall be appropriately zoned in accordance with the comprehensive municipal plan at the time of annexation. Pending official zoning action by the city council, all annexed land shall be considered as zoned R-1.

(Code 1993, § 9-2.09)

### ***Secs. 113-146 – 113-173 - Reserved***

## **ARTICLE IV - DISTRICT REGULATIONS**

### ***Sec. 113-174 - One-family R-1 residential district***

- (a) *Scope.* The provisions of this section apply to the R-1 one-family residential district.
- (b) *Permitted Uses.* Within any R-1 one-family residential district, no structure or land shall be used except for one or more of the following uses: one-family detached dwellings.
- (c) *Conditional uses.* Within any R-1 one-family residential district, no structure or land shall be used for the following uses except by conditional use permit:
  - (1) Public parks and playgrounds.
  - (2) Schools, provided no buildings shall be located within 50 feet of any lot line of an abutting lot in an R use district. Any fence erected around a play area shall be not less than 15 feet from a street line when said fence would be across the street from an R use district.
  - (3) Municipal buildings and structures, excluding storage of maintenance equipment and trucks over 1½ tons, stockpiling of aggregate and open storage of material, but including firefighting apparatus, provided these shall not be located within 30 feet of any lot line of an abutting lot in an R use district.
  - (4) Essential service structures, provided no building shall be located within 50 feet from any lot line of an abutting lot in an R use district. The architectural design of service structures should be compatible to the neighborhood in which they are to be located.
  - (5) Golf courses, country clubs, tennis clubs, public swimming pools serving more than one family.

- (6) Off-street parking: when the proposed site of the off-street parking abuts on a lot which is in a B district and subject to those conditions set forth in article VI, division 2, subdivision II, and such other conditions as found necessary by the council to carry out the intent of this chapter. However, such off-street parking shall be permitted as a conditional use in any R-1 one-family use district for church parking purposes.
- (7) Room and/or board for up to four persons.
- (8) Home occupations not meeting the definitions and requirements of section 113-391.
- (d) *Permitted accessory uses.* No accessory structures or use of land shall be permitted except for one or more of the following uses:
  - (1) Home occupations meeting the definitions and requirements of section 113-391.
  - (2) Private tennis courts, provided no portion of the paved or fenced area is within a required front yard or less than ten feet from a property line.
  - (3) One private garage or carport and parking space as regulated in section 113-240.
  - (4) Private automobile repair or reconditioning as regulated in section 113-250.
  - (5) Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.
  - (6) Keeping of domestic pets as required in the Code.
  - (7) Signs as provided in subsection (g) of this section.
  - (8) Decorative landscape features and fences as regulated herein.
  - (9) Accessory buildings other than detached private garages as regulated herein. The design and placement of the accessory buildings must be approved by the planner as being in harmony with the surrounding residential neighborhood.
  - (10) Buildings temporarily located for purposes of constructing on the premises for a period not to exceed the time necessary for such construction (approved by zoning administrator).
  - (11) One composting area, or one compost structure as defined in section 113-240(l), of plant material including leaves, grass clippings, plant trimmings, fruits, vegetables and peels, but excluding animal derived materials such as bones, meat scraps and dairy products, not to cover more than 25 square feet in area and five feet in height in the rear yard. A larger composting area requires a permitted accessory use permit. A compost area must be set back at least five feet from any property line. The compost shall be maintained according to accepted composting practices for the residential yard.
  - (12) Garage and residential boutique sales limited to four sales each calendar year per residential unit, not to exceed ten consecutive days or two consecutive weekends each.
  - (13) Keeping of chickens as regulated by the Code.
  - (14) Beekeeping as regulated by the Code.
- (e) *Lot area, height, lot width and yard requirements.*

- (1) No structure or building shall exceed two stories or 25 feet in height, whichever is lesser in height, except as provided in section 113-243.
- (2) A side yard abutting a street shall be at least 20 percent of the width of the lot.
- (3) The following minimum requirements shall be observed subject to the additional requirements, exceptions and modifications as set forth in this section and section 113-241.

| Lot Area       | Lot Width                            | Front Yard | Side Yard | Rear Yard |
|----------------|--------------------------------------|------------|-----------|-----------|
| 10,000 sq. ft. | 75 feet interior lot, 90 feet corner | 30 feet    | 5 feet    | 30 feet   |

Flexibility may be provided by allowing the side yard to be decreased to a minimum of three feet if a maintenance easement is recorded on the deeds of all affected properties. (No fences or significant landscaping could be installed in the easement areas).

- (f) *Off-street parking and loading.* As provided in article VI, division 2 of this chapter.
- (g) *Signs.* As provided in section 113-449.
- (h) *Swimming pools.* As permitted in section 113-382.

(Code 1993, § 9-4.01; Ord. No. 0-89-12, 7-26-1989; Ord. No. 0-89-16, 11-8-1989; Ord. No. 0-91-2, 1-23-1991; Ord. No. 0-91-13, § 2, 11-27-1991; Ord. No. 0-99-09, § 3, 12-15-1999; Ord. No. 00-01, 6-3-2000; Ord. No. 07-05, § 1, 5-9-2007; Ord. No. 13-04, § 2, 7-24-2013; Ord. No. 19-04, § 2, 5-8-2019; Ord. No. 20-05, § 2, 10-14-2020; Ord. No. 20-07, § 2, 12-09-2020)

### ***Sec. 113-175 - One- and two-family R-2 residential district***

- (a) *Scope.* The provisions of this section apply to the R-2 one- and two-family residential district.
- (b) *Permitted uses.* No structure or land shall be used except for one or more of the following uses:
  - (1) One- or two-family detached dwellings.
  - (2) All permitted uses in the R-1 district.
- (c) *Conditional uses.* Conditional uses shall be as permitted in the R-1 district.
- (d) *Permitted accessory uses.* No accessory structures or use of land shall be permitted except for one or more of the following uses: all accessory uses as permitted in the R-1 district.
- (e) *Lot area, height, lot width and yard requirements.* The following minimum requirements shall be observed subject to any additional requirements, exceptions or modifications as set forth herein:

- (1) One-family building as required in the R-1 district.
- (2) Two-family building as required for a one-family building except that any building with two families shall have a minimum lot area of 12,500 square feet.
- (f) *Off-street parking and loading.* As provided in article VI, division 2 of this chapter.
- (g) *Signs.* As provided in section 113-449.
- (h) *Swimming pools.* As permitted in section 113-382.
- (i) *Permitted encroachments on required yards.* As permitted in the R-1 district.

(Code 1993, § 9-5.01; Ord. No. 0-93-07, § 6, 7-28-1993)

Sec. 113-176. - R-3 medium density multiple-family residential district-apartment buildings.

- (a) *Scope.* The provisions of this section apply to the R-3 medium density multiple-family residential district.
- (b) *Permitted uses.* All permitted uses in the R-2 district.
- (c) *Conditional uses.* No structure or land shall be used for the following uses except by conditional use permit, except that multifamily dwellings shall not exceed 12 per acre.
  - (1) Any conditional use permitted in the R-1 and R-2 districts.
  - (2) Conversion or enlargement of existing homes to accommodate one-, two-, three- or four-dwelling units.
  - (3) Large group homes as defined in this chapter.
  - (4) Townhouses. See performance standards as permitted in article VI, division 3 of this chapter.
  - (5) Buildings containing two or more dwelling units not exceeding 12 dwelling units per acre.
- (d) *Permitted accessory uses.* The following uses shall be permitted accessory uses:
  - (1) All accessory uses as permitted in the R-1, R-2 districts.
  - (2) Conversion or enlargement as required by terms of a conditional use permit.
- (e) *Lot area, height, lot width and yard requirements.*
  - (1) See performance standards as permitted in article VI, division 3 of this chapter (or as required by conditional use permit).
  - (2) No structure or building shall exceed three stories, or 30 feet, whichever is lesser in height, except as provided in section 113-243.
  - (3) A side yard abutting on a street shall not be less than 30 feet in width, and when a side yard of a multifamily structure abuts a single-family residence, the side yard shall not be less than 20 feet.
  - (4) The following minimum requirements shall be observed subject to additional requirements except as a modification set forth in this section and section 113-241.

| Lot Area       | Lot Width | Front Yard | Side Yard                                                     | Rear Yard |
|----------------|-----------|------------|---------------------------------------------------------------|-----------|
| 12,500 sq. ft. | 90 feet   | 30 feet    | 10 feet or ½ the height of the building, whichever is greater | 30 feet   |

\*Lot area for single-family residence may be reduced to 10,000 square feet.

(Code 1993, § 9-7.01; Ord. No. 0-93-07, § 7, 7-28-1993; Ord. No. 10-06, § 3, 9-8-2010)

**Editor's note** – Ord. No. 10-06, § 3, adopted Sept. 8, 2010, changed the title of § 113-176 from "R-4 medium density multiple-family residential district-apartment buildings" to "R-3 medium density multiple-family residential district-apartment buildings". This historical notation has been preserved for reference purposes.

***Sec. 113-177 - B-1 neighborhood convenience district***

- (a) *Scope.* The provisions of this section apply to the B-1 neighborhood convenience district.
- (b) *Purpose and intent.* The purpose of the neighborhood convenience business district is to provide for small-scale consumer goods stores and limited service establishments which deal directly with the customer by whom the goods and services are consumed. The maximum business size limit is 5,000 square feet. Some business areas may be further restricted by zoning regulations to avoid adverse impacts on residential neighborhoods. The district is primarily intended to serve the surrounding neighborhood rather than the entire community. It is designed to be accessible to retail customers from the nearby neighborhoods, to be compatible with the character of the neighborhoods, and to minimize the blighting influence on surrounding residential neighborhoods by limiting and controlling the uses that are permitted.
- (c) *Permitted uses.* No structure or land shall be used except for the following specific uses:
  - (1) Barbershops, except barber colleges.
  - (2) Beauty shops, but excluding cosmetology schools.
  - (3) Convenience stores, excluding motor fuel facilities.
  - (4) Coin and philatelic (stamp) stores.
  - (5) Drugstores/pharmacies.
  - (6) Florists.
  - (7) Garment pressing, and agents for laundries and dry cleaners, with a maximum of six employees.
  - (8) Health care, offices and clinics.

- (9) Laundries - power, with a maximum of six employees.
  - (10) Laundromats - self serve.
  - (11) Miscellaneous retail establishments (small) (excluding repair and service establishments and gun shops) having a maximum floor area of 1,000 square feet which sell food, apparel and small specialty shopping goods including antiques, sporting goods, books, stationery, jewelry, cameras, novelty and optical stores and small cafes and restaurants.
  - (12) Offices, business and professional.
  - (13) Holiday tree sales.
- (d) *Conditional uses.* The following uses are permitted subject to the issuance of a conditional use permit (CUP):
- (1) Automobile repair establishments subject to the following conditions:
    - a. The use is existing as of the date of adoption of the amendment from which this section is derived.
    - b. The structure and use shall not be expanded without city council approval, based upon finding that the expansion is a furtherance of the public health and safety and will not negatively impact the surrounding neighborhood.
    - c. Any change in use shall be to the same or another B-1 permitted or conditional use.
    - d. No more than five cars shall be parked outdoors overnight at any one time, and cars shall be parked in an orderly fashion in a designated area.
    - e. There shall be no outdoor storage of supplies, materials or trash.
    - f. Trash containers and parking areas shall be screened from view from residential areas to the maximum degree practicable in consultation with city officials and upon approval by the city council after review by the planning commission.
  - (2) Adult and child care facilities and nursery schools subject to licensing by the state.
  - (3) Motor fuel stations as an integral part of a convenience store located at the corner of a minor arterial and collector street as defined by the comprehensive plan.
  - (4) Secondhand goods stores as defined in this chapter.
- (e) *Permitted accessory uses.* The following uses shall be permitted accessory uses:
- (1) Off-street parking and loading, signs, fences, and decorative landscape features as regulated herein.
  - (2) Temporary construction buildings (approved by zoning administrator).
  - (3) Accessory structures other than private garages as regulated herein. The design, placement, screening and size of the accessory buildings must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.
  - (4) Essential service structures, provided no building shall be located within 30 feet of an abutting lot in an R district. The placement of the essential service structure must be

approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.

- (5) Public telephone booths or drive-up service. The placement of the telephone booth or drive-up service must be approved by the city council as being in harmony with the surrounding business district and neighborhood after review and recommendation by the planning commission.
  - (6) Planned landscape areas and edible landscape areas, including residential gardens, as defined and regulated in section 54-38.
  - (7) Other as deemed to be normal, customary, and incidental by the zoning administrator.
- (f) *Other requirements.* All uses shall in addition to all other requirements comply with the following standards:
- (1) No bars on doors or windows during business hours.
  - (2) No automatic interior or exterior security lock doors or doors that require request for entry or exit during business hours.
  - (3) No exterior storage of merchandise except for nursery stock associated with a florist.
  - (4) No exterior sales of merchandise except for a three-day period twice a year as a sidewalk sale or for merchandise associated with a florist.
- (g) *Lot area, height, lot width and yard requirements.*
- (1) Minimum lot area 10,000 square feet.
  - (2) Maximum principal building height two stories or 24 feet, except as provided by section 113-243 of this chapter. Accessory buildings are subject to section 113-240.
  - (3) Minimum lot width 90 feet.
  - (4) Maximum building/use size 5,000 square feet, except where otherwise noted.
  - (5) Minimum building yard requirements:
    - a. Front, 30 feet.
    - b. Side, ten feet, but 30 feet if abutting a street or R district.
    - c. Rear, 20 feet.
  - (6) Maximum lot coverage, including the total area of roofs, driveways, parking lots, sidewalks and similar impermeable surfaces, 75 percent.

(Code 1993, § 9-8.01; Ord. No. 0-93-07, § 1, 7-28-1993; Ord. No. 0-94-05, § 2, 3-23-1994; Ord. No. 0-95-01, § 2, 5-10-1995; Ord. No. 0-99-09, § 4, 12-15-1999; Ord. No. 00-02, §§ 2, 3, 7-26-2000; Ord. No. 19-01, § 1, 1-9-2019; Ord. No. 20-07, § 3, 12-09-2020)

***Sec. 113-178 - B-2 limited business district***

- (a) *Scope.* The provisions of this section apply to the B-2 limited business district.

- (b) *Purpose and intent.* The primary purpose of the limited business district is to provide for office and limited service, employment and institutional uses which are freestanding in nature, require larger sites and are or can be made to be compatible with adjacent land uses. It is also intended to accommodate certain existing businesses for the purpose of maintaining them as conforming uses. Except where current retail or wholesale businesses are specifically listed, the limited business district is not intended to accommodate retail or wholesale businesses. The district is designed to minimize the blighting influence on the surrounding residential neighborhoods by limiting and controlling the uses that are permitted.
- (c) *Permitted uses.* No structure or land shall be used except for the following uses:
- (1) Financial institutions with hours open to the public no earlier than 8:00 a.m. and no later than 6:00 p.m. An automatic teller machine may operate for 24 hours a day.
  - (2) Health care, offices and clinics.
  - (3) Offices, business and professional.
  - (4) City-owned community facilities provided there shall be no unscreened outdoor storage of materials, supplies or equipment, or trucks and trailers exceeding a capacity of 1½ tons.
  - (5) Holiday tree sales.
- (d) *Conditional uses.* The following uses are permitted subject to the issuance of a conditional use permit (CUP):
- (1) Drive-through facilities as an accessory use to a financial institution.
  - (2) Churches.
  - (3) Adult and child care facilities and nursery schools subject to licensing by the state.
  - (4) Dance studios, schools and halls.
  - (5) Florist, garden supply and garden wholesale stores.
  - (6) Funeral homes and mortuaries.
  - (7) Limited fabricating and processing of a product in conjunction with any permitted use when such products are wholly processed within a building and such use is deemed appropriate and consistent with the character of the district and environs. Where such uses consist of more than one principal building, plans for such development shall be submitted as a planned unit development (PUD).
  - (8) Historical buildings, museums, art institutes and galleries.
  - (9) Photographic studios, portrait.
  - (10) Radio broadcasting stations, television broadcasting stations, and cable and other pay television service stations, excluding external antenna systems.
  - (11) Studios.
  - (12) Research centers and laboratories excluding medical waste processing facilities.
  - (13) Schools or studio for music, art or interior design.

- (14) Veterinary clinics with no animal boarding.
- (e) *Permitted accessory uses.* Any accessory use permitted in section 113-177(e). The requirements of section 113-178(f)(3) and (4) shall not apply.
- (f) *Other requirements.* All uses shall in addition to all other requirements apply the following standards:
  - (1) No bars on doors or windows during business hours.
  - (2) No automatic interior or exterior security lock doors or doors that require request for entry or exit during business hours.
  - (3) No exterior storage of merchandise except for nursery stock associated with a garden supply store or florist.
  - (4) No exterior sales of merchandise except for nursery stock associated with a garden supply store or florist.
- (g) *Lot area, height, width and yard requirements.* Subject to exception under article V of this chapter.
  - (1) Minimum lot area 12,500 square feet.
  - (2) Maximum principal building height two stories or 24 feet, except as provided by section 113-243 of this chapter, three stories or 35 feet maximum allowed by CUP or PUD. Accessory buildings are subject to section 113-240(f).
  - (3) Minimum lot width 90 feet.
  - (4) Minimum building yard requirements:
    - a. Front, 30 feet.
    - b. Side, ten feet, but 30 feet if abutting a street or R district.
    - c. Rear, 20 feet.
  - (5) Maximum lot coverage, including the total area of roofs, driveways, parking lots, sidewalks and similar impermeable surfaces, 75 percent.
- (h) *Interim uses.* The following uses are allowed subject to the issuance of an interim use permit: farmer's markets that meet the following criteria:
  - (1) Operate no more than one day per week.
  - (2) Site includes not less than 284 parking spaces for customers of the market.
  - (3) Market may not operate before 6:30 a.m. or after 8:00 p.m.
  - (4) Permittee must name a managing agent who is responsible for the conduct of the vendors in compliance with the conditions of the interim use permit.

(Code 1993, § 9-9.01; Ord. No. 0-93-07, § 3, 7-28-1993; Ord. No. 0-94-05, § 3, 3-23-1994; Ord. No. 0-99-09, §§ 5—7, 12-15-1999; Ord. No. 00-02, §§ 4, 5, 7-26-2000; Ord. No. 03-02, § 3, 2-12-2003; Ord. No. 06-03, § 3, 9-13-2006; Ord. No. 19-01, § 2, 1-9-2019)

***Sec. 113-179 - B-3 Snelling and Larpenteur community business district***

- (a) *Scope.* The provisions of this section apply to the B-3 Snelling and Larpenteur community business district.
- (b) *Purpose and intent.*
  - (1) The district applies only to the northeast, northwest, and southwest quadrants of the Larpenteur and Snelling intersection. The district is designed to provide retail sales and services that serve the surrounding neighborhoods' and community's needs. Retail sales and services that serve a larger geographic area are available in larger, nearby business districts in adjacent cities. By limiting and controlling the uses that are permitted, the district is designed to be accessible to retail customers from the nearby neighborhoods and the community, to be compatible with the character of the neighborhoods and overall community, and to minimize the blighting influence on the surrounding residential neighborhoods.
  - (2) Furthermore, the district provides for and encourages compact centers for retail sales and services by grouping businesses into patterns of workable relationships that complement each other. The district is designed to be easily accessible to users. It excludes highway oriented and other high traffic volume businesses that would tend to disrupt the cohesiveness of the shopping center or its circulation patterns and shared parking arrangements.
- (c) *Permitted uses.* No structure or land shall be used except for the following uses:
  - (1) Auto parts and accessory stores.
  - (2) Apparel and accessory stores.
  - (3) Beauty shops and barbershops.
  - (4) Bowling alleys.
  - (5) Coin and philatelic (stamp) stores.
  - (6) Commercial art services.
  - (7) Commercial photography services.
  - (8) Computer programming and data processing services.
  - (9) Dance studios, schools and halls.
  - (10) Eating establishments.
  - (11) Financial institutions and insurance establishments with hours open to the public no earlier than 8:00 a.m. and no later than 6:00 p.m. An automatic teller machine may operate 24 hours a day.
  - (12) Food stores, excluding the outdoor sales of produce, meat and seafood.
  - (13) Garment pressing, and agents for laundries and dry cleaners.
  - (14) Hardware stores.
  - (15) Health services, offices and clinics.
  - (16) Home furnishing, appliance and equipment stores.

- (17) Laundry and garment services.
  - (18) Laundromats - self serve.
  - (19) Mailing services.
  - (20) Miscellaneous retail establishments, including antique stores but excluding fuel dealers and gun shops.
  - (21) Motion picture theaters.
  - (22) Offices, business and professional.
  - (23) Office supply and art supply stores, retail.
  - (24) Paint, glass and wallpaper stores, retail.
  - (25) Personal service establishments as follows: tax return preparation services, diet centers, costume and dress suit rental stores, photograph services.
  - (26) Photographic studios, portrait.
  - (27) Physical fitness facilities.
  - (28) Precious metal dealers with a precious metal dealer license.
  - (29) Photocopying and duplicating shops, provided not more than six employees are employed on the premises at one time.
  - (30) Public and essential service uses.
  - (31) Schools and studios for art, music and interior design.
  - (32) Secretarial and stenographic services.
  - (33) Tanning salons.
  - (34) Therapeutic massage enterprise.
  - (35) Video rental stores.
- (d) *Conditional uses.* The following uses are permitted subject to the issuance of a CUP:
- (1) Animal grooming and pet stores provided there shall be no boarding of animals on the site.
  - (2) Basement storage of goods not sold on the premises provided that the space is completely finished and ready for use, is sprinkled, has elevator access, provides two pedestrian accesses, has an existing loading dock or area that does not conflict with adjacent residential areas or entry to businesses and is approved by the city fire marshal.
  - (3) Car washes which are accessory to the principal use and meet the requirements for service stations, section 113-383.
  - (4) Adult, child care and nursery school facilities subject to licensing by the state.
  - (5) Charitable gambling establishments as a principal use in accordance with the city's licensing requirements, section 30-4.
  - (6) Custom manufacturing of handmade goods that are sold on the premises provided the manufacturing operation is incidental to a retail operation.

- (7) Drinking establishments, bars and taverns, subject to the city's licensing requirements, chapter 6, article II of this Code.
- (8) Gun shops are a conditional use on the northwest corner of Snelling and Larpenteur as long as the following conditions exist:
  - a. A minimum of 1,000 feet from any residential zone except for a minimum of 150 feet from any residential zone when the residential zone is buffered by a separate commercial facility.
  - b. A minimum of 750 feet from any park.
  - c. A minimum of 1,000 feet from any public or private preschool, elementary or secondary school or church.
- (9) Hotels and motels by PUD.
- (10) Motor fuel or service stations subject to the design and performance standards as specified in section 113-383.
- (11) Multifamily housing by PUD.
- (12) Satellite communications dishes as an accessory use.
- (13) Secondhand goods store, as defined in this chapter.
- (14) Veterinary clinics with no boarding of animals on the site and no external runs.
- (e) *Permitted accessory uses.*
  - (1) Any accessory use permitted in section 113-177(e).
  - (2) Limited repair and service operations which are incidental to a principal use.
  - (3) One pool table per 2,000 square feet of area excluding area devoted to bowling lanes and one video or electronic game per 300 square feet of area excluding area devoted to bowling lanes are permitted accessory uses to a bowling alley.
  - (4) The limited sale of used merchandise is allowed as an accessory use, but only if the following conditions are met:
    - a. The sale of used merchandise must be clearly incidental to the sale of new merchandise of the same general type.
    - b. The used merchandise which is sold on the premises must be acquired by the owner of the principal use only on a "trade-in" basis from customers trading in used merchandise at the time they purchase new merchandise of the same general type.
    - c. The portion of used merchandise on the premises may not, at any time, occupy more than ten percent of the sales area of the premises.
- (f) *Other requirements.* All uses shall, in addition to all other requirements, apply the following standards:
  - (1) No bars on doors or windows during business hours.
  - (2) No automatic interior or exterior security lock doors that require request for entry or exit during business hours.

- (3) No exterior storage of merchandise.
- (4) No exterior sales of merchandise except twice a year for three days at a time as a sidewalk sale.

(g) *Building height and yard requirements.*

- (1) Maximum principal building height is three stories or 35 feet, except as provided for in section 113-243. Accessory buildings are subject to section 113-240(f).
- (2) Minimum building yard requirements:
  - a. Front, 30 feet.
  - b. Side, 20 feet, but 30 feet if abutting a street and 40 feet if abutting an R district. No side yard shall be required for a party wall subject to section 113-241.
  - c. Rear, 20 feet, but ten feet if abutting an alley.
  - d. Maximum lot coverage, 75 percent. This requirement shall only apply to sites that abut an R district to provide sufficient land area for buffering, landscaping and screening. Coverage may be increased by the city if a permanent screen or buffer, other than a wooden fence, is constructed which provides 100 percent yearround opacity for adjacent residential areas after approval by the city council and review by the planning commission.

(Code 1993, § 9-10.01; Ord. No. 0-89-2, 1-11-1989; Ord. No. 0-91-8, § 1, 5-22-1991; Ord. No. 0-93-07, § 3, 7-28-1993; Ord. No. 0-94-05, § 4, 3-23-1994; Ord. No. 0-95-01, §§ 3, 4, 5-10-1995; Ord. No. 97-03, § 1, 6-25-1997; Ord. No. 0-99-09, § 8, 12-15-1999; Ord. No. 00-02, §§ 6, 7, 9, 7-26-2000; Ord. No. 06-03, § 4, 9-13-2006; Ord. No. 19-01, § 3, 1-9-2019)

***Sec. 113-180 - Public land (P-1)***

- (a) *Scope.* The provisions of this section apply to public land.
- (b) *Generally.* All public (city, state, school district, state fair, University of Minnesota, and other) land owned and operated for public purposes is zoned for what may be the most appropriate private use should the land be sold, leased, or otherwise transferred from public ownership and/or use.
- (c) *Allowed uses.* The "public land" overlay district is in addition to and not in lieu of the regular or original zoning district applied on the zoning map with the following uses
  - (1) *Private use of land.* Designate land areas that, if sold or otherwise made available for private use, the city council shall determine, after public hearing, the permanent zoning. No private building or occupancy permits shall be issued until said determination is made by the city council.
  - (2) *University of Minnesota.* University of Minnesota uses permitted shall be those indicated on the official campus plan of the university and placed on file with the city. The city shall be given not less than 30 days notice of any construction, change in use, or other land use activity affecting the community environment including impact upon city facilities, services, and road system.

- (3) *State fair.* This district also applies to lands utilized for buildings, structures, and activities of the Minnesota state fair or the various states of the United States of America. Permitted uses shall include yearround activities such as recreation and others not directly associated with normal and commonly known "state fair" activities and purposes as approved by the city council; such uses may include tennis courts, play fields, picnic areas, and others intended for local community and/or general public use. All uses shall be in accordance with a state fair development and operations plan on file with the city. The city shall be given not less than 30 days notice of any new development, construction, or change in use on any portion of the state fair property affecting city services, facilities and road system.
- (4) *Official public plans.* School district, city, and other public lands to be developed and used in accordance with official public plans on file with the city.
- (5) *Signs.* All signs visible from a public right-of-way (road, street, highway) and located or proposed for location on public land shall be considered as a structure to be included on plans by the university, fairgrounds, and school districts subject to review by the city.

(Code 1993, § 9-11.01)

***Sec. 113-181 - R-4 high density multiple-family residential district-apartment buildings***

- (a) *Scope.* The provisions of this section apply to the R-4 high density multiple-family residential district.
- (b) *Permitted uses.* All permitted uses in the R-2 district.
- (c) *Conditional uses.* No structure or land shall be used for the following uses except by conditional use permit:
  - (1) Any conditional use permitted in the R-1 and R-2 districts.
  - (2) Conversion or enlargement of existing homes to accommodate one-, two-, three- or four-dwelling units.
  - (3) Large group homes as defined in this chapter.
  - (4) Townhouses. See performance standards as permitted in article VI, division 3 of this chapter.
  - (5) Buildings containing three or more dwelling units not exceeding 28 dwelling units per acre. A maximum of 40 dwelling units per acre are allowed if:
    - a. At least 80 percent of the required parking spaces are below grade and integrated into the apartment building; and
    - b. The property abuts Larpenteur or Snelling Avenue; and
    - c. The property does not abut property zoned R-1.
- (d) *Permitted accessory uses.* The following uses shall be permitted accessory uses:
  - (1) All accessory uses as permitted in the R-1, R-2 districts.

- (2) Conversion or enlargement as required by terms of a conditional use permit.
  - (3) All accessory uses as permitted in the R-1 and R-2 districts except that the keeping of chickens and bees, as regulated by the Code, is only allowed as accessory to a single-family or two-family home.
- (e) *Lot area, height, lot width and yard requirements.*
- (1) See performance standards as permitted in article VI, division 3 of this chapter (or as required by conditional use permit).
  - (2) No structure or building shall exceed three stories, or 30 feet, whichever is lesser in height, except as provided in section 113-243.
  - (3) A side yard abutting on a street shall not be less than 30 feet in width, and when a side yard of a multifamily structure abuts a single-family residence, the side yard shall not be less than 20 feet.
  - (4) The following minimum requirements shall be observed subject to additional requirements except as a modification set forth in this section and section 113-241:

| Lot Area       | Lot Width | Front Yard | Side Yard                                                     | Rear Yard |
|----------------|-----------|------------|---------------------------------------------------------------|-----------|
| 12,500 sq. ft. | 90 feet   | 30 feet    | 10 feet or ½ the height of the building, whichever is greater | 30 feet   |

\*Lot area for single-family residence may be reduced to 10,000 square feet.

(Ord. No. 10-06, § 4, 9-8-2010; Ord. No. 13-04, § 3, 7-24-2013; Ord. No. 20-05, § 3, 10-14-2020)

***Sec. 113-182 - R-5M mixed use high density residential district***

- (a) *Scope.* The provisions of this section apply to the R-5M mixed use high density residential district.
- (b) *Purpose and intent.* The purpose of the mixed use high density residential district is to provide high density, primarily apartment style, rental and condominium housing with limited commercial uses within the same structure. The intent of the district is to meet or exceed the city's comprehensive plan density goal of 28 residential units per acre.
- (c) *Permitted uses.*
  - (1) Apartment buildings with a maximum of 40 dwelling units per acre.
  - (2) Permitted uses in the B-2 zoning district.
  - (3) State licensed residential facilities serving from seven through 16 persons.

- (4) State licensed day care facilities serving from 13 to 16 persons.
- (d) *Conditional uses.*
  - (1) Conditional uses in the B-2 zoning district.
  - (2) Public parks and playgrounds.
  - (3) Municipal buildings and structures.
  - (4) Essential service structures.
- (e) *Interim uses.* Farmers' markets that meet the following criteria: Operate no more than one day per week; site includes not less than 284 parking spaces for customers of the market; market may not operate before 6:30 a.m. or after 8:00 p.m.; a managing agent must be named who is responsible for the conduct of the vendors in compliance with the conditions of the interim use permit.
- (f) *Permitted accessory uses.*
  - (1) Off-street parking and loading, signs, fences, and decorative landscape features as regulated herein.
  - (2) Temporary construction buildings.
  - (3) Accessory uses in the B-2 zoning district.
- (g) *Lot area, height, lot width, and yard requirements.*
  - (1) The following minimum requirements shall be observed subject to additional requirements except as modified in this section and in section 113-241:

| Lot Area  | Lot Width | Front Yard | Side Yard                                                     | Rear Yard |
|-----------|-----------|------------|---------------------------------------------------------------|-----------|
| 2.5 acres | 200 feet  | 30 feet    | 10 feet or ½ the height of the building, whichever is greater | 30 feet   |

- (2) The required setback from a lot line abutting property zoned R-1 is 50 feet.
- (3) If there is a commercial use on the first floor, the required setback from a lot line abutting Larpenteur Avenue or Snelling Avenue is 15 feet.
- (4) Except as provided in section 113-243, the maximum height is four stories or 40 feet, whichever is less.

(Ord. No. 10-06, § 5, 9-8-2010)

***Secs. 113-183 – 113-198 - Reserved***

## **ARTICLE V - PLANNED UNIT DEVELOPMENT (PUD)**

### ***Sec. 113-199 - Purpose***

The planned unit development district is intended to permit flexibility of site design, the conservation of land and open space through clustering of buildings and activities, and an incentive to developers to plan creatively by providing density bonuses. This flexibility can be achieved by allowing deviations from standards including setbacks, heights and similar regulations. PUDs are characterized by central management, integrated planning and architecture, joint or common use of parking, open space and other facilities, and a harmonious selection and efficient distribution of uses.

(Code 1993, § 9-16.01)

### ***Sec. 113-200 - Required use***

PUD zoning is required for all developments having two or more principal uses or structures on a single parcel of land and may include townhouses, apartment projects involving more than one building, residential subdivisions, multi-use structures such as an apartment building with retail at ground floor level, commercial developments, mixed residential and commercial developments, and similar projects.

(Code 1993, § 9-16.02)

### ***Sec. 113-201 - General requirements and standards***

- (a) *Comprehensive plan/Code consistency.* A PUD must be consistent with the city comprehensive plan and the intent and purpose of the city Code provisions relative to land use, subdivision and development.
- (b) *Operating and maintenance requirements for PUD common open space/facilities.* Whenever joint common open space or service facilities for individual owners or users are provided within the PUD, the PUD plan shall provide reasonable assurance of adequate operation and maintenance of such open space and service facilities.
- (c) *Staging of public and common open space.* When a PUD provides for common or public open space, the total area of common or public open space or security in any stage of development, shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.
- (d) *Development stages.* Whenever any PUD is to be developed in stages, no such stage shall, when averaged with all previously completed stages, have a residential density that exceeds 125 percent of the proposed residential density of the entire PUD.
- (e) *Urban development and availability of public services.* All development shall be carefully phased so as to ensure that it will not cause an unreasonable burden upon the city in providing services and utilities or cause a deleterious impact upon the natural environment.

(Code 1993, § 9-16.03)

***Sec. 113-202 - Permitted uses and standards***

The permitted uses, standards, and development plan shall be set forth in the ordinance rezoning the property to PUD.

(Code 1993, § 9-16.04)

***Sec. 113-203 - Procedure for processing a planned unit development***

- (a) *Approval process.* Planned unit developments may be permitted in the legislative discretion of the city council. The application and hearing process for planned unit developments will be as required for other zoning chapter amendments.
- (b) *Preapplication conference.* Before filing an application for PUD, the applicant of the proposed PUD shall arrange for and attend a conference with the city administrator. The primary purpose of the conference shall be to provide the applicant with an opportunity to gather information and obtain guidance as to the general suitability of his or her proposal for the area for which it is proposed and its conformity to the provisions of this chapter before incurring substantial expense in the preparation of plans, surveys and other data.
- (c) *Application information.* An applicant shall submit a completed application form furnished by the city, together with the following information:
  - (1) Drawings in schematic form containing the following:
    - a. The location, size of site and the proposed uses of the land to be developed.
    - b. The density of land use to be allocated to the several parts of the site to be developed.
    - c. The location and size of all useable open space and the form of organization to own and maintain such space.
    - d. The use, height, bulk and approximate location of buildings and other structures.
    - e. The plans for the distribution of sanitary wastes, stormwater, and the provisions of other utilities.
    - f. The plans for parking of vehicles and the location and width of proposed streets, curbs, gutter and landscaping.
    - g. A schedule showing the proposed times within which application for final approval of all sections of the planned unit development are intended to be filed.
  - (2) A written statement must include the following:
    - a. A narrative explanation of the general character of the planned unit development, its integration with the surrounding land uses and justification of any requested density bonuses.
    - b. A statement identifying the final ownership and describing maintenance of all parts of the development including streets, structures and useable open space.

- c. The total anticipated population of the planned unit development, with breakdowns as to the estimated number of school age children, adults and families.
- (3) The following exhibits:
  - a. Abstractor's certified property certificate showing the names and addresses of property owners within 350 feet of the outer boundaries of the property.
  - b. Location map showing property in relation to the city as a whole and to the city's primary elements such as thoroughfares, schools, parks and shopping areas.
  - c. A legal description of the property including approximate total acreage.
  - d. Boundary survey prepared by a registered surveyor of the property and 100 feet beyond showing:
    - 1. Existing property lines and dimensions.
    - 2. Ownership of all parcels.
    - 3. Platting and easements.
    - 4. Street and railroad rights-of-way.
    - 5. Buildings.
    - 6. Utility lines and facilities.
  - e. A topographic map prepared by a registered civil engineer or registered land surveyor covering the entire tract proposed for development which contains the following information:
    - 1. Contour lines at no more than foot intervals.
    - 2. Hydrologic information including drainage patterns, wetlands, and land subject to periodic flooding.
    - 3. Soil and subsoil conditions.
    - 4. Vegetation including classification of tree cover by species.
  - f. Any other material requested by the city council, planning commission or city staff.

(Code 1993, § 9-16.05)

***Sec. 113-204 - Coordination with subdivision approval***

If development of the PUD requires subdivision approval, the PUD and subdivision shall be processed concurrently.

(Code 1993, § 9-16.06)

### ***Sec. 113-205 - Development contract***

The city and the developer shall enter into a development contract setting forth any improvements required to be undertaken by the developer. This contract may be combined with the development contract required for subdivision approval.

(Code 1993, § 9-16.07)

### ***Sec. 113-206 - Rezoning***

If approved by the city council, the property shall be rezoned PUD in accordance with the terms of approval. If a concurrent plat application is being processed, PUD rezoning shall be concurrent with final plat approval.

(Code 1993, § 9-16.08)

### ***Sec. 113-207 - Control of planned unit development following completion***

- (a) *Modification of structures.* After the certificate of occupancy has been issued, the use of the land and the construction, modification or alteration of any buildings or structures within the planned development shall be governed by the final development plan.
- (b) *Changes in final development plan.* After the certificate of occupancy has been issued, no changes shall be made in the approved final development plan except upon application as provided below:
  - (1) Any minor extensions, alterations or modifications of existing buildings or structures may be authorized by the planning commission if they are consistent with the purposes and intent of the final plan. No change authorized by this section may increase the volume of any building or structure by more than ten percent.
  - (2) Any building or structure that is totally or substantially destroyed may be reconstructed only in compliance with the final development plan unless an amendment to the final development plan is approved.
  - (3) Changes in the use of common open space or any other substantial changes in the final development plan may be authorized by an amendment to the final development plan.

(Code 1993, § 9-16.09)

### ***Sec. 113-208 - Amendment of plan***

Any substantial changes in the final development plan, including but not limited to changes in land use, increases in development density or intensity or changes in the provisions for common open spaces shall require a PUD amendment. The amendment process for planned unit developments shall be the same as that for all other amendments to this chapter. (See section 113-35.)

(Code 1993, § 9-16.10)

***Sec. 113-209 - Urban farm planned unit development district***

- (a) *Legal description.* The legal description of this PUD is lots 1 and 2, block 1, Urban Farm Project Addition.
- (b) *Purpose.* The purpose of the urban farm PUD district is to provide for the mixed uses of an urban farm and an apartment building.
- (c) *Scope.* The provisions of this section apply to the urban farm planned unit development.
- (d) *Permitted uses.* The following uses are permitted subject to the development plan for the PUD, subsection 113-209(f), and the standards and requirements of the R-5M zoning district, except as modified herein:
  - (1) On lot 1, block 1, an urban farm. At least 21 paved parking spaces must be maintained next to the main building adjacent to Larpenteur Avenue, as well as at least 24 overflow parking stalls. The urban farm may have up to:
    - 976 square feet of retail space;
    - 2,201 square feet of office/training/kitchen space;
    - 8,580 square feet of distribution/warehouse space;
    - 849 square feet of greenhouse space; and
    - 576 square feet of yard storage building space.
  - (2) On lot 2, block 1, a 68-unit apartment building with at least 68 parking spaces. At least 54 of the required parking spaces must be below grade and integrated into the apartment building. The site may have up to:
    - 60,537 square feet of residential living space;
    - Four stories with underground parking; and
    - Private access easement between lot 1 and lot 2 to be recorded into the property record of both parcels.
- (e) *Permitted accessory uses.*
  - (1) On lots 1 and 2, block 1, the accessory uses in the R-5M zoning district;
  - (2) On lot 1, block 1, seasonal hoop houses for growing vegetables.
- (f) *Development plan.* The PUD must be maintained in accordance with the following development plan which is on file with the city and which is incorporated herein by reference:
  - (1) Urban farm project addition plat;
  - (2) Topographic survey and grading, drainage and utility plan prepared by Jacobson Engineers & Surveyors dated July 28, 2014;
  - (3) The following prepared by LHB for lot 1, block 1:

Architectural site plan w/landscape layout dated August 18, 2014;

First floor plan dated August 18, 2014;

Yard storage building - Color option 1 dated July 28, 2014 or yard storage building - Color option 2 dated August 18, 2014;

Exterior elevations - Color option 1 dated August 18, 2014 or exterior elevations - Color option 2 dated July \*\*\*.

- (4) The following plans prepared by Kelly Brothers, Ltd and their contractors/partners for lot 2, block 1 with up to a five percent variance as approved by the city administrator:
  - a. Development plans, dated October 31, 2018 including:
    - Grading plan
    - Drainage plan
    - Utility plan
    - Floor plans
    - Elevations
    - Operations and maintenance plan
  - b. Development plans, dated September 3, 2020 including:
    - Site plan
    - Landscape plan

(Ord. No. 13-02, § 2, 5-22-2013; Ord. No. 14-02, § 1, 9-10-2014; Ord. No. 17-01, § 1, 6-14-2017; Ord. No. 18-10, § 1, 11-14-2018; Ord. No. 20-06, § 1, 10-14-2022)

***Sec. 113-210 - South 215.125 feet of lot 1, block 1, Lindig Addition planned unit development***

- (a) *Legal description.* The South 215.125 feet of Lot 1, Block 1, Lindig Addition, Ramsey County Minnesota.
- (b) *Zoning Regulations.* The R-4, Medium Density Multiple-family Residential District regulations shall apply to the Property subject to the following modifications:
  - (1) The only permitted use is one residential building with three dwelling units.
  - (2) No conditional uses.
  - (3) The building may not exceed two stories or 32 feet in height.
  - (4) Site plan, survey, parking, and landscape plan prepared by Lot Surveys Company Inc. dated June 11, 2009 on file with the City Clerk.

- (5) Setbacks as depicted on the Site Plan.
- (6) Design Development plan and elevations prepared by Gaetz Architects dated August 31, 2009 on file with the City Clerk.
- (7) The Site Plan, survey, parking, and landscape plan together with the Design Development Plan and elevations are the Final Development Plan.

(Ord. No. 19-03, 3-27-2019)

***Sec. 113-211 - Amber Union planned unit development***

- (a) *Legal description.* The legal description of this PUD is the North Half of the Northeast Quarter of the Northeast Quarter of the Northeast Quarter, in section 21, township 29, range 23, Ramsey County, Minnesota, except that part taken for Snelling and Larpentour Avenues.
- (b) *Purpose.* The purpose of the Amber Union planned unit development is to provide for the mixed uses of multi-family apartments and a retail space.
- (c) *Permitted uses and zoning regulations.* The R5-M mixed use high density residential district regulations shall apply to the property subject to the following modifications:
  - (1) Permitted uses: One principal structure consisting of 111,640 square feet and 89 apartment units and one principal structure consisting of 59,195 square feet, 39 apartment units, and one retail space.
  - (2) No conditional uses.
  - (3) No interim uses.
  - (4) Setbacks as depicted in the site plan dated September 23, 2019 prepared by Kimley Horn and Mohagen Hansen.
- (d) *Parking.* Vehicle parking shall be as follows:
  - (1) 108 parking stalls as depicted on the Site Plan dated September 23, 2019 prepared by Kimley Horn.
  - (2) 41 parking stalls as depicted on Exhibit A (Parking Easement) dated [inset date] prepared by Buhl GTA, recorded at Ramsey County as document number [insert number].
  - (3) 10 parking stalls as depicted on Exhibit B dated (Encroachment Agreement) [insert date] prepared by the City of Falcon Heights, recorded at Ramsey County as document number [insert number].
  - (4) At no time shall there be less than 149 parking stalls dedicated to the permitted uses of the Amber Union Planned Unit Development. A different arrangement of parking is subject to approval by the city administrator.
- (e) *Development plan.* The PUD must be maintained in accordance with the following development plan, which is on file with the city and which is incorporated herein by reference.

- (1) The following plans prepared by Buhl GTA, LP and their contractors/partners with up to five percent variance as approved by the city administrator:
  - a. Site development plans, dated September 23, 2019 prepared by Kimley Horn and Mohagen Hansen including:
    1. Demo plan.
    2. Erosion and sediment control plan.
    3. Site plan.
    4. Grading plan.
    5. Storm sewer plan.
    6. Utility plan.
    7. Security plan.
  - b. Security Plan, dated May 6, 2019 prepared by Kimley Horn and Mohagen Hansen
  - c. Landscaping plans, dated July 15, 2019 prepared by Damon Farber.
    1. Tree protection plan.
    2. Landscape plan.
  - d. Floor plans, dated September 23, 2019 prepared by Mohagen Hansen.

(Ord. No. 19-05, § 1, 6-12-2019; Ord. No. 19-07, § 1, 10-23-2019)

***Secs. 113-212 – 113-239 - Reserved***

**ARTICLE VI - SUPPLEMENTAL DISTRICT REGULATIONS**

**DIVISION 1 - GENERALLY**

***Sec. 113-240 - Accessory buildings and structures***

- (a) *Time of construction.* No accessory building shall be constructed on a lot prior to the time of construction of the principal building or land use to which it is accessory.
- (b) *Proximity to principal building.* An accessory building shall be considered as an integral part of the principal building if it is located less than 12 feet from the principal building with respect to firewall and other requirements of the building code.
- (c) *Garage restrictions.* Garages in a residential district must be set back at least five feet from an interior side or rear lot line unless:
  - (1) The garage meets all of the following:
    - a. Is located on an alley, and is accessed from the alley or from a public street abutting an alley on a corner lot;
    - b. Is located in the rear 28 feet of the lot; and

- c. Is oriented such that the vehicular access door is perpendicular to the alley; or
- (2) The garage meets all of the following:
  - a. Is detached from the principal structure;
  - b. Is accessed from a driveway off of a public street, not an alley;
  - c. Is replacing an existing garage that is located less than five feet from the side lot line; and
  - d. Is located a minimum of five feet to the rear of the principal structure on the nearest adjoining property that is closed to the garage; or is located at least ten feet from any portion of the principal structure on the nearest adjoining property; or
- (3) The garage meets all of the following:
  - a. Is detached from the principal structure;
  - b. Is accessed off an alley;
  - c. Is replacing an existing garage that is located less than five feet from the side lot line; and
  - d. Is located in the rear 30 feet of the lot.
- (d) *Garage locations; conditional.*
  - (1) If all the conditions of subsection (c)(1) of this section are met, the garage can be located not less than one foot from an interior side or rear lot line.
  - (2) If all of the conditions of subsection (c)(2) of this section are met, the garage can be located at the same side yard setback as the existing garage that is being replaced, except that the new garage shall not be located less than two feet from the side lot line. The replacement garage does not have to be in the same location as the existing garage.
  - (3) If all of the conditions of subsection (c)(3) of this section are met, the replacement garage can be located at the same side yard setback as the existing garage, except the garage shall not be located less than two feet from the side lot line.
- (e) *Yard setbacks; building locations.* The corner side yard setback for accessory buildings, including garages, shall adhere to the setback requirement for principal buildings as described in section 113-174(e)(2) (20 percent of the lot width). The rear yard and interior side yard setbacks shall be those required for garages and accessory buildings on interior lots. Lots smaller than 75 feet wide shall have a minimum corner side yard setback requirement of not less than fifteen feet. Garages on these lots may be located closer than 15 feet from the corner side lot line if the vehicular access door does not face the side street. In no case shall a garage or other accessory building be located within the corner side yard.
- (f) *Height limitations.* No accessory building in a residential district shall exceed the height of the principal building. No detached garage in a residential district shall exceed 15 feet in height.
- (g) *Building location in certain districts.* Accessory buildings in the business and industry districts shall be located any place to the rear of the principal building, subject to the building code, and the fire zone regulations.

- (h) *Prohibited location.* No detached garages or other accessory buildings shall be located nearer to the front lot line than the principal building on that lot with the exception of an attached garage in an R-1 zone.
- (i) *Height limitation in certain districts.* No accessory building in a business or industrial district shall exceed the height of the principal building except by conditional use permit.
- (j) *Yard setbacks and building location in certain districts.* An accessory building in the business or industrial districts may be located within the rear yard setback, provided that the lot is not a through lot and said accessory building does not occupy more than 25 percent of the required rear yard. An accessory building shall be a part of the principal building if it is located less than 12 feet from the principal building. No accessory building shall be located less than ten feet from a rear lot line.
- (k) *Standards for utility structures.* Utility structures and other similar buildings shall conform to the following standards in residential districts:
  - (1) All structures 120 square feet or larger shall require a building permit.
  - (2) All such structures shall be secure from wind displacement.
  - (3) The area of such buildings shall not be less than 35 square feet. Only one such building shall be permitted per lot and permitted only within the single-family districts.
  - (4) The height of detached utility structures shall not exceed 12 feet. If attached, the structure shall not exceed the height of the principal building.
  - (5) Exterior colors or materials matching the principal structure or earthen tones shall be utilized. No door or other access opening in a utility structure shall exceed 28 square feet in area.
- (l) *Compost structure requirements.* One accessory structure for compost not to cover more than 25 square feet in area and five feet in height in the rear yard. A compost structure must meet the setback requirements in section 113-240(e).
- (m) *Garage conversion requirements.* When an attached garage is converted to dwelling space, a replacement garage of the same or greater size must be constructed on the property. Furthermore, the existing driveway leading to the converted garage must be replaced with grass or approved landscaping materials unless the driveway provides access to the new garage. The curb cut provided to such a driveway may be removed by the city in the event the street curbs and gutters are rebuilt.
- (n) *Street access for alley property.* No property located on an alley shall be permitted a new curb cut for street access.
- (o) *Prohibited use.* No accessory building or structure shall be used for living purposes or as a dwelling unit.
- (p) *Detached accessory building conditions.* Detached accessory buildings shall not occupy more than 40 percent of the area of a required rear yard, and shall not exceed a total of 1,000 square feet.
- (q) *Minimum distance between buildings.* The minimum distance between the principal building and an unattached accessory building shall be five feet.

- (r) *Minimum setback.* The minimum setback from the rear lot line of a through lot shall be 30 feet.
- (s) *Tents.* A tent is not an approved accessory building and may not be used as a dwelling unit on any lot.
- (t) *Detached garage condition.* Detached garages in a residential district must be located entirely within the rear 30 feet of the lot if there is an adjacent alley.

(Code 1993, § 9-2.04; Ord. No. 0-89-12, 7-26-1989; Ord. No. 0-89-16, 11-8-1989; Ord. No. 0-90-1, 1-10-1990; Ord. No. 0-90-8, 8-22-1990; Ord. No. 0-91-13, § 1, 11-27-1991; Ord. No. 0-95-07, §§ 1—3, 10-11-1995; Ord. No. 0-96-01, § 1, 2-28-1996; Ord. No. 98-04, § 1, 6-24-1998; Ord. No. 0-99-10, § 1, 12-15-1999; Ord. No. 01-02, § 1, 10-10-2001; Ord. No. 19-04, § 3, 5-8-2019)

### ***Sec. 113-241 - Required yards and open spaces***

- (a) *Existing yards.* No yards, now or hereafter provided for a building existing on the effective date of the ordinance from which this chapter is derived shall subsequently be reduced below, or further reduced if already less than, the minimum yard requirements of this chapter for equivalent new construction in any zone.
- (b) *Permitted encroachments on required yards.* The following shall be permitted encroachments into setback and height requirements except as restricted by other sections of this chapter:
  - (1) In any yards:
    - a. Posts, off-street parking, flues, sills, pilasters, lintels, cornices, eaves (up to three feet), gutters, awnings, open terraces, steps, sidewalks, essential services, stoops, or similar features provided that they do not extend five feet above the height of the principal structure or to a distance less than three feet from any lot line;
    - b. Yard lights and nameplate signs, trees, shrubs, plants;
    - c. Floodlights or other sources of light illuminating authorized illuminated signs, or light standards for illuminating parking areas, loading areas, or yard for safety and security reasons, provided the direct source of light is not visible from the public right-of-way or adjacent residential property;
    - d. No deck, uncovered porch, or air conditioner shall be less than five feet from a side or rear yard line and if in the required front yard area, a variance shall be required;
    - e. An exposed ramp is a permitted encroachment, provided that a setback of at least five feet in the side and rear yard is met and the design and materials are approved by the zoning administrator as being in harmony with the surrounding residential neighborhood and the documented medical needs of the user;
    - f. Chimneys, flagpoles and open fire escapes may not extend more than five feet above the principal structure or three feet from any lot line. Basement egress window wells may not extend closer than three feet to any lot line.
  - (2) In side and rear yards:

- a. Fences that meet all other provisions of this chapter;
  - b. Walls and hedges six feet in height or less;
  - c. Bays not to exceed a depth of three feet or containing an area of more than 30 square feet, fire escapes and basement egress window wells not to exceed a width of three feet.
- (3) On a corner lot, nothing shall be placed or allowed to grow in such a manner as materially to impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting streets within a triangular area 30 feet from the intersecting street right-of-way lines.
- (4) In no event shall off-street parking, structures of any type, buildings, or any impervious surfaces cover more than 75 percent of the lot areas, except for R-1 zoned land which is regulated by the schedule below:

| Lot Area (sq. ft.)    | Maximum Impervious Lot Coverage            |
|-----------------------|--------------------------------------------|
| 7,370 or less         | 45%                                        |
| Over 7,370 to 15,800  | 3,320 sq. ft. or 30%, whichever is greater |
| Over 15,800 to 34,000 | 4,940 sq. ft. or 20%, whichever is greater |
| Over 34,000           | 6,800 sq. ft. or 15%, whichever is greater |

- (5) Porches with open railings which do not have walls, doors, windows or screens and which do not extend above the roof line of the building to which they are attached may encroach into the required front yard six feet if they are a minimum 24 feet from any front lot line. The encroachment into the front yard may not exceed 50 square feet.
- (c) *Street frontage.* All buildable lots must have frontage on and direct access to an improved public street except for planned unit development in which private streets have been approved by the city.

(Code 1993, § 9-2.05; Ord. No. 0-96-01, § 2, 2-28-1996; Ord. No. 0-96-05, § 1, 8-14-1996; Ord. No. 99-05, § 2, 8-25-1999; Ord. No. 03-01, § 1, 1-22-2003; Ord. No. 12-03, § 2, 5-9-2012)

### ***Sec. 113-242 - Fences***

Fences may be allowed in any zone and are subject to the following:

- (1) All fences shall require a zoning permit in addition to any other required permits.

- (2) If a fence is less than seven feet tall, a building permit is not required. If it is over seven feet, a building permit is required.
- (3) Fences in residential districts shall be comprised of chain-link, wood, plastic, or metal, but shall not be electric, barbed, weaved, or welded wire, except as allowed as a security arm.
- (4) All fences shall be kept in good repair, painted, trimmed and well maintained.
- (5) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.
- (6) In the event a fence is adjacent to and parallel with the front lot line, side lot line on the street side of a corner lot, or rear lot line adjacent to and parallel with an alley, such fence shall be set back at least one foot from the street and alley right-of-way or property line.
- (7) Fences are not allowed in a 30-foot visibility triangle on street corners. This area is measured beginning at the intersection of the projected property lines of two intersecting streets, thence 30 feet along one property line, thence diagonally to a point thirty 30 feet from the point of beginning.
- (8) Fences may be permitted along property lines subject to the following:
  - a. Fences may be placed along property lines provided no physical damage of any kind results to abutting property.
  - b. Fences in commercial and industrial districts may be erected on the lot line to a height of six feet above grade plus two feet for a security arm. The security arm may be barbed, weaved, or welded wire.
  - c. Where the property line is not clearly defined, a certificate of survey may be required by the zoning administrator to establish the property line.
  - d. Fences located within the side and rear yard nonbuildable setback areas beginning at the front building line and fences located within the buildable area of a lot shall not exceed six feet in height from finished grade. Fence posts may extend an additional six inches.
  - e. In residential districts, fences along or within the front nonbuildable setback area shall not exceed 36 inches in height from finished grade. Fence posts may extend an additional six inches.

(Code 1993, § 9-2.06; Ord. No. 19-02, § 1, 3-13-2019)

### ***Sec. 113-243 - Height limitations***

- (a) *Conditional use permit.* Any structural height that exceeds this chapter must have a conditional use permit.
- (b) *Exemptions.*
  - (1) Height limitations shall not apply to belfries, cupolas and domes, monuments, public and public utility facilities, silos, barns, church spires, chimneys, smokestacks,

flagpoles, and parapet walls extending not more than four feet above the limiting height of the building.

- (2) Height limitations shall not apply to rooftop structures such as mechanical equipment, elevator shaft and equipment enclosures and similar structures, provided said exceptions do not exceed ten feet in height above the roofline and the area does not exceed 15 percent of the roof area.
  - (3) Height limitations shall not apply to private T.V. or radio reception antennae extending more than ten feet above the limiting height of the building except if any portion of the structure exceeds four feet in diameter and is more than 20 percent opaque, a conditional use permit shall be required. Any T.V. or radio transmission or reception device or structure not attached to the principal building shall require a conditional use permit.
- (c) *Airport.* In all cases, however, no structure shall violate the limits and provisions of the airport plan of the Metropolitan Development Guide.

(Code 1993, § 9-2.07(1); Ord. No. 0-93-07, § 5, 7-28-1993)

***Sec. 113-244 - Telecommunication towers and antennas***

- (a) *Purpose.* In order to accommodate the communication needs of residents and businesses while protecting the public health, safety, and general welfare of the community, the council finds that these regulations are necessary to:
- (1) Maximize the use of existing and approved towers and buildings to accommodate new personal wireless service antennas in order to reduce the number of new towers necessary to serve the community;
  - (2) Ensure antennas and towers are designed, located, and constructed in accordance with all applicable Code requirements to avoid potential damage to adjacent properties from failure of the antenna and tower through structural standards and setback requirements;
  - (3) Require antennas and tower sites to be secured in order to discourage trespassing and vandalism; and
  - (4) Require tower equipment to be screened from the view of persons located on properties contiguous to the site and/or to be camouflaged in a manner to compliment existing structures to minimize adverse visual effects of antennas and towers.
- (b) *Permits.*
- (1) It shall be unlawful for any person, firm, or corporation to erect, construct, place or re-erect, replace, or make structural repairs to any tower without first making application for and securing a building permit as provided in this chapter, except as provided in subsection (b)(3) of this section.
  - (2) The applicant shall provide a report from a qualified and licensed professional engineer that demonstrates the tower's compliance with all applicable structural and electrical standards, including but not limited to the Minnesota State Building Code, and includes the engineer's certification.

- (3) Permits are not required for:
- a. Adjustment, repair, or replacement of existing antennas or the elements of an antenna array affixed to a tower or antenna, provided that adjustment or replacement does not reduce the safety factor.
  - b. Routine maintenance (e.g., painting) and other nonstructural-related repairs of towers.
  - c. Antennas and/or towers erected temporarily for test purposes, for emergency communication, or for broadcast remote pick-up operations, provided that all requirements of subsection (b)(5) of this section are met, with the exception of subsection (b)(5)i. of this section (regarding corrosive material) which is waived. Temporary antennas shall be removed within 72 hours following installation, unless additional time is approved by the building official. Temporary towers erected for emergency purposes may be exempt from setback requirements of this article as determined by the building official.
- (4) The fee to be paid is that prescribed under building permit fees.
- (5) All antennas and towers erected, constructed, or located within the city, including all necessary wiring, shall comply with the following requirements:
- a. All applicable provisions of this chapter.
  - b. Towers and their antennas shall be certified by a qualified and licensed professional engineer to conform to the latest structural standards and wind loading requirements of the Minnesota State Building Code and the electronics industry association and all other applicable reviewing agencies.
  - c. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any antenna or tower nor any lines, cable, equipment, or wires or braces in connection with either shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line.
  - d. Towers and their antennas shall be designed to conform to accepted electrical engineering methods and practices and to comply with the provisions of the National Electrical Code.
  - e. Antennas which are directly mounted to the ground, or which are mounted in any other way which would allow an individual to easily make contact with the active element, shall be shielded or fenced to reduce its shock hazard.
  - f. All towers shall be constructed to conform to the requirements of the occupational safety and health administration.
  - g. All towers shall be reasonably protected against unauthorized climbing.
  - h. Antennas and towers may only be erected in accordance with applicable zoning restrictions.
  - i. Towers shall be constructed of corrosive resistant metal material.

- j. Persons responsible for all communication towers and their antennas shall maintain a general liability insurance policy that provides coverage for any damage to property or injuries to persons caused by collapse of the tower. Said insurance policy shall provide coverage on an occurrence basis in an amount no less than \$1,000,000.00.
- (c) *Inspections; notice of violations.* All towers may be inspected at least once each year by an official of the city to determine compliance with original construction standards. Deviations from original design for which a permit is obtained constitutes a violation of this section. Notice of violations shall be sent by registered mail to the owner of the property and the owner shall have 30 days from the date the notification is issued to make repairs. The owner shall notify the city that the repairs have been made, and as soon as possible thereafter, another inspection shall be made and the owner notified of the results.
- (d) *Height and zoning district restrictions.*
- (1) *Tower height determination.* The height of towers shall be determined by measuring the vertical distance from the tower's point of contact with the ground to the highest point of the tower, including all antennas or other attachments. When towers are mounted upon other structures, the combined height of the structure, the tower, the antenna, and all attachments must meet the height restrictions of this section.
  - (2) *Antenna height determination.* Antenna height includes the height of the antenna from the base of the antenna to the peak and all other attachments.
  - (3) *Height restrictions per zone.* Zoning district restrictions and maximum heights for towers and antennas are as follows:
    - a. Rooftop antennas ten feet or less in height are a permitted use in all zoning districts except that commercial antennas are not permitted in an R-1 zone.
    - b. Towers or antennas no more than 110 feet in height are a permitted use in a P-1/R-1 zone except on the elementary school property located at 1393 Garden Avenue.
    - c. Towers or antennas over ten feet in height but no more than 110 feet in height are a conditional use in P-1 and B-2 zones if the property does not abut R-1 zoned property.
    - d. Nonfreestanding towers and nonfreestanding antennas over ten feet in height, which are attached to a structure over 45 feet in height are a conditional use in all zoning districts under the following conditions:
      - 1. The tower and antennas are located upon structures allowed as principal or conditional uses in the underlying zoning district or upon public structures.
      - 2. The tower and antennas are limited to a height of 15 feet projecting above the structure. The city may permit antenna heights of up to 25 feet above the structure if the applicant can demonstrate that, by a combination of tower or antenna design, positioning of the structure or by screening erected or already in place on the structure, off-site views of the antenna are minimized.
  - (4) *Amateur radio antennas.* In accordance with the preemption ruling PRB1 of the Federal Communications Commission, towers supporting amateur radio antennas that

comply with all other requirements of this section are exempted from the height limitations of this section, provided that such height is technically necessary to receive and broadcast amateur radio signals, and does not exceed 70 feet total height.

- (e) *Site location and setbacks.* In residential and business districts towers and antennas must be located in the rear yard. In all districts, towers and antennas shall conform to each of the minimum setback requirements:
  - (1) Towers shall meet the principal structure setbacks of the underlying zoning district except that towers and antennas must be set back one foot from all property lines for each foot of tower and/or antenna.
  - (2) Towers shall not be located between a principal structure and a public street.
  - (3) A tower or antenna setback may be reduced through a conditional use permit, at the sole discretion of the city council, to allow the integration of a tower into an existing or proposed structure such as a church steeple, light pole, public communications tower, power line support device, or similar structure. The term "integration" may include replacement of an existing structure to include a personal wireless service provider, but does not include replication of a structure.
  - (4) Only one tower shall exist at any one time on any one parcel, unless additional towers or antennas could be incorporated into existing structures such as a church steeple, light pole, power line support device, public communications building or other similar structure.
- (f) *Lighting.* Towers shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular tower. When incorporated into the approved design of the tower for camouflage purposes, light fixtures used to illuminate ball fields, parking lots, or similar areas may be attached to the tower.
- (g) *Signs and advertising.* No signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities.
- (h) *Accessory utility buildings.* All utility buildings and structures accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall meet the minimum setback requirements for accessory structures of the underlying zoning district. Ground-mounted equipment shall be screened from view by suitable vegetation, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
- (i) *Design standards.* Proposed or modified towers and antennas shall meet the following requirements:
  - (1) Towers and antennas (including antenna cables) shall be designed to blend into the surrounding environment to the maximum extent possible as determined by the city through the use of building materials, colors, texture, screening, landscaping, and other camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration;

- (2) Personal wireless service towers shall be of a monopole design unless the city council determines that an alternative design would better blend in to the surrounding environment.
- (j) *Collocation requirement.* All personal wireless service towers erected, constructed, or located within the city shall comply with the following requirements:
- (1) A proposal for a new personal wireless service tower shall not be approved unless the city council finds that the telecommunications equipment planned for the proposed tower cannot be accommodated on an existing or approved tower or building that is greater than 60 feet in height, within a one-quarter mile search radius for towers less than 110 feet in height or a one-half mile search radius for towers equal to or greater than 110 feet in height of the proposed tower due to one or more of the following reasons:
    - a. The planned equipment would exceed the structural capacity of the existing or approved tower or building as documented by a qualified and licensed professional engineer, and the existing or approved tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.
    - b. Existing or approved towers and buildings within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified radio frequency engineer.
    - c. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing or approved tower or building.
  - (2) The applicant must demonstrate that a good faith effort to collocate on existing towers and structures was made, but an agreement could not be reached.
  - (3) Any proposed personal wireless service tower shall be designed, structurally, electrically, and in all respects, to accommodate both the applicant's antennas and comparable antennas for at least two additional users if the tower is over 90 feet in height or for at least one additional user if the tower is over 60 feet in height. Towers must be designed to allow for future rearrangement of antennas upon the tower and to accept antennas mounted at varying heights.
- (k) *Antennas mounted on roofs, walls, and existing towers.* The placement of commercial antennas on roofs, walls, and existing towers may be approved by the city, with a conditional use permit, provided the antennas meet the requirements of this chapter. In addition to the submittal requirements required elsewhere in this chapter, an application for a building permit for antennas to be mounted on an existing structure shall be accompanied by the following information:
- (1) A site plan showing the location of the proposed antennas on the structure and documenting that the request meets the requirements of this chapter;
  - (2) A building plan showing the construction of the antennas and the proposed method of attaching them to the existing structure, and documenting that the request meets the requirements of this chapter;
  - (3) Certification by a qualified and licensed professional engineer indicating the existing structure or tower's ability to support the antennas.

- (l) *Nonconforming existing antennas and towers.* Antennas and towers in residential districts and in existence as of the effective date of the ordinance from which this chapter is derived that do not conform or comply with this section are subject to the following provisions:
  - (1) Towers may continue in use for the purpose used and existing as of the effective date of the ordinance from which this chapter is derived, but may not be replaced or structurally altered without complying in all respects with this section.
  - (2) If such towers are subsequently damaged or destroyed due to any reason or cause whatsoever, the tower may be repaired and restored to its former use, location, and physical dimensions upon obtaining a building permit for the repair or restoration, but without otherwise complying with this chapter, provided, however, that if the cost of repairing the tower to the former use, physical dimensions, and location would be 50 percent or more of the cost of a new tower of like kind and quality, then the tower may not be repaired or restored except in full compliance with this section.
- (m) *Abandoned or unused towers or portions of towers.* All abandoned or unused towers and associated facilities shall be removed within 12 months of the cessation of operations at the site unless a time extension is approved by the city. In the event that a tower is not removed within 12 months of the cessation of operations at a site, the tower and associated facilities may be removed by the city and the costs of removal assessed against the property. After the facilities are removed, the site shall be restored to its original or an improved state.
- (n) *Interference with public safety telecommunications.* No new or existing telecommunications service shall interfere with public safety telecommunications.
- (o) *Additional submittal requirements.*
  - (1) In addition to the information required elsewhere in this chapter for an application for a building permit for towers and their antennas, applications for conditional use permits for such towers shall include the following supplemental information:
    - a. A report from a qualified and licensed professional engineer which does the following:
      1. Describes the tower height and design including a cross section and elevation;
      2. Documents the height above grade for all potential mounting positions for collocated antennas and the minimum separation distances between antennas;
      3. Describes the tower's capacity, including the number and type of antennas that it can accommodate; and
    - b. For all personal wireless service towers, a letter of intent committing the tower owner and his or her successors to allow the shared use of the tower if an additional user agrees in writing to meet reasonable terms and conditions for shared use, so long as there is no negative structural impact upon the tower and there is no disruption to the service provided.
  - (2) Before the issuance of a building permit, the following supplemental information shall be submitted:
    - a. Confirmation that the proposed tower complies with the requirements of the Federal Aviation Administration, Federal Communications Commission, and any

appropriate state review authority or that the tower is exempt from those regulations; and

- b. A report from a qualified and licensed professional engineer that demonstrates the tower's compliance with the applicable structural and electrical, but not radio frequency, standards.

(p) *Exemptions.* The following antennas are exempt from the requirements under this section except as otherwise provided in this subsection:

- (1) Satellite earth station antennas no more than ten feet in height that are two meters or less in diameter and located or proposed to be located in a business district;
- (2) Antennas designed to receive signals as follows:
  - a. Antennas that are one meter or less in diameter and that are designed to receive direct broadcast satellite service, including direct-to-home satellite services;
  - b. Antennas that are one meter or less in diameter and that are designed to receive video programming services via multipoint distribution services, including multichannel multipoint distribution services, instructional television fixed services, and local multipoint distribution services; or
  - c. Antennas designed to receive television broadcast signals;
- (3) Antennas exempted under this section are subject to the following requirements:
  - a. Antennas (including antenna cables) shall be designed to blend into the surrounding environment through the use of appropriate colors, except in instances where the color is dictated by federal or state authorities such as the Federal Aviation Administration;
  - b. No lighting, signage, advertising, or identification of any kind intended to be visible from the ground or other structures is permitted, except applicable warning and equipment information signage required by the manufacturer or by federal, state, or local authorities;
  - c. Antennas and any guy wires or guy wire anchors shall not be erected within a public or private utility and drainage easements, and shall be set back a minimum of five feet from all lot lines;
  - d. Antennas shall meet the setback requirements specified under this section and, to the extent feasible, placed in a position that is not visible from the street, unless placement in accordance with these requirements would impair reception of an acceptable signal;
  - e. Ground-mounted antennas shall not exceed ten feet in height and all other antennas must meet the height limitations in this section, unless the applicable height limitation would impair reception of an acceptable signal; in which case, antennas shall be limited to the minimum height necessary to obtain an acceptable signal;
  - f. Antennas shall not be constructed, installed, or maintained so as to create a safety hazard or cause damage to the property of other persons;

- g. With the exception of necessary electric and telephone service and connection lines approved by the city, no part of any antenna nor any lines, cable, equipment, or wires or braces in connection with the antenna shall at any time extend across or over any part of the right-of-way, public street, highway, sidewalk, or property line;
  - h. Antennas, masts, and supporting cables shall conform to the latest structural standards and wind loading requirements of the Minnesota State Building Code and the electronics industry association and any other applicable reviewing agencies;
- (4) Satellite earth station antennas no more than ten feet in height, and satellite earth station antennas in excess of one meter in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one meter in diameter may be allowed as a conditional use within the residential zoning districts of the city and, in addition to the requirements of this section, shall comply with the following standards:
- a. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free receive window can be maintained within the limits of the property ownership;
  - b. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the receive window;
  - c. The antenna is not greater than three meters in diameter; and
  - d. The conditional use permit provisions of this chapter are considered and determined to be satisfied;
- (5) Satellite earth station antennas in excess of two meters in diameter and antennas designed to receive direct broadcast services or multichannel multipoint distribution services in excess of one meter in diameter are allowed as a conditional use within the B-1, B-2, B-3, P-1, P-1/R-1, and P-1/B-2 districts of the city and, in addition to the requirements of this section, shall comply with the following standards:
- a. The lot on which the antenna is located shall be of sufficient size to assure that an obstruction-free transmit-receive window or windows can be maintained within the limits of the property ownership;
  - b. Except where the antenna is screened by a structure exceeding the antenna height, landscape buffering and screening shall be maintained on all sides of the antenna in a manner in which growth of the landscape elements will not interfere with the transmit-receive window; and
  - c. The conditional use permit provisions of this chapter are considered and determined to be satisfied.
- (q) *Violations.* Any person who shall violate any of the provisions of this section shall be guilty of a misdemeanor.

(Code 1993, § 9-2.07(2); Ord. No. 0-97-01, § 1, 2-12-1997; Ord. No. 97-07, § 3, 9-24-1997)

***Sec. 113-245 - Essential services***

Essential services as defined herein shall be permitted as authorized and regulated by state law and Code of the city, except as further regulated herein.

(Code 1993, § 9-2.08)

***Sec. 113-246 - Land reclamation***

Land reclamation as defined herein shall be permitted only by conditional use permit in all districts.

(Code 1993, § 9-2.10)

***Sec. 113-247 - Mining***

Mining shall be permitted only by conditional use permit.

(Code 1993, § 9-2.11)

***Sec. 113-248 - Firewood storage***

- (a) *Scope.* This section applies to the storage of wood on residential properties within the city. The section shall apply to any wood or wood product usually used or intended to be used as firewood.
- (b) *Conditions of storage.* To protect the public health and safety, woodpiles must be erected, located, and maintained in a safe and orderly fashion:
  - (1) In neat and secure stacks;
  - (2) The maximum height allowed for the woodpile is six feet;
  - (3) No wood shall be stored within the required minimum area of setback from the street right-of-way;
  - (4) No wood shall be stored in any yard which is commonly considered the front yard.
- (c) *Exemptions.* Wood stored or kept in a covered structure impervious to the elements is exempt from the conditions outlined in subsection (b) of this section.
- (d) *Existing woodpiles.* Any woodpile in existence as of the date of the passage of the ordinance from which this chapter is derived which does not comply with the provisions of this section must be moved or placed in compliance within 90 days after written notice to comply has been given to the occupant of the residence by the zoning administrator. Such notice shall be in writing and shall be served upon the property owner either in person or by mail.

(Code 1993, § 9-2.13)

### ***Sec. 113-249 - Manufactured homes***

Manufactured or mobile homes as defined in this chapter and per Minn. Stats. § 327.31, subd. 6, shall be permitted on any legal lot in the R-1 and R-2 residential districts under the following conditions that apply also to any other type of principal residential building permitted:

- (1) No principal residential building shall be less than 50 feet by 20 feet in outside dimensions (20 feet one side and 50 feet the other).
- (2) All one- and two-family residential buildings shall have a basement as defined and regulated in the city building code.
- (3) All residential buildings shall meet all structural and other requirements of the city building code.

(Code 1993, § 9-11.02)

### ***Sec. 113-250 - Private automobile repair and reconditioning***

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Major repair* means rebuilding, overhauling, or reconditioning of engines, motor vehicles or trailers including body, frame or fender straightening or repair, painting, and vehicle cleaning by steam or automatic car washing devices.

*Minor repair* means common maintenance including oil and filter change; battery or tire change; mounting of tires on rims; auto tune-up; replacing car lights, antifreeze, hoses, thermostats, manifolds and pipes.

- (b) *Requirements.* Private automobile repair may be conducted in residential zones subject to the following conditions:
- (1) *Vehicle registration.* Automobiles on which repair work is done must be registered to the owner or occupant of the property.
  - (2) *Location of repair work.* In R-1, R-2, and R-4 residential districts minor repair work may be done in a private garage, a garage attached to a dwelling unit, or on an improved driveway surface; and major repair work may be done in a private garage, a garage attached to the dwelling unit, or, if a permit is obtained from the city zoning administrator, on an improved driveway surface. In an R-4 zone, the location of major and minor repair work shall also be governed by regulations of the property owner.
  - (3) *Hours.* Except as herein provided, major and minor repair work may be conducted between the hours of 8:00 a.m. and 8:00 p.m.
  - (4) *Permit.* Where an automobile repair permit is required, an application shall be made on forms provided by the city zoning administrator. An automobile repair permit shall expire ten days after issuance unless extended for five additional days by the city zoning administrator. Further extensions shall require approval of the city council.

- (5) *Nuisance.* In no event shall major or minor repair work be conducted in a manner that creates an unreasonable disturbance for the owners of adjacent or nearby property.

(Code 1993, § 9-13.07)

***Sec. 113-251 - Vehicle sales***

- (a) *Residential district.* Motor vehicles and recreational vehicles which are permitted within the respective residential district may be advertised for sale and sold provided the vehicle is owned by the resident where the vehicle is parked and the vehicle is currently licensed and operable. Vehicles that are displayed for sale shall not be parked or stored on public property or the public rights-of-way on Snelling Avenue and its frontage roads, Hamline Avenue, Fairview Avenue, Roselawn Avenue and Cleveland Avenue. At no time shall any commercial vehicle be parked within a residential district and advertised for sale.
- (b) *Nonresidential district.* Motor, commercial, and recreational vehicles shall not be displayed for sale or sold within nonresidential districts unless as part of an approved licensed sales dealership or for short-term parking (12 hours or less) if the vehicle is owned by an employee of said business where the vehicle is parked with the consent of the business owner.

(Code 1993, § 9-13.08; Ord. No. 2004-01, § 1(9-13.08), 5-5-2004)

***Sec. 113-252 - Drive-through facilities***

Drive-through facilities are prohibited except when specifically allowed by a conditional use permit in a zoning district. When allowed, all drive-through facilities must comply with the following requirements:

- (1) The drive-through facility, service window and speakers must be located at least 100 feet from a residential zoned or used property and must be visually screened from adjoining residential property.
- (2) The entrance and exit drive lanes to the drive-through facility must be at least 75 feet from a street intersection.
- (3) The lot on which the drive-through facility is located must be at least 35,000 square feet in area.
- (4) The minimum on-site stacking distance available for the drive-through must be 180 feet in length.
- (5) Drive-through facilities may only be operated between the hours of 7:00 a.m. and 8:00 p.m.
- (6) No speaker noise may be audible from adjacent residential property.
- (7) A traffic study must be completed documenting that the drive-through facility will not create traffic problems.

(Ord. No. 06-03, § 2, 9-13-2006)

### ***Sec. 113-253 - Mobile storage structures***

Mobile storage structures may be located as a temporary structure on property within the city upon issuance of a permit by the city clerk. They are allowed for a period not exceeding 72 hours in duration on a public street and not exceeding four weeks on private property, from time of delivery to time of removal. No more than one mobile storage structure may be located on a specific piece of property within the city at one time. Such temporary structure may not be located on a specific property more than two times in any 90 calendar-day period. Such temporary structure shall be located no closer than ten feet to the property line unless on a driveway and must be placed on an impervious surface. Such structure may not be placed in a fire lane, or sidewalk. Such structure may not exceed eight feet six inches in height, ten feet in width or 20 feet in length. It shall be the obligation of the owner or user of such temporary structure to secure it in a manner that does not endanger the safety of persons or property in the vicinity of the temporary structure.

(Ord. No. 07-03, § 2, 1-10-2007)

### ***Sec. 113-254 - Solar energy systems***

- (a) *Purpose and scope.* The City of Falcon Heights has adopted this section to meet the comprehensive plan goal of becoming a sustainable, energy efficient community and to preserve the health, safety and welfare of the community's citizens by promoting the safe, effective and efficient use of solar energy systems to reduce consumption of fossil fuels. This section applies to all solar energy installations in the City of Falcon Heights.
- (b) *Permitted accessory use.* Active solar energy systems are an accessory use in all zoning districts, subject to the following requirements:
  - (1) *Height.* Active solar energy systems must meet the following height requirements:
    - a. Building- or roof-mounted solar energy systems shall not exceed the maximum allowed height in any zoning district. For purposes for height measurement, solar energy systems other than building-integrated systems shall be considered to be mechanical devices and are restricted consistent with other building-mounted mechanical devices.
    - b. Ground- or pole-mounted solar energy systems shall not exceed 20 feet in height when oriented at maximum tilt.
  - (2) *Setback.* Active solar energy systems must meet the accessory structure setback for the zoning district in which the system is located.
    - a. *Roof-mounted solar energy systems.* In addition to the building setback, the collector surface and mounting devices for roof-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built. Exterior piping for solar hot water systems shall be allowed to extend beyond the perimeter of the building on a side yard exposure.
    - b. *Ground-mounted solar energy systems.* Ground-mounted solar energy systems may not extend into the side yard or rear setback when oriented at minimum design tilt.

- (3) *Visibility.* Active solar energy systems shall be designed to blend into the architecture of the building or be screened from routine view from public rights-of-way other than alleys. The color of the solar collector is not required to be consistent with other roofing materials.
- a. *Building integrated photovoltaic systems.* Building integrated photovoltaic solar energy systems shall be allowed regardless of whether the system is visible from the public right-of-way, provided the building component in which the system is integrated meets all required setbacks and regulations for the district in which the building is located.
  - b. *Solar energy systems with mounting devices.* Solar energy systems using roof-mounting devices or ground-mount solar energy systems shall not be restricted if the system is not visible from the closest edge of any public right-of-way other than an alley. Roof-mount systems that are visible from the nearest edge of the street frontage right-of-way shall not have a highest finished pitch steeper than the roof pitch on which the system is mounted, and shall be no higher than 12 inches above the roof.
  - c. *Coverage.* Roof- or building-mounted solar energy systems, excluding building-integrated systems, shall not cover more than 80 percent of the south-facing or flat roof upon which the panels are mounted. The surface area of pole- or ground-mount systems shall not exceed half the building footprint of the principal structure.
  - d. *Lot coverage.* The surface area of pole- or ground-mount systems shall be treated as impervious coverage as regulated for each zoning classification. Allowed impervious coverage may be increased by up to ten percent above maximum lot coverage for the zone provided 100 percent of the excess is accounted for by an approved solar ground- or pole-mounted solar energy system.
- (4) *Approved solar components.* Electric solar energy system components must have a UL listing and solar hot water systems must have an SRCC rating.
- (c) *Plan approval required.* All solar energy systems shall require administrative approval by the zoning and planning administrator.
- (1) *Plan applications.* Plan applications for solar energy systems shall be accompanied by a site plan and by to-scale horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building or on the property for a ground-mount system, including the property lines.
  - (2) *Pitched roof-mounted solar energy systems.* For all roof-mounted systems other than a flat roof, the elevation must show the highest finished slope of the solar collector and the slope of the finished roof surface on which it is mounted.
  - (3) *Flat roof-mounted solar energy systems.* For flat roof applications, a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building on the street frontage side, the shortest distance of the system from the street frontage edge of the building, and the highest finished height of the solar collector above the finished surface of the roof.

- (4) *Compliance with building code.* All active solar energy systems shall require a building permit.
- (5) *Compliance with state electric code.* All photovoltaic systems shall comply with the Minnesota State Electric Code.
- (6) *Compliance with state plumbing code.* Solar thermal systems shall comply with applicable Minnesota State Plumbing Code requirements.
- (7) *Utility notification.* No grid-intertie photovoltaic system shall be installed until evidence has been given to the planning and zoning department that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.
- (8) *Plan approvals.* Applications that meet the design requirements of this section shall be granted administrative approval by the zoning and planning administrator. Plan approval does not include building, electric, or plumbing code approval. If applicable, such approvals must also be obtained.

(Ord. No. 13-05, § 2, 11-13-2013)

***Secs. 113-255 – 113-280 - Reserved***

***DIVISION 2. - OFF-STREET PARKING AND LOADING***

***Subdivision I - In General***

***Secs. 113-281 – 113-308 - Reserved***

***Subdivision II - Off-Street Parking***

***Sec. 113-309 - Scope and purpose***

- (a) The provisions of this subdivision shall apply to all buildings, structures and uses of land herein governed by this chapter.
- (b) Regulation of off-street parking and loading spaces in this chapter is to alleviate or prevent congestion of the public right-of-way and to promote the safety and general welfare of the public by establishing minimum requirements for off-street parking, loading and unloading from motor vehicles in accordance with the utilization of the various parcels of land and structures.
- (c) Structures or uses for which a building permit has been issued prior to the effective date of the ordinance from which this chapter is derived, but for which work has not been completed shall be exempt from the hereinafter stated parking requirements if the structure is completed within six months after the effective date of the ordinance from which this chapter is derived.

(Code 1993, § 9-13.04)

***Sec. 113-310 - Residential districts***

Off-street parking and loading shall be as required and regulated in specific sections of this chapter and by the applicable general provisions of this section herein.

(1) The following provisions apply to the R-1 and R-2 districts:

- a. Parking shall be permitted on hard-surfaced areas designed for that purpose and for providing access to garage, carport or open parking area and provided that no driveway or off-street open parking area shall be located closer than five feet from the property line on that side. The five feet of property known as the side yard shall be landscaped as shall the remainder of the front yard applying to the residential portion of the house and continuing to the far lot line removed from the access and/or parking driveway. Parking shall not be permitted in any part of landscaped yards, boulevards, grass portion of street right-of-way or other such areas (except as allowed for boats and unoccupied trailers under "exterior storage" provisions of this chapter). And provided further that from November 15 to April 1, the unsurfaced portion of the front yard of any property in a residential district may be used for parking one passenger vehicle registered in the name of a resident, if there is a single driveway, and the vehicle is parked parallel to the driveway and on one uniform side of the driveway, and the width of the parking area does not exceed eight feet. For purposes of this chapter a "passenger vehicle" shall mean a two- or four-door sedan or van used primarily for transporting passengers, and shall not include pickups, trucks, campers, recreational vehicles or buses.
- b. At least two and not more than four parking spaces are required for each dwelling unit. At least one of the parking spaces must be enclosed.
- c. No motor vehicle over one ton capacity bearing a commercial license and no commercially-licensed trailer shall be parked or stored in a residential district except when loading, unloading, or rendering service. No campers, boats, trailers, or snowmobiles shall be parked or stored in any front or side yard; boats and unoccupied trailers meeting criteria for "exterior storage" under this chapter may be stored in the rear yard.
- d. One-family homes may utilize the public street for the loading and unloading of furniture, moving trucks and other common and customary activities associated with residential use, excluding service and repair of vehicles except for the changing of tires, provided such activities do not block street traffic, cause traffic congestion or hazards, or otherwise constitute a public nuisance.

(2) The following provisions apply to the R-3 and R-4 districts:

- a. All accessory off-street parking facilities required herein shall be located as follows:
  1. Spaces accessory to multiple-family dwellings on the same lot as the principal use served and within 200 feet of the main entrance to the principal building served. Parking as required by the building code for the handicapped shall be provided.

2. Off-street parking spaces shall not be located on or project into a street or alley right-of-way.
  3. No driveway or off-street open parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes.
  4. Off-street parking spaces shall not be located within any required front or side yard setback.
- b. Reserved.
  - c. Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 7,000 pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants, or customers of nearby business or manufacturing establishments.
  - d. The number of off-street parking spaces required for various land uses as specified herein shall be considered as absolute minimum requirements. Additional off-street parking spaces may be required by the zoning administrator or planning commission. It is public policy that all public streets in the city are intended primarily for the movement of traffic; on-street curb parking shall be considered a privilege that may or may not be granted on a street-by-street basis.
  - e. Off-street parking spaces required (one space equals 350 square feet) shall be as follows for:

*Multiple-family dwellings.* At least two parking spaces per dwelling unit except that two and one-half parking spaces per dwelling unit are required for multiple units of ten or less that abut no parking (on street curb) zones. At least one-half of the required spaces shall be enclosed unless the property abuts an alley. (Garage requirements may be waived for apartment projects designed and intended for occupancy by low-income families.)

- (3) The following provisions apply to the R-5M district: The requirements of the R-4 district shall apply except that at least 80 percent of the required parking spaces for apartment buildings shall be below grade and integrated into the apartment building.

(Code 1993, §§ 9-4.01(5), 9-5.01(5), 9-6.01(5), 9-7.01(5), 9-13.04(1); Ord. No. 0-96-01, § 4, 2-28-1996; Ord. No. 09-01, § 1, 4-8-2009; Ord. No. 10-06, §§ 6, 7, 9-8-2010; Ord. No. 12-07, § 1, 7-11-2012)

### ***Sec. 113-311 - Surfacing and drainage***

Off-street parking areas shall be improved with a durable and dustless surface. Parking areas shall be so graded and drained as to dispose of all surface water accumulation within the parking area. All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.) Commercially zoned properties and R-4 properties shall utilize asphalt,

concrete or a reasonable substitute surface as approved by the city engineer and capable of carrying a wheel load of 4,000 pounds. All surfacing must be completed prior to occupancy unless other arrangements have been made with the zoning administrator.

(Code 1993, § 9-13.04(2); Ord. No. 0-96-01, § 4, 2-28-1996)

#### ***Sec. 113-312 - Location***

All required accessory off-street parking facilities required herein shall be located as follows:

- (1) Spaces accessory to one- and two-family dwellings as regulated in sections 113-174 and 113-175.
- (2) Spaces accessory to multiple-family dwellings as regulated in sections 113-175 and 113-176.
- (3) Spaces accessory to uses located in a business district shall be within 500 feet of a main entrance to the principal building served. Parking as required by the building code for the handicapped shall be provided.
- (4) There shall be no off-street open parking space within ten feet of any street right-of-way.
- (5) No driveway or off-street open parking area shall be located closer than five feet from an adjacent lot zoned or used for residential purposes, except when adjoining an existing parking area on the adjacent lot.

(Code 1993, § 9-13.04(3))

#### ***Sec. 113-313 - Underground parking credits***

In any development in which all or a portion of the required off-street parking is fully enclosed and below ground elevation, the minimum lot area requirements shall be reduced by 15 percent per dwelling unit, but said reduction shall not be greater than 20 percent of the total parking space area requirement.

(Code 1993, § 9-13.04(4))

#### ***Sec. 113-314 - Miscellaneous provisions***

- (a) *Existing off-street parking spaces.* Existing off-street parking spaces and loading spaces upon the effective date of the ordinance from which this chapter is derived shall not be reduced in number unless the result exceeds the requirements set forth herein.
- (b) *Parking for seating facilities.* In stadiums, sport arenas, churches and other places of public assembly, in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this chapter.

- (c) *Parking space.* Required parking spaces shall be at least nine feet wide and 18 feet long. Up to 50 percent of the required spaces may be designated compact spaces. Compact parking spaces shall be at least eight feet wide and 16 feet long. Compact spaces shall be identified through appropriate signage. Unless alternative requirements are designated by the city engineer, parking spaces shall be served by access drives with minimum dimensions provided as follows:

| Stall Angle (degrees) | Curb Length (feet) | Vehicle Projection (feet) | Aisle (feet) | Traffic Flow |
|-----------------------|--------------------|---------------------------|--------------|--------------|
| 45                    | 9                  | 22                        | 14           | One way      |
| 60                    | 9                  | 21                        | 16           | One way      |
| 75                    | 9                  | 21                        | 18           | One way      |
| 90                    | 9                  | 18                        | 24           | Two way      |
| 90 compact            | 8                  | 16                        | 24           | Two way      |
| Parallel              | 23                 | 8.5                       | 22           |              |

*Handicapped parking spaces.* Spaces for the handicapped shall be at least 12 feet wide and 18 feet in length. The size, number, and location of stalls reserved for handicapped parking shall be provided and identified as required by applicable regulations. These spaces are included in the computation for the minimum parking space requirement.

- (d) *Use of parking facilities.* Off-street parking facilities accessory to residential use shall be utilized solely for the parking of passenger automobiles and/or one truck not to exceed 7,000 pounds gross capacity for each dwelling unit. Under no circumstances shall required parking facilities accessory to residential structures be used for the storage of commercial vehicles or for the parking of automobiles belonging to the employees, owners, tenants or customers of nearby business or manufacturing establishments.
- (e) *Joint parking facilities.* Off-street parking facilities for a combination of mixed buildings, structures or uses may be provided collectively in any district (except residential districts) in which separate parking facilities for each separate building, structure or use would be required, provided that the total number of spaces provided shall equal the sum of the separate requirements of each use during any peak hour parking period and a copy of the private joint parking agreement is approved by the zoning administrator and placed on file with the city along with a certificate of occupancy for all land area involved.

- (f) *Control of off-street facilities.* When required, accessory off-street parking facilities that are provided elsewhere than on the lot in which the principal use served is located shall be in the same ownership or control, either by deed or long-term lease, as the property occupied by such principal use, and the owner of the principal use shall file a recordable document with the zoning administrator requiring the owner and his or her heirs and assigns to maintain the required number of off-street parking spaces during the existence of said principal use.
- (g) *Use of parking area.* Required off-street parking space in any district shall not be utilized for open storage of goods or for the storage of vehicles which are inoperable, for sale or for rent or other nonparking purposes except by the granting of a variance.
- (h) *Lot coverage.* In residential districts, no more than 32 percent of the required front yard area shall be surfaced or utilized for driveway or vehicle storage space, but in no case shall a driveway in a required front yard exceed 24 feet in width as measured at the property line.
- (i) *Minimum spaces required.* The number of off-street parking spaces required for various land uses as specified herein shall be considered as absolute minimum requirements. Additional off-street parking spaces may be required by the zoning administrator or planning commission.
- (j) *Parking restrictions.* Parking shall be permitted on hard-surfaced areas designed for such use only; parking shall not be permitted in landscaped yards, boulevards, grass portion of street right-of-way or other such areas, except as provided in section 113-310(1)a.

(Code 1993, § 9-13.04(5); Ord. No. 0-91-10, § 1, 6-19-1991; Ord. No. 0-96-01, § 4, 2-28-1996; Ord. No. 12-07, § 2, 7-11-2012)

### ***Sec. 113-315 - Design and maintenance of off-street parking areas***

- (a) *Design.* Parking areas shall be designed so as to provide adequate means of access to a public alley or street. Such driveway access widths shall be in accordance with the state highway department standards, but in no case shall they exceed 32 feet in width unless a conditional use permit has been obtained approving the larger width. Driveway access shall be so located as to cause the least interference with traffic movement. There shall be only one driveway access for each one-family residential lot.
- (b) *Calculating space.* When the calculation of the number of off-street parking spaces required results in a fraction, such fraction shall require a full space.
- (c) *Signs.* No signs shall be located in any parking area except as necessary for orderly operation of traffic movement and such signs shall not be a part of permitted advertising space. Signs shall conform to zoning district regulations.
- (d) *Surfacing.* All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.)
- (e) *Lighting.* Any lighting used to illuminate an off-street parking area shall be so arranged so it is not directly visible from the adjoining property and in a downward vertical direction.

However, in no case shall such lighting exceed two footcandles in a business or industrial zone nor 0.5 footcandle in a residential zone measured at the lot line.

- (f) *Curbs and landscaping.* A six-inch-high, poured-in-place concrete curb shall be provided around the periphery of all parking lots and internal access roads, except where the city engineer determines that a curb would impede the drainage plan. When the parking lot is for six spaces or more, a curb or screening not over four feet in height shall be erected along the front yard setback line and grass or planting shall occupy the space between the sidewalk and curb or screening. Wheel guards as approved by the zoning administrator may be used.
- (g) *Planting islands.* Within any parking lot containing more than 20 parking stalls, the city may require landscaped planting islands of a type, size and location as approved by the city council.
- (h) *Parking space for six or more cars.* When a required off-street parking space for six or more cars is located adjacent to a residential district, a fence or screen not less than four feet in height shall be erected along the residential district property line, plus additional screening as may be required by the zoning administrator.
- (i) *Maintenance of off-street parking space.* It shall be the joint responsibility of the operator and owner of the principal use or building to reasonably maintain the parking space, accessways, landscaping and required fencing.
- (j) *Access.* All off-street parking spaces shall have access from driveways and not directly from the public street.
- (k) *Determination of areas.* The parking space per vehicle shall not be less than 350 square feet of parking and maneuvering area or an area equal to the width of the parking space multiplied by the length of the parking space plus 15 feet.
- (l) *Proximity to buildings.* No parking space shall be closer than ten feet to any building.
- (m) *Fire access lanes.* Fire access lanes shall be provided as required by the building or fire code or the zoning administrator.
- (n) *Calculation of floor space for parking requirements.* Floor area or gross floor area of a building for purposes of calculating required parking space for retail uses shall include only that floor space devoted to retail sales as defined herein; it shall not include storage space, restrooms, interior pedestrian mall space unless retail activities are located on floor area of said mall, hallways, enclosed walkways, utility rooms, window displays, office of building management or maintenance, lobbies or similar floor space not generating a demand or need for parking space. Due consideration shall, however, be given to floor area which may and could reasonably be expected to be converted to retail or other commercial activity and thereby increase the need for parking space.
- (o) *Shopping centers and large retail outlets.* Shopping centers or individual retail outlets with over 5,000 square feet of floor area shall provide parking on the basis of 5.5 spaces per 1,000 square feet of gross leasable area.
- (p) *Setbacks (yards).* Except as specifically authorized and permitted by zoning district provisions, off-street parking shall not be located in required yards.

- (q) *Number of spaces.* Off-street parking spaces shall not be reduced in number unless said number exceeds the requirements set forth herein.
- (r) *Off-street parking requirements.* Off-street parking spaces required (one space equals 350 square feet) shall be as follows unless the city determines, based upon a professional analysis of parking for any specific use, that a reasonable parking ratio for such use should be otherwise:
- (1) One- and two-family residences. Two spaces per dwelling unit but not to exceed four per unit.
  - (2) Multiple-family dwellings. At least two parking spaces per dwelling unit except that 2½ parking spaces per dwelling unit are required for multiple units of ten or less that abut no parking (on street curb) zones. At least one-half of the required spaces shall be enclosed. (Garage requirements may be waived for apartment projects designed and intended for occupancy by low income families.)
  - (3) Churches, theaters, auditoriums, mortuaries, and other places of assembly. One space for each three seats or for each five feet of pew length. Based upon maximum design capacity.
  - (4) Offices. One space for each 200 square feet of gross floor space.
  - (5) Hotel, motel. One space per unit, plus one space per employee, plus one space for each three persons who may be accommodated in a bar, restaurant, meeting room, swimming pool, convention facility or similar place of public assembly based upon maximum design capacity.
  - (6) Schools, elementary and junior high. Three spaces for each classroom.
  - (7) High school through college. One space for each four students based on design capacity plus three additional spaces for each classroom.
  - (8) Hospitals. One space for each three hospital beds, plus one space for each three employees other than doctors, plus one space for each resident and regular staff doctor. Bassinets shall not be counted as beds.
  - (9) Sanitarium, convalescent home, rest home, nursing home, or institution. One space for each six beds for which accommodations are offered, plus one space for each two employees on maximum shift.
  - (10) Additional parking. Additional parking shall be provided for all schools with theaters, auditoriums, swimming pools, gyms, football stadiums or other places of public assembly or participation in the amount of one space for each three persons based upon maximum design capacity.
  - (11) Drive-in food or fast food establishments. One space for each 15 square feet of gross floor space in the building allocated to drive-in operation, plus additional space as may be determined by the zoning administrator based upon advice from the planning commission. Drive-through lanes for food pick-up must be able to stack eight cars on site without interfering with the site parking.
  - (12) Bowling alley. Six spaces for each alley, plus additional spaces as may be required herein for related uses such as a restaurant.

- (13) Motor fuel station. Two spaces plus three spaces for each service stall.
- (14) Retail. One space for each 150 square feet of gross floor area.
- (15) Medical or dental clinic. Six spaces per doctor or dentist or one space for each 200 square feet of gross floor area, whichever is greater.
- (16) Restaurant and/or cafeteria. One space per 2.5 seats, plus one space per 20 square feet of the combined area of bar, lounge and public space, minus the first 250 square feet plus one space per 50 square feet of banquet dining area, plus one space per five seats outdoor dining.
- (17) Furniture store, wholesale, auto sales, repair shops. Three spaces for each 1,000 square feet of gross floor area. Open sales lots shall provide two spaces for each 5,000 square feet of lot area, but not less than three spaces.
- (18) Industrial, warehouse, storage, handling of bulk goods. One space for each two employees on maximum shift or one for each 2,000 square feet of gross floor area, whichever is the larger.
- (19) Uses not specifically noted. As determined by the planning commission.
- (20) Planned unit developments and conditional uses. Spaces to be provided in amounts and locations as per approved site development plans and permit conditions imposed by the planning commission.
- (21) Auto repair, bus terminal, taxi terminal, boats and marine sales and repair, bottling company, shop for a trade employing six or fewer people, garden supply store, building material sales in structure. Eight off-street parking spaces, plus one additional space for each 800 square feet of floor area over 1,000 square feet.
- (22) Skating rink, dance hall, or public auction house. Twenty off-street parking spaces plus one additional off-street parking space for each 200 square feet of floor space over 2,000 square feet.
- (23) Golf driving range, miniature golf, archery range. Ten off-street parking spaces plus one for each 100 square feet of floor area.
- (24) Baseball fields, stadiums. At least one parking space for each eight seats of design capacity.
- (25) Community centers, physical culture studios, libraries, private clubs, lodges, art galleries. Ten spaces plus one for each 150 square feet in excess of 2,000 square feet of floor area in the principal structure.
- (26) Animal hospitals and professional offices. Three spaces plus at least one space for each 200 square feet of floor area.
- (27) Business service establishment. At least one off-street parking space for each 200 square feet of floor area.
- (28) Food delivery restaurants. Parking requirements are one stall per employee on duty, one stall per seat should be provided, one stall per two delivery vehicles when owned, operated, and stored by employees, one stall per delivery vehicle when owned and operated by restaurant. One loading bay per store is required.

- (29) Parking ratio. Based on a professional analysis of parking for any specific use, the city council may determine a reasonable parking ratio for such use.

(Code 1993, § 9-13.04(6); Ord. No. 0-91-10, § 2, 6-19-1991; Ord. No. 12-07, § 3, 7-11-2012)

***Secs. 113-316 – 113-333 - Reserved***

**Subdivision III - Off-Street Loading**

***Sec. 113-334 - Location***

All required loading berths shall be off-street and shall be located on the same lot as the building or use to be served. A loading berth shall be located at least 25 feet from the intersection of two street rights-of-way and at least 50 feet from a residential district, unless within a building. Loading berths shall not occupy the required front yard space.

(Code 1993, § 9-13.05(1))

***Sec. 113-335 - Size***

Unless otherwise specified in this chapter, a required loading berth shall be not less than 12 feet in width, 50 feet in length, and 14 feet in height, exclusive of aisle and maneuvering space.

(Code 1993, § 9-13.05(2))

***Sec. 113-336 - Street access***

Each required loading berth shall be located with appropriate means of vehicle access to a street or public alley in a manner which will least interfere with traffic.

(Code 1993, § 9-13.05(3))

***Sec. 113-337 - Accessory use***

Any space allocated as a loading berth or maneuvering area so as to comply with the terms of this chapter shall not be used for the storage of goods, inoperable vehicles, or be included as a part of the space requirements necessary to meet the off-street parking area.

(Code 1993, § 9-13.05(4))

***Sec. 113-338 - Alterations***

Any structure erected or substantially altered for a use which requires the receipt of distribution of materials or merchandise by trucks or similar vehicles, shall provide off-street loading space as required for a new structure.

(Code 1993, § 9-13.05(5))

***Sec. 113-339 - Schools***

No public or private schools shall load or unload buses from public streets but shall provide off-street loading and unloading facilities.

(Code 1993, § 9-13.05(6))

***Sec. 113-340 - Repair and service***

No motor vehicle repair work or service of any kind shall be permitted in conjunction with loading facilities provided in any residential district.

(Code 1993, § 9-13.05(7))

***Sec. 113-341 - Utilization***

Space allocated to any off-street loading shall not, while so allocated, be used to satisfy the space requirements for any off-street parking facilities or portions thereof.

(Code 1993, § 9-13.05(8))

***Sec. 113-342 - Central loading***

Central loading facilities may be substituted for loading berths on the individual zoning lots provided the following conditions are fulfilled:

- (1) Each zoning lot served shall have direct access to the central loading area without crossing streets or alleys at grade.
- (2) Total berths provided shall meet the requirements based on the sum of the several types of uses served. (Area of types of uses may be totaled before computing number of loading berths.)
- (3) No zoning lot served shall be more than 300 feet removed from the central loading area.

(Code 1993, § 9-13.05(10))

***Sec. 113-343 - Minimum facilities***

Uses for which off-street loading facilities are required herein, but which are located in buildings of less floor area than the minimum prescribed for such required facilities, shall be provided with adequate receiving facilities, accessible by motor vehicle off any adjacent alley, service drive, or open space on the same zoning lot as approved by the zoning administrator.

(Code 1993, § 9-13.05(11))

***Sec. 113-344 - Business districts***

Off-street loading spaces accessory to uses allowed in the several business districts shall be provided in accordance with the following minimum requirements:

- (1) Any use listed in a residential district that is also permitted in any of the several business districts shall provide loading spaces as established for that use in the preceding section for residence districts.
- (2) Business or office establishments containing less than 10,000 square feet of gross floor area shall be provided with adequate facilities, accessible by motor vehicle off any adjacent alley, street service drive, or open space on the same zoning lot.
- (3) For all other uses, loading berth facilities shall be provided in accordance with the number and location determined necessary by the zoning administrator.

(Code 1993, § 9-13.05(12))

***Sec. 113-345 - Other zoning districts***

Off-street loading spaces (number, type, location) shall be provided by the nature of the specific use as determined and approved by the zoning administrator.

(Code 1993, § 9-13.05(13))

***Sec. 113-346 - Temporary use permit***

Loading or unloading from any street or other public right-of-way may be permitted for nonresidential uses in any zoning district only upon issuance of a "temporary use" permit by the zoning administrator.

(Code 1993, § 9-13.05(14))

***Sec. 113-347 - Use by taxi, bus***

Taxi or public transit bus as approved by the city council may use areas designated for loading.

(Code 1993, § 9-13.05(15))

***Secs. 113-348 – 113-367 - Reserved***

***DIVISION 3 - DESIGN AND PERFORMANCE STANDARDS***

***Sec. 113-368 - Minimum standards***

All uses, buildings, and structures permitted pursuant to this chapter shall conform to the performance and design standards set forth in this division; said standards are determined to be

the minimum standards necessary to comply with the intent and purposes of this chapter as set forth in this division.

(Code 1993, § 9-14.01(1))

***Sec. 113-369 - The principal building***

- (a) Except as provided by a conditional use permit issued pursuant to this chapter, there shall be no more than one principal building on any one lot or parcel of land.
- (b) No cellar, garage, recreational vehicle or trailer, basement with unfinished exterior above or accessory building shall be used at any time as a dwelling unit.
- (c) Principal buildings with more than one use, in which one of those uses is a dwelling unit, shall require a conditional use permit.
- (d) All principal buildings hereafter erected on unplatted land shall be so placed as to avoid obstruction of future street or utility extensions and shall be so placed as to permit reasonably anticipated future subdivisions and land use.
- (e) The keeping of animals except for domesticated pets inside of the dwelling unit shall be prohibited.

(Code 1993, § 9-14.01(2))

***Sec. 113-370 - Exterior storage***

- (a) All existing uses shall comply with this standard by January 1, 1987.
- (b) In all districts, all personal property shall be stored within a building or be fully screened so as not to be visible from adjoining properties and public streets, except for the following:
  - (1) Laundry drying and playground equipment.
  - (2) Construction and landscaping materials and equipment currently (for a period not greater than 12 months) being used on the premises.
  - (3) Garden equipment and materials if these are used or intended for use on the premises.
  - (4) Off-street parking of licensed passenger automobiles and pickup trucks.
  - (5) Boats and unoccupied trailers, less than 25 feet in length, are permissible if stored in the rear yard more than ten feet from any property line.
  - (6) In single-family residential districts (R-1), closed refuse or garbage containers, so long as they are not visible from the street.
- (c) In nonresidential districts, exterior storage of personal property may be permitted by variance provided any such property is so stored for purposes related to a use of the property permitted by this chapter and will not be contrary to the intent and purpose of this chapter.
- (d) In all districts, all waste, refuse or garbage shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse and weeds. Existing uses shall comply

with this provision within 90 days following the effective date of the ordinance from which this chapter is derived.

- (e) All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a variance, or otherwise permitted by provisions of this chapter, shall be considered as refuse.

(Code 1993, § 9-14.01(3))

***Sec. 113-371 - Environmental pollution***

- (a) Regardless of the source, the city council may take such action as is necessary to abate foul odors.
- (b) No use shall be permitted which will cause or result in the pollution of any tributary to any lake, stream or other body of water.

(Code 1993, § 9-14.01(4))

***Sec. 113-372 - Screening***

- (a) Screening shall be required in residential zones where:
  - (1) Any off-street parking area contains more than four parking spaces and is within 30 feet of a residential zone; and
  - (2) Where the driveway to a parking area of more than six parking spaces is within five feet of an adjoining residential use or zone.
- (b) Where any business or industrial use (structure, parking or storage) is adjacent to property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business, parking lot, or industry is across the street from a residential zone, but not on the side of a business or industry considered to be the front.
- (c) All exterior storage shall be screened. The exceptions are:
  - (1) Merchandise being displayed for sale;
  - (2) Materials and equipment currently used for construction on the premises;
  - (3) Merchandise located on service station pump islands.
- (d) The screening required in this section shall consist of earth mounds, berms, or ground forms; fences and walls; landscaping (plant materials) or landscaped fixtures (such as timbers) used in combination or singularly so as to block direct visual access to an object.
- (e) Required screening shall be as approved by the city council. Existing land uses may be required to install screening if so ordered by the city council following public hearing.

(Code 1993, § 9-14.01(5))

***Sec. 113-373 - Landscaping***

- (a) Landscaping on a lot shall consist of a finished grade and vegetation as described in section 54-38, or as may be required by the zoning administrator to protect the soil and aesthetic values on the lot and adjacent property.

(Code 1993, § 9-14.01(6); Ord. No. 20-02, § 6, 2-12-2020)

***Sec. 113-374 - Reasonable maintenance and repairs required***

In all districts, all structures, landscaping and fences shall be reasonably maintained and kept in a good state of repair so as to avoid health or safety hazards and prevent a degradation in the value of adjacent property.

(Code 1993, § 9-14.01(7))

***Sec. 113-375 - Lighting, lighting fixtures and glare***

- (a) All existing uses shall comply by January 1, 1989.
- (b) In all districts, any lighting used to illuminate an off-street parking area, or other structure or area, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, whether from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of light shall be hooded or controlled so as not to light adjacent property. Bare lightbulbs shall not be permitted in view of adjacent property or public right-of-way. No light or combination of lights which cast light on a public street shall exceed two footcandle meter reading as measured from the centerline of said street nor shall any light or combination of lights which cast light on residential property exceed 0.5 footcandle.
- (c) Lighting standards shall not exceed 25 feet or the height of the principal building on a lot, without a conditional use permit.

(Code 1993, § 9-14.01(8))

***Sec. 113-376 - Traffic control***

- (a) The traffic generated by any use shall be controlled so as to prevent:
  - (1) Congestion of the public streets;
  - (2) Traffic hazards; and
  - (3) Excessive traffic through residential areas, particularly truck traffic.
- (b) Internal traffic shall be so regulated as to ensure its safe and orderly flow. Traffic into and out of business areas shall in all cases be forward-moving with no backing into streets.
- (c) On any corner lot, nothing shall be placed or allowed to grow in such manner as to impede vision between a height of 2½ and ten feet above the centerline grades of the intersecting

streets within 15 feet of the intersecting street right-of-way lines. This restriction shall also apply to the planting of crops and to yard grades that result in elevations that impede vision within 15 feet of any intersecting street right-of-way lines.

- (d) Minimum distance for access drives from corners shall be no closer than 20 feet from intersecting street right-of-way lines.

(Code 1993, § 9-14.01(9))

***Sec. 113-377 - Storage of hazardous materials and explosives***

- (a) All existing uses shall comply with this standard by January 1, 1989.
- (b) All uses associated with the bulk storage of over 2,000 gallons of oil, gasoline, liquid fertilizer, chemicals and similar liquids shall require a conditional use permit in order that the zoning administrator may have assurance that fire, explosion, water or soil contamination hazards are not present that would be detrimental to the public health, safety and general welfare. All existing, aboveground liquid storage tanks having a capacity in excess of 2,000 gallons shall secure a conditional use permit within 12 months following enactment of the ordinance from which this chapter is derived; the zoning administrator shall require the development of diking around said tanks, suitably sealed to hold a leakage capacity equal to 115 percent of the tank capacity. Any existing storage tank that, in the opinion of the planning commission, constitutes a hazard to the public safety shall discontinue operations within five years following enactment of the ordinance from which this chapter is derived.
- (c) No activities involving the commercial storage, use or manufacture of materials or products which could decompose by detonation shall be permitted except such as are specifically permitted by the city council. Such materials shall include but not be confined to all primary explosives such as lead azide and mercury fulminate, all high explosives and boosters such as TNT, tetryl and nitrates, propellants and components thereof such as nitrocellulose, black powder and nitroglycerine, blasting explosives such as dynamite, and nuclear fuel and reactor elements such as uranium 235 and plutonium. Explosives shall include grain storage and other dust sources.

(Code 1993, § 9-14.01(10))

***Sec. 113-378 - Fall-out shelters***

Fall-out shelters maybe permitted in any district, subject to the yard regulations of the district. Such shelters may contain or be contained in other structures or be constructed separately, and in addition to shelter use, may be used for any use permitted in the district, subject to the district regulations on such use. A certificate of compliance for these and similar structures shall be required.

(Code 1993, § 9-14.01(11))

***Sec. 113-379 - Guesthouses***

- (a) Guesthouses for the purpose of this section shall be an accessory building detached from the principal building with temporary accommodations for sleeping, but having no kitchen facility. It is intended for the use of persons visiting the occupants of the principal structure.
- (b) Guesthouses may be permitted as a conditional use in all residential districts and shall conform to all requirements of this chapter and other regulations applicable to residential dwellings including setback and yard requirements in relation to the principal structure.
- (c) All guesthouses shall have designated off-street parking spaces.

(Code 1993, § 9-14.01(12))

***Sec. 113-380 - Dwelling units in commercial districts***

- (a) Dwelling units for watchman and family shall be considered as accessory uses and shall conform to all applicable regulations for the district in which located, except as herein modified.
- (b) A dwelling unit in the commercial district located in a commercial structure shall not occupy the basement or the front half of the ground floor.
- (c) A dwelling unit in a commercial or industrial building shall not contain more than one bedroom unless said building is part of a planned unit development.
- (d) No dwelling unit shall be permitted in a business district except as part of a planned unit development.
- (e) A dwelling unit which is a part of the principal building shall be provided with two exits.
- (f) All buildings shall conform to the building code and applicable fire codes.
- (g) Residential use shall not be permitted on the ground floor of any building in the B-2 district.

(Code 1993, § 9-14.01(13))

***Sec. 113-381 - Coin-operated machines***

Coin-operated automatic machines dispensing food, soft drinks and other food and materials shall not be permitted outside of a building.

(Code 1993, § 9-14.01(14))

***Sec. 113-382 - Swimming pools***

- (a) *Private swimming pools; general requirements.* Private swimming pools as regulated by this section are defined as any enclosure designed, intended or used for the containment of water, whether constructed above ground level or below ground level and in excess of 18 inches in depth or 100 square feet of surface area which is designed, intended or used for

swimming, wading or other recreational use by the owner, family, guest of the property owner without payment of a fee.

(b) *Permit required; application; inspection.*

- (1) *Building permit.* No swimming pool shall be constructed, excavated or established in the city without first obtaining a building permit.
- (2) *Application.* An application for permit shall be submitted to the building inspector which includes the type and size of the pool, together with a site plan containing the following information:
  - a. Complete plans and specifications for the construction of the pool.
  - b. A site plan showing the location of all existing structures on the lot including house, garage, fences; location of existing underground or overhead wiring, utility easements, trees and similar other significant improvements or natural features; and location of structures on adjacent lots.
  - c. The proposed location of pumps, filters, wiring, electrical sources, protective fencing, back flush and drainage outlets, grading plans and finish elevation around the pool.
- (3) *Inspection.* All wiring, installation of heating units, grading, installation of pipe, or other construction shall be subject to inspection and shall conform to the state building code.

(c) *Minimum setback requirements.*

- (1) *Utility lines.* No pool shall be located within ten feet (measured horizontally) of underground or overhead utility lines of all types.
- (2) *Easements.* No pool shall be located within any private or public utility, drainage, walkway or other easement.
- (3) *Special rules; single-family districts.* Special rules for pools in single-family residential districts:
  - a. *Rear yard setback.* No pool shall be located within eight feet of any rear lot line.
  - b. *Side yard setback.* No pool shall be located within five feet of any side lot line.
  - c. *Front yard setback.* No pool shall be located within five feet of any required front yard.
  - d. *Setback to existing structures.* No pool shall be located within six feet of any principal structure or footing.
  - e. *Setback requirements for pool equipment.* No pool filter unit, pump, heating unit and/or any other noisemaking mechanical equipment shall be located within 25 feet of any residential structure on adjacent property and not closer than eight feet to any lot line.
- (4) *Special rules; two-family or multiple-family.* This paragraph applies to pools in two-family residential districts or multiple-family residential districts. Private swimming

pools intended for and used by occupants and guests of occupants of multiple-family dwellings shall adhere to the following regulations:

- a. No part of the water surface of the swimming pool shall be closer than 50 feet to any lot line.
- b. No pumps, filter, or other apparatus used in connection with the pool shall be located closer than 50 feet to any lot line.

(d) *Miscellaneous requirements.*

- (1) *Liability.* All pools shall be so constructed as to avoid hazard, damage or considerable inconvenience to adjacent property owners or property. The property owner shall be liable for damages to any business or private property caused during pool construction.
- (2) *Drainage.* All back flushing or pool drainage water shall be directed onto the owner's property or onto approved public drainageways, and shall not drain onto adjacent private land. Drainage onto public streets or other public drainageways shall require a conditional use permit.
- (3) *Lighting.* Any pool lighting aboveground shall be directed toward the pool and not toward adjacent property.
- (4) *Filling of the pool.* Filling of pools from fire hydrants or other public facilities shall require the permission of the appropriate city officials.

(e) *Protective fencing.*

- (1) *Height.* Pools shall be completely enclosed with four-foot fencing which shall effectively prevent the entrance of children and be without external hand or foot holds that would enable a child to climb over it. Chainlink fence may be used. Fencing of aboveground pools shall not be required if the poolsides meet the fence stipulations above and it is provided with a removable ladder.
- (2) *Gates and latches.* The fence openings shall be equipped with self-closing gates and self-latching devices. All the openings shall be inaccessible to small children and at least four feet from ground level. In the alternative, the perimeter of the yard, including driveway entrance, may be fenced and enclosed. The opening between the bottom of the fence and gates and the ground shall be no more than four inches.
- (3) *Posts.* All fence posts shall be placed no further than eight feet apart and be of decay- or corrosion-resistant materials and shall be set in concrete bases or other suitable method.
- (4) *Construction fence.* No person shall fill or cause to be filled a newly constructed pool or a pool under construction with water to a depth of more than 18 inches until the building inspector authorizes the filling of the pool with water. Such authorization shall be withheld until, as a minimum, the permittee has completely enclosed the swimming pool with a construction fence. This requirement does not apply to aboveground pools if the walls are at least four feet abovegrade. Said construction shall be:
  - a. Snow fence or similar design and securely anchored in place.
  - b. Constructed with its base flush to the ground.

- c. At least four feet in height and have supportive posts placed no more than eight feet apart.
  - d. In place until a permanent fence completely enclosing the pool is installed to the specifications identified above and said fence is approved by the building inspector. Said installation and approval shall be achieved no later than ten days after the building inspector authorized the filling of the pool.
- (f) *Additional permits.*
- (1) *Separate permit for certain structures.* Unless included within the swimming pool permit, a separate building permit shall be required for any pump house, filter house, pool enclosure or any other structure erected in conjunction with a swimming pool. Such structures shall conform to all provisions of the building code. Such structures shall also conform to the setback requirements set forth in subsection (c) of this section.
  - (2) *Permit required for changes.* All changes, alterations or improvements made to swimming pools or accessory structures other than routine maintenance shall require a permit.

(Code 1993, § 9-14.01(15))

### ***Sec. 113-383 - Service stations***

- (a) *Conformance with minimum requirements.* Before a permit for a service station is granted, the minimum requirements of the zoning district in which the service station is to be located shall be met.
- (b) *Regulations.* A drainage system, subject to approval by the city engineer, shall be installed. The entire site other than that taken up by a structure or planting, shall be surfaced with concrete or other material approved by the zoning administrator. Pump islands shall not be placed in the required yards. A box curb not less than six inches above grade shall separate the public right-of-way from the motor vehicle service areas, except at approved entrances and exits. No driveways at a property line shall be less than 50 feet from the intersection of two street right-of-way lines. Each service station shall have at least two driveways with a minimum distance of 170 feet between centerlines when located on the street.
- (c) *Parking regulations.* No vehicles shall be parked on the premises other than those utilized by employees or awaiting service. No vehicle shall be parked or be awaiting service longer than 15 days.
- (d) *Exterior storage; items for sale.* Exterior storage besides vehicles shall be limited to service equipment and items offered for sale on pump islands; exterior storage of items offered for sale shall be within yard setback requirements and shall be located in containers such as the racks, metal trays, and similar structures designed to display merchandise. Existing service stations shall comply with this requirement within three months of the effective date of the ordinance from which this chapter is derived.
- (e) *Screening; maintenance.* All areas utilized for the storage, disposal of debris, discarded parts and similar items shall be fully screened. All structures and grounds shall be maintained in an orderly, clean and safe manner. Existing service stations shall comply with

this requirement within nine months of the effective date of the ordinance from which this chapter is derived.

- (f) *Business activities not permitted.* Business activities not listed in this section are not permitted on the premises of a service station unless a conditional use permit is obtained specifically for such business. Such activities include but are not limited to the following:
  - (1) Automobile and truck wash;
  - (2) Rental of vehicles, equipment, or trailers; and
  - (3) General automobile retail sales.

(Code 1993, § 9-14.01(16))

### ***Sec. 113-384 - Drainage***

- (a) No land shall be developed or altered and no use shall be permitted that results in surface water runoff causing unreasonable flooding, erosion or deposit of minerals on adjacent properties or water bodies. Such runoff shall be properly channeled into a storm drain, a natural watercourse or drainageway, a ponding area or other public facility.
- (b) The zoning administrator, upon inspection of any site which has created drainage problems or could create drainage problems with proposed new development, may require the owner of said site or contractor to complete a grading plan and apply for a grading permit.
- (c) The owner or contractor of any natural drainage improvement or alteration may be required by the zoning administrator to obtain recommendations from the state department of natural resources, the soil conservation agent, the affected watershed district, and/or the community engineer, as well as obtaining a local grading permit.
- (d) On any slope in excess of 13 percent where, in the opinion of the zoning administrator, the natural drainage pattern may be disturbed or altered, the zoning administrator may require the applicant to submit both a grading plan and a soil conservation plan prior to applying for a building permit.

(Code 1993, § 9-14.01(17))

### ***Sec. 113-385 - Access drives; construction standards***

- (a) *Limit of access drives.* The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.
- (b) *Restrictions.* Access drives may not be placed closer than five feet to any side or rear lot line. No access drive shall be closer than three feet to any single- or two-family residence, no closer than five feet to any multiple-family building or commercial building. The number and types of access drives onto major streets may be controlled and limited in the interests of public safety and efficient traffic flow.
- (c) *Access permit.* Access drives onto major roads or any alley shall require an access permit from the zoning administrator. This permit shall be acquired prior to the issuance of any building permits. The zoning administrator shall determine the appropriate location, size and

design of such access drives and may limit the number of access drives in the interest of public safety and efficient traffic flow. The zoning administrator may refer the request for an access drive permit onto a road to the planning commission for their comments.

(d) *Design/construction standards.* Driveway/accessway design and construction standards are as follows:

(1) For all driveways (resurfaced, reconfigured, reconstructed, relocated, new):

- a. All driveways and off-street parking areas shall be permanently surfaced with either concrete or asphalt or impervious decorative pavement such as brick between the street and garage. (This does not require the resurfacing of existing driveways with parallel tracks into one contiguous surface.)
- b. The minimum pavement thickness for asphalt driveways shall be two inches of bituminous surfacing on four inches of aggregate base. The minimum pavement thickness for concrete driveways shall be 3½ inches of concrete for R-1 and R-2 structures and six inches of concrete for multiple-family and commercial buildings. Two inches of aggregate base is required for all concrete driveways.
- c. The minimum driveway slope as measured from the edge of the street to the right-of-way line, shall be one percent and the maximum driveway slope shall be ten percent.
- d. In areas where sidewalks currently exist, all new or reconstructed driveways shall require six inches deep concrete sidewalk to be constructed to match the existing sidewalk width, when the existing sidewalk is affected by the permanent change.

(2) For new, reconfigured and relocated driveways:

- a. All new driveways connecting to existing concrete curb and gutter section shall be constructed with a five-foot radius. The existing concrete curb and gutter at the driveway opening shall be removed from the nearest joints to the driveway location. Saw cutting of the existing curb will not be allowed. Concrete gutter shall be placed through the driveway opening to properly drain the street. Expansion joint material shall be placed at the curb, sidewalk (if applicable) and right-of-way line as part of the driveway construction.
- b. The minimum driveway angle to the street, at the driveway opening, shall be 60 degrees.
- c. Setbacks:
  1. Driveways must be at least five feet from any rear or side lot line.
  2. Driveways must meet the corner side yard setback requirements for garages in section 113-240(e).
  3. Driveways shall not be closer than three feet to any single- or two-family residence or five feet to any multiple-family building or commercial building.
- d. Openings:
  1. Driveway openings shall be a minimum of five feet from the side yard property line.

2. The minimum distance between driveway openings on the same lot shall be 25 feet where two openings are allowed in this chapter.

- (e) *Emergency vehicle access.* All lots or parcels shall have direct adequate physical access for emergency vehicles along the frontage of the lot or parcel from either an existing dedicated public roadway, or an existing private roadway approved by the planning commission.
- (f) *Proximity to corner.* Access drives shall not be closer than 20 feet to a corner.
- (g) *Permit to public roads.* A driveway access permit to a public road shall be secured from the public agency with jurisdiction and maintenance responsibilities over the road, prior to the issuance of a building permit.

(Code 1993, § 9-14.01(18); Ord. No. 0-91-10, § 3, 6-19-1991)

***Sec. 113-386 - Tennis courts***

- (a) In all districts, the following standards shall apply:
  - (1) A conditional use permit shall be required for all public, semi-public and commercial tennis courts.
  - (2) An application for a conditional use permit shall include a site plan showing:
    - a. The size, shape and pavement and subpavement materials;
    - b. The location of the court, the location of the house, garage, fencing, septic systems and any other structural improvements on the lot;
    - c. The locations of structures on all adjacent lots;
    - d. A grading plan showing all revised drainage patterns and finished elevations at the four corners of the court;
    - e. Landscaping and turf protection around the court;
    - f. Location of existing and proposed wiring and lighting facilities.
- (b) Tennis courts shall not be located closer than ten feet on any side or rear lot line. Tennis courts shall not be located within any required front yard.
- (c) Tennis courts shall not be located over underground utility lines of any type, nor shall any court be located within any private or public utility, walkway, drainage or other easement.
- (d) Solid tennis court practice walls shall not exceed ten feet in height. A building permit shall be required for said walls. Said walls shall be set back a minimum of 30 feet from any lot line.
- (e) Chainlink fencing surrounding the tennis court may extend up to ten feet in height above the tennis court surface elevation.

(Code 1993, § 9-14.01(19))

### ***Sec. 113-387 - Vegetation cutting***

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Clear cutting* means the removal of all live vegetation in excess of six inches in diameter at four feet of height on any area of 20,000 square feet or more in size.

*Selective cutting* means the removal of single scattered live trees or shrubs in excess of six inches in diameter at four feet of height.

- (b) *Clear cutting prohibited.* Clear cutting of vegetation shall not be permitted within any required yard of any lot or parcel within any zoning use district except as may be approved by the zoning administrator.
- (c) *Selective cutting conditional.* Selective tree cutting may occur on any lot provided any cutting on slopes of greater than 18 percent shall require a soil conservation district revegetation plan prior to issuance of a building permit.

(Code 1993, § 9-14.01(20))

### ***Sec. 113-388 - Building permits and visual standards***

- (a) *Appearance of city.* It is hereby affirmed as essential public policy that the appearance of the city is a proper matter for public concern, and that all open spaces, buildings, signs, plantings and surfaces which may be seen from the public ways are subject to regulation and the provisions of this chapter.
- (b) *Information submitted to zoning administrator.* Before construction may begin and before a permit is issued for any building, structure or land use other than a one-family, detached dwelling home, a complete set of plans shall be submitted to the zoning administrator including lot size, building location, drives, parking, loading areas, storage, utilities, fences, sidewalks, screening, landscaping, exterior elevation of the proposed building, and such other information as may be required or requested.
- (c) *Refusal of construction permit.* The zoning administrator may, in any case, submit said plans for review by the planning commission and may refuse to issue construction permits if the development design is deemed incompatible with adjacent and nearby land uses and development and/or not meeting the general standards for appearance established by existing development throughout the city.

(Code 1993, § 9-14.01(21))

### ***Sec. 113-389 - Quasi-public structures***

No quasi-public structure shall be located within the public right-of-way except by conditional use permit. Such structures shall include trash containers, bicycle racks, benches, planting boxes, awnings, flagpoles, light standards, stairs, light wells, loading well, church directional signs, bus stop shelters and similar uses including vehicle parking.

(Code 1993, § 9-14.01(22))

***Sec. 113-390 - Relocation of structures***

No building, accessory building, or other major structure shall be relocated to a site within or from without the city without a permit. In the case of buildings, advice may be requested from the planning commission as to appearance, use conformity, and other considerations. (See section 113-5(f).)

(Code 1993, § 9-14.01(23))

***Sec. 113-391 - Home occupations***

- (a) *Purpose.* The purpose of this section is to define and regulate home occupations so as to permit only those home occupations that are compatible with other permitted uses and with the residential character of neighborhoods. An additional purpose of this section is to protect the health, safety, and general welfare of the surrounding neighborhood. No home occupation shall be permitted which does not conform to the definition, procedures and requirements which follow in this section.
- (b) *Definition.* A home occupation is a gainful occupation carried on in a dwelling unit, and not in any accessory building, within a residential district. The occupation shall clearly be secondary to the use of the dwelling for residential purposes, and shall not change its character.
- (c) *License required.* No person shall conduct a home occupation without first having obtained a license from the zoning administrator and the approval of the council. Application for licenses, accompanied by the appropriate fee, shall state facts that constitute the basis for compliance with the requirements set forth in subsection (d) of this section. Home occupations for disabled persons that do not meet these conditions may apply for a conditional use permit.
- (d) *Requirements.* The following requirements shall apply to home occupations within the city:
  - (1) No home occupations shall be permitted which may be detrimental to adjacent or nearby residential amenities.
  - (2) No home occupation shall be permitted which may increase the risk of fire or use of rescue squads at a greater level than would normally be expected in a residential district.
  - (3) Exterior storage shall not be permitted.
  - (4) Adequate off-street parking space for the home occupation must be available as approved by the zoning administrator; however, no home occupation shall be granted that creates the need for more than two parking spaces in addition to those already used by the occupants of the dwelling.
  - (5) No accessory uses in conjunction with a home occupation shall be permitted.

- (6) No home occupation shall be permitted within an accessory building (as defined in this chapter).
- (7) No signs other than those normally utilized in a residential district shall be permitted.
- (8) No over-the-counter retail or wholesale sales shall be permitted.
- (9) Entrance to the home occupation shall be gained from within the structure with no separate exterior entrance.
- (10) No stock in trade shall be stored on the premises.
- (11) Only occupants of the dwelling unit may engage in the home occupation.
- (12) No more than 20 two-way additional vehicle trips per day shall be generated by a home occupation.
- (13) No home occupation shall be permitted which requires the use of commercial vehicle more often than would normally be expected in a residential district. For the purpose of this section, commercial vehicle shall be defined as a nonpassenger vehicle (as passenger vehicle is defined in section 113-310(1)d.).
- (14) No home occupation shall produce light, glare, noise, odor or vibration that has an objectionable effect on a nearby property.
- (15) No equipment shall be used in a home occupation that creates electrical interference to surrounding property owners' radio or television signals.
- (16) No home occupation shall be conducted between the hours of 9:00 p.m. and 9:00 a.m. on weekdays, or between the hours of 6:00 p.m. and 10:00 a.m. on weekends and holidays.
- (17) No home occupation shall cause an increase in sewer or water usage that exceeds the normal range for residents in the city.
- (18) Not more than 20 percent of the gross area of the dwelling unit shall be used to conduct a home occupation. The appearance of a residential dwelling shall in no way be changed or altered in a manner which would cause the premises to differ from its residential character.

(Code 1993, § 9-14.01(24); Ord. No. 0-93-09, §§ 1-3, 11-24-1993)

***Sec. 113-392 - Prohibited dwelling units***

No cellar, garage, tent, trailer, basement, or unfinished home or accessory building, shall be used as a dwelling unit.

(Code 1993, § 9-14.01(25))

***Sec. 113-393 - Solar systems***

Access to sunlight for active and passive solar systems shall be protected in accordance with the City Code and all applicable state statutes and regulations.

(Code 1993, § 9-14.01(27); Ord. No. 13-05, § 3, 11-13-2013)

***Secs. 113-394 – 113-399 - Reserved***

***DIVISION 4 - SPECIAL EVENTS***

***Sec. 113-400 - Purpose and intent***

The purpose of this division is to promote the orderly, compatible and safe use of property for special events and to assure adequate provision of parking, traffic, sanitary facilities, utilities, peace and tranquility of residential neighborhoods and safety services.

(Ord. No. 13-01, § 2, 4-10-2013)

***Sec. 113-401 - Permit required***

No person on or after the effective date of this division shall conduct or allow to be conducted any special event as defined in this division without first obtaining a special event permit. No special event may be scheduled during the Minnesota State Fair or for one week prior and one week following the Minnesota State Fair.

(Ord. No. 13-01, § 2, 4-10-2013)

***Sec. 113-402 - Permit standards***

The following standards shall apply to all special events:

- (1) *Maximum number of people.* The permittee shall not sell tickets to nor permit attendance at the permit location of more than the maximum number of people stated in the special event permit.
- (2) *Sound equipment.* Sound producing equipment, including, but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the special event so as to be unreasonably loud or be a nuisance or disturbance to the peace and tranquility of the citizens of Falcon Heights.
- (3) *Sanitary facilities.* In accordance with Minnesota State Board of Health regulations and standards, adequate sanitary facilities must be provided which are sufficient to accommodate the projected number of person expected to attend the event.
- (4) *Security.* The permittee shall employ at his or her own expense such security personnel as are necessary and sufficient, including off-duty police officers, to provide for the adequate security and protection of the maximum number of persons in attendance at the special event and for the preservation of order and protection of property in and around the event site. No permit shall be issued unless the city's police chief is satisfied that such necessary and sufficient security personnel will be provided by the permittee for the duration of the event.

- (5) *Food service.* If food service is available on the premises, it shall be offered only by a holder of a retail food handler's license issued by Ramsey County Health Department.
- (6) *Fire protection.* The permittee shall, at his or her own expense, take adequate steps to insure fire protection as determined by the fire chief.
- (7) *Duration of special event.* Special events are allowed only on the days and hours specified on the permit. Special events must end by 9:00 p.m. and may not commence before 7:00 a.m. All structures, equipment, displays and refuse must be removed within 24 hours of the end time and date specified on the permit. Setting up for the event may commence not more than 24 hours before the time and date specified on the permit. No set up or removal activities shall occur between 10:00 p.m. and 7:00 a.m. An event may not exceed two consecutive calendar days and not more than one special event is allowed on a property at a time. There shall be no more than three special events per calendar year per property. However, each tenant in a multi-tenant building shall be permitted one special event per year. Multi-tenant buildings with less than five lease spaces shall be considered as a single property for purposes of this provision.
- (8) *Cleanup plan.* The special event applicant is responsible for cleanup. Any cleanup required by the city may be charged to the applicant. Any city service that requires overtime will be at the expense of the applicant.
- (9) *Accessory use.* The special event must be accessory to or promoting the established permitted or conditional use of the site.
- (10) *Structures.* Tents, stands, and other similar temporary structures may be used, provided they are clearly identified on the submitted plan and provided that it is determined by the city administrator that they will not impair the parking capacity, emergency access, or the safe and efficient movement of pedestrian and vehicular traffic on or off the site. Temporary structures must be in compliance with applicable statutory and ordinance requirements.
- (11) *Parking.* The submitted plan shall clearly demonstrate that adequate parking for the proposed event can and will be provided for the duration of the event. Determination of compliance with this requirement shall be made by the city administrator, who shall consider the nature of the event and the applicable parking requirements of article VI, division 2 of this chapter. Consideration shall be given to the parking needs and requirements of other occupants in the case of multi-tenant buildings. Parking on local streets is allowed provided that the petitioner arranges for traffic control by off-duty police officers, as approved in writing by the police chief, at the petitioner's expense. If off-street parking on private property not owned by the applicant is to be used for the event, written approval from that property's owner must be submitted with the permit application.
- (12) *Signage.* Signage related to the special event shall be in compliance with the temporary sign standards of article VII of this chapter and shall be allowed for the duration of the event. The city administrator may authorize special signage for purposes of traffic direction and control; the erection and removal of such signage shall be the responsibility of the applicant.

- (13) *Display of permit.* The approved permit shall be displayed on the premises for the duration of the event.
- (14) *Waiver.* The city administrator may grant a waiver from any of the requirements of this division in any particular case where the applicant can show that strict compliance with this division would cause exceptional and undue hardship by reason of the nature of the special event or by reason of the fact that the circumstances make the requirement of this division unnecessary. Such waiver must be granted without detriment to the public health, safety or welfare and without impairing the intent and purpose of these regulations.
- (15) *Insurance.* Before the issuance of a permit, the permittee shall obtain public liability insurance and property damage insurance with limits determined by the city administrator. Limits for bodily injury and death shall be not less than \$1,00,000.00 for one person and \$1,000,000.00 for each occurrence; limits for property damage shall be not less than \$200,000.00 for each occurrence; or a combination single limit policy of \$2,000,000.00 or more. The city shall be named as an additional insured on the policy on a primary and noncontributory basis. Such insurance shall remain in full force and effect in the specified amounts for the duration of the permit. Evidence of insurance shall include an endorsement to the effect that the insurance company will notify the city clerk in writing at least ten days before the expiration or cancellation of the insurance.
- (16) *Miscellaneous.* Prior to the issuance of a permit, the city administrator may impose any other conditions reasonably calculated to protect the health, safety and welfare of persons attendant or of the citizens of the City of Falcon Heights.

(Ord. No. 13-01, § 2, 4-10-2013; Ord. No. 21-01, § 5, 01-13-2021)

#### ***Sec. 113-403 - Application procedures***

A written application for a special event permit shall be filed on forms provided by the city with the city clerk not less than 30 days before the date proposed for holding the special event. The written application shall be signed by the person, persons, or parties conducting the event and shall be accompanied by the fee payable hereunder. Upon submission of an application for a special event permit, city staff will review the request and advise the applicant of the need for additional information, if any.

(Ord. No. 13-01, § 2, 4-10-2013)

#### ***Sec. 113-404 - Fees***

The fee for a special event license shall be as established by the city council.

(Ord. No. 13-01, § 2, 4-10-2013)

***Sec. 113-405 - Granting a permit***

Permits may be issued by the city administrator if the administrator determines the requirements of this division have been met. If the city administrator determines the activity does not meet these criteria, such application shall be denied.

(Ord. No. 13-01, § 2, 4-10-2013)

***Sec. 113-406 - Denial of permit***

If the city administrator denies the permit, the permit applicant may appeal the decision to the city council by filing a notice of appeal with the city clerk within ten days.

(Ord. No. 13-01, § 2, 4-10-2013)

***Sec. 113-407 - Transferability***

No permit granted under this division shall be transferred to any other person or place without consent of the city administrator, upon written application made therefore.

(Ord. No. 13-01, § 2, 4-10-2013)

***Sec. 113-408 - Enforcement and penalties***

- (a) The police department and other such officers, employees, or agents as the city council or city administrator may designate, shall enforce the provisions of this division.
- (b) The holding of a special event in violation of any provision of this division shall be deemed a public nuisance and may be abated as such.
- (c) Any person violating any provision of this division is guilty of a misdemeanor and upon conviction shall be subject to the penalties set forth in Minnesota Statutes.

(Ord. No. 13-01, § 2, 4-10-2013)

***Sec. 113-409 - Revocation of permit***

The permit for a special event may be revoked by the city administrator for failure to comply with the provisions of this division and conditions of the permit. The revocation may be appealed to the city council by filing a written notice of appeal within ten days of the revocation with the city clerk.

(Ord. No. 13-01, § 2, 4-10-2013)

***Secs. 113-410 – 113-414 - Reserved***

## ARTICLE VII - SIGNS

### DIVISION 1 - GENERALLY

#### ***Sec. 113-415 - Noncommercial speech***

The owner of any sign that is otherwise allowed by this article may substitute noncommercial speech in lieu of any other commercial speech or noncommercial speech. This substitution of copy may be made without any additional approval or permitting. The purpose of this section is to prevent any inadvertent favoring of commercial speech over noncommercial speech or favoring of any particular noncommercial speech over any other noncommercial speech. This section prevails over any more specific provision to the contrary. All noncommercial signs of any size may be posted in any number from 46 days before the state primary in a state general election year until ten days following the state general election subject to the applicable provisions of M.S. 211B.045.

(Ord. No. 10-04, § 1, 6-9-2010)

#### ***Sec. 113-416 - Permits***

- (a) *Permit required.* Except as otherwise provided in this section, no sign or structure shall be erected, constructed, altered, replaced with a dynamic display sign, rebuilt or relocated except as provided in this article and until a permit for the same has been issued by the zoning administrator upon application and to include such information as is required for a complete understanding of the proposed work.
- (b) *Exceptions.* No permit will be required for the following:
  - (1) A change of copy on any advertising sign.
  - (2) A nameplate (identification) sign not exceeding two square feet of display surface on residence property stating only the name, address and profession of an occupant.
  - (3) A ground sign advertising either the sale or rental of the premises upon which it is maintained when such sign does not exceed ten square feet of display surface.
  - (4) Street, warning and other official or nonadvertising signs erected by a governmental body or by others where required pursuant to a legal authority.
  - (5) Election signs except those to be displayed on new, permanent structures or supporting elements. The only exemptions permitted by this paragraph shall apply only construed as relieving the owner of the sign from responsibility for its erection and maintenance in a good and safe condition.
  - (6) Noncommercial signs not exceeding ten square feet.
- (c) *Permit fee and issuance.*
  - (1) An application for a permit shall be accompanied by a fee as per the approved permit fee schedule of the city.

- (2) It shall be the duty of the zoning administrator, upon the filing of an application to examine the plans and specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure or display. If it shall appear that the proposed structure is in compliance with the requirements of this chapter, the zoning administrator shall then issue the erection permit.
- (d) *Expiration of permit.* If the work authorized under an erection permit has not been completed within six months after the date of issuance, the permit shall become null and void.

(Code 1993, § 9-13.01(1)-(4); Ord. No. 08-03, § 2, 8-27-2008)

***Sec. 113-417 - Periodic inspection***

The zoning administrator shall inspect every three years or at such other times as deemed necessary each sign, except residential, regulated by this article, to ascertain whether the same is secure or insecure and whether it is in need of removal or repair. To meet the expenses of such inspection, the permittee thereof shall pay to the city a fee as established and required by the city council. No inspection fee other than the original permit fee shall be charged during the calendar year in which the sign or other advertising structure is erected. The zoning administrator may maintain on file a photograph of any or all signs in place in the city; a new photograph may be taken at the time of each inspection.

(Code 1993, § 9-13.01(5))

***Sec. 113-418 - Height abovegrade level***

Except for necessary poles, uprights, pedestals, and other supporting structural elements, no portion of any sign shall be less than eight feet abovegrade level except for ground signs that are designed such that they present no hazard to pedestrians or vehicles. Signs that are erected near public streets or other vehicular drives shall be erected at sufficient height to avoid contact with said vehicles.

(Code 1993, § 9-13.01(6))

***Sec. 113-419 - General setback requirements***

Except as provided by conditional use permit, in any district, any portion of any sign exceeding 1½ square feet shall be set back ten feet from any street right-of-way line and five feet from any residentially zoned property line.

(Code 1993, § 9-13.01(7))

***Sec. 113-420 - Painting requirement***

The owner of any sign as defined and regulated by this article shall be required to have such sign properly painted at least once every two years, or as needed, including all parts and supports

of the sign, and structures and backs of signs shall be painted a neutral color, unless such parts and supports are galvanized or treated otherwise to prevent rust. The need for painting shall be as determined by the zoning administrator.

(Code 1993, § 9-13.01(8))

***Sec. 113-421 - Required marking on sign***

Every sign or other advertising structure, when erected, shall have painted in a conspicuous place thereon, in letters not less than one inch in height, the date of erection, the permit number and the voltage of any electrical apparatus used in connection therewith.

(Code 1993, § 9-13.01(9))

***Sec. 113-422 - Removal of obsolete and nonconforming signs***

Any sign which does not conform to the regulations provided by this article shall be taken down and removed by the owner, agent or person having the beneficial use of the property, building or structure upon which the sign may be found within five years after the effective date of the ordinance from which this section is derived. After the expiration of the said five years and upon written notification from the zoning administrator, to the landowner and/or sign owner, said sign shall be removed within ten days and upon failure to comply with such notice within the time specified in such order, the zoning administrator is hereby authorized to cause removal of such sign and any expense incident thereto shall be paid by the owner of the sign or the owner of the property or of the building or structure to which such sign is attached.

(Code 1993, § 9-13.01(10))

***Sec. 113-423 - Unsafe and unlawful signs***

- (a) If the zoning administrator shall find that any sign or other advertising structure regulated by this article is unsafe or insecure, or is a menace to the public or no longer advertises a bona fide business conducted or products sold, or has been constructed or erected or is being maintained in violation of the provisions of this article, he or she shall give written notice to the permittee thereof. If an unsafe or unlawful sign has not been removed within 60 days following written notice to landowner and/or sign owner, said sign may be removed with approval by the city council at the direction of the zoning administrator with the costs of such removal assessed to the owner of the sign.
- (b) If the permittee fails to remove or alter the structure so as to comply with the standards set forth in this article within ten days after such notice, such sign or other advertising structure may be removed or altered to comply with this article by the zoning administrator at the expense of the permittee or owner of the property upon which it is located. The zoning administrator may cause any sign or other advertising structure which is in immediate peril to persons or property to be removed summarily and without notice.

(Code 1993, § 9-13.01(11))

### ***Sec. 113-424 - Obstruction of fire escapes***

No sign shall be erected, constructed or maintained so as to obstruct any fire escape, or any window or door or opening used as a means of egress or for firefighting purposes, or so as to prevent free passage from one part of a roof to another part thereof. No sign shall be attached in any form, shape or manner to a fire escape nor be so placed as to interfere with an opening required for legal ventilation.

(Code 1993, § 9-13.01(12))

### ***Sec. 113-425 - Conformity with zoning and building codes***

Except as allowed under the provisions of this article relating to projecting signs, every sign for which a permit is required shall rigidly conform to the requirements of rear yards, side yards, and setback restrictions of the zoning area district, of the lot upon which such sign is to be or is located and of any lot contiguous thereto as fully as if such sign were a part of the building wall or roof, except that the lighting reflectors may project beyond the top of such sign. All signs shall be in accordance with applicable provisions of the city building code.

(Code 1993, § 9-13.01(13))

### ***Sec. 113-426 - Nonconforming signs-Compliance***

It is recognized that signs exist within zoning districts that were lawful before this sign ordinance was enacted, which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intent of this sign ordinance that nonconforming signs shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other signs or uses prohibited elsewhere in the same district. It is further the intent of this sign ordinance to permit legal nonconforming signs existing on the effective date of this sign ordinance, or amendments thereto, to continue as legal nonconforming signs provided such signs are safe, are maintained so as not to be unsightly, and have not been abandoned or removed subject to the following provisions:

- (1) No sign shall be enlarged or altered in a way which increases its nonconformity.
- (2) Should such sign or sign structure be destroyed by any means to an extent greater than 50 percent of its replacement cost and no building permit has been applied for within 180 days of when the property was damaged, it shall not be reconstructed except in conformity with the provisions of this section.
- (3) Should such sign or sign structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the zoning district in which it is located after it is moved.
- (4) No existing sign devoted to a use not permitted by the zoning code in the zoning district in which it is located shall be enlarged, extended or moved except in changing the sign to a sign permitted in the zoning district in which it is located.

- (5) When a structure loses its nonconforming status all signs devoted to the structure shall be removed and all signs painted directly on the structure shall be repainted in a neutral color or a color which will harmonize with the structure.

(Ord. No. 08-03, § 3, 8-27-2008)

***Secs. 113-427 – 113-448 - Reserved***

***DIVISION 2 - RESTRICTIONS BY ZONING DISTRICTS***

***Sec. 113-449 - Signs permitted in residential districts***

Signs are permitted in the R-1, R-2, R-3, R-4 and, R-5M districts only as follows:

- (1) For the purpose of selling, renting or leasing property, a sign not in excess of ten square feet in gross surface area may be placed within the front yard, not less than 15 feet from a property line.
- (2) Temporary poster signs for political advertising may be posted but must be removed by those responsible for their being posted within ten days following the election for which the sign was posted.
- (3) Signs containing noncommercial speech.
- (4) One nameplate sign for each dwelling unit that shall not exceed two square feet in area per surface, and no sign shall have more than two display surfaces.
- (5) No sign shall be located within three feet of the property line.
- (6) Churches, schools and other institutional users, allowed by virtue of pre-existing or conditional use, may have an illuminated sign not exceeding 50 square feet in gross surface area. Temporary signs advertising a special event may be posted after receiving a permit from the zoning administrator, and such sign shall not be greater than 70 square feet in gross surface area, not less than 30 feet from a property line and shall not be displayed longer than 30 days.
- (7) Address numbers four inches on the house and alley side of garage.
- (8) Signs other than those listed above require a conditional use permit.
- (9) In the R-5M district signs allowed in the B-2 district are allowed for B-2 uses.

(Code 1993, §§ 9-4.01(6), 9-5.01(6), 9-7.01(6), 9-13.02(1); Ord. No. 10-06, § 8, 9-8-2010)

***Sec. 113-450 - Business districts***

***(a) Business district B-2.***

- (1) Types of signs allowed. Business, dynamic display signs, nameplate, identification, illuminated, ground, pedestal, political, real estate sales, temporary, wall and courtesy bench signs.

- (2) Number of each type of sign allowed per lot frontage. One real estate sales sign, two temporary signs, one nameplate sign, and one political sign. Courtesy bench signs are permitted on licensed courtesy benches.
  - (3) Size:
    - a. Except as provided herein, the total square footage of permanent sign area for each business shall not exceed one square foot of sign area for each lineal foot of unsigned building frontage, except where a location is a corner lot, the amount may be increased by one-half square foot of sign area per front foot of building.
    - b. No individual sign shall exceed 50 square feet in area.
    - c. Each real estate sales sign, temporary sign, and political sign shall not exceed 20 square feet in area.
    - d. Each nameplate sign shall not exceed 40 square feet in area.
  - (4) Height. The top of the display shall not exceed ten feet above the average grade for pedestal and ground signs, and not higher than the outside wall or parapet for wall signs.
  - (5) Setback. Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 20 square feet shall be set back at least 50 feet from any residential district.
  - (6) Corner lots. In the case of corner lots, the longer of the two walls may be used to compute all usable sign area.
  - (7) Alleys shall not be considered a public street.
  - (8) Signs on nonconforming uses shall be considered as if zoned B-1.
  - (9) The owner or lessee of any sign, or the owner of the land on which the sign is located shall keep the grass, weeds, or other growth cut and the area free from refuse between the sign and the street and also for a distance of six feet behind and at the ends of said sign.
- (b) *Business districts B-1 and B-3.*
- (1) *Types of signs allowed.* Business, nameplate, identification, illuminated, ground, pedestal, political, real estate sales, temporary, wall and courtesy bench signs. Dynamic display signs are permitted in B-3 districts only.
  - (2) *Number of each type of sign allowed per lot frontage.* One real estate sales sign, two temporary signs, one nameplate sign, one political sign for each candidate, and one business sign or one shopping center sign. If a shopping center sign is used, each business establishment located in the shopping center shall also be permitted one business or nameplate sign. Courtesy bench signs are permitted on licensed courtesy benches.
  - (3) *Size:*
    - a. Except as provided herein, the total square footage of permanent sign area for each business shall not exceed two square feet of sign area for each lineal foot of

unsigned building frontage, except where a location is a corner lot, the amount may be increased by one square foot of sign area per front foot of building along a side lot line.

- b. No individual sign shall exceed 150 square feet in area.
  - c. Each real estate sales sign, temporary sign, and political sign shall not exceed 20 square feet in area.
  - d. Each nameplate or business sign shall not exceed 75 square feet in area.
- (4) *Height.* The top of the display shall not exceed 35 feet in height above grade except that roof signs shall not be permitted.
- (5) *Setback.* Any sign over six square feet shall be set back at least ten feet from any lot line. In no case shall any part of a sign be closer than two feet to a vertical line drawn at the property line. All signs over 50 square feet shall be set back at least 50 feet from any residential or agricultural district.

(Code 1993, § 9-13.02(2), (3); Ord. No. 0-93-07, §§ 8, 9, 7-28-1993; Ord. No. 0-96-01, § 5, 2-28-1996; Ord. No. 05-01, §§ 3, 4, 1-12-2005; Ord. No. 08-03, §§ 4, 5, 8-27-2008)

***Secs. 113-451 – 113-468 - Reserved***

***DIVISION 3 - RESTRICTIONS ON SPECIFIC TYPES OF SIGNS***

***Sec. 113-469 - Signs as traffic hazards***

No sign may be erected that by reason of position, shape, flashing light, movement, color, or in any other manner constitutes a traffic hazard as determined by the zoning administrator. In particular, signs which may be confused with emergency or snow plow vehicle lights are prohibited.

(Code 1993, § 9-13.03(1))

***Sec. 113-470 - Certain signs prohibited***

No sign will be permitted that provides refuge from police surveillance, tends to accumulate debris as a fire hazard, or in any other way is a hazard to the public health, safety, convenience or general welfare. Private signs are not permitted within streets or other public rights-of-way, except on courtesy benches as regulated herein.

(Code 1993, § 9-13.03(2); Ord. No. 05-01, § 5, 1-12-2005)

***Sec. 113-471 - Illuminated sign restrictions***

- (a) Any sign illuminated and located within 50 feet of a residential district lot line shall be diffused or indirect so as not to reflect direct rays of light into adjacent residences. All illuminated signs in business and industrial districts in close proximity to residential districts

shall be designed so as to illuminate the sign and not residential property to the extent practicable.

- (b) Illuminated signs lighted by any means as an integral part of the sign, by floodlights, or any other means which cast light away from the sign shall be governed as follows:
  - (1) Any combination of signs or light sources which cast light on a public street shall not exceed one footcandle meter reading as measured from the centerline of said street.
  - (2) Any combination of signs or lights which cast light on property zoned for residential use shall not exceed 0.4 footcandle meter reading as measured from any part of said residential area.
  - (3) In no instance shall exposed light bulbs be utilized to light signs, property, or merchandise for sale or rent. Said lights shall be hooded or controlled in some manner so as to direct light away from public streets or adjacent to nearby property.
- (c) No sign may be brighter than is necessary for clear and adequate visibility.
- (d) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.
- (e) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device, or signal.

(Code 1993, § 9-13.03(3); Ord. No. 08-03, § 6, 8-27-2008)

***Sec. 113-472 - Signs in public right-of-way***

Signs shall not be permitted within the public right-of-way or easements except as follows:

- (1) Public traffic control signs are permitted in any right-of-way.
- (2) Signs erected by the city or the jurisdiction controlling the right of way.
- (3) Courtesy bench signs are permitted on courtesy benches in the zoning districts specified herein.

(Code 1993, § 9-13.03(4); Ord. No. 05-01, § 6, 1-12-2005)

***Sec. 113-473 - Flashing signs***

Devices giving off an intermittent or rotating beam of rays of light shall be prohibited, except dynamic display signs, symbols or numerals indicating time and temperature as long as the display does not change more frequently than every 30 seconds. In no event, however, shall any light be permitted which may be confused with lights from a snowplow, police car, ambulance, or other emergency vehicle.

(Code 1993, § 9-13.03(5); Ord. No. 08-03, § 7, 8-27-2008)

### ***Sec. 113-474 - Temporary and election signs***

Temporary signs shall be permitted in any district in any yard area provided there shall be no more than three such signs on any lot and the total area of such signs shall not exceed 32 square feet. Temporary signs shall include election signs on residential property, commercial special sale signs, special occasion signs, garage sales, and similar signs. Election signs are permitted in any district on private property. Such signs must be removed within ten days following the election date.

(Code 1993, § 9-13.03(6))

### ***Sec. 113-475 - Service station signs***

Service stations may erect on pylon or pedestal a sign not to exceed 25 feet in height anywhere in setback area but no part of any such sign shall be closer to side lot lines than the required side yard setback nor within five feet of the rear lot line or ten feet of street right-of-way.

(Code 1993, § 9-13.03(7))

### ***Sec. 113-476 - Real estate signs***

Real estate (for rent, sale, or lease) signs may be placed in any yard of a lot containing the affected structure or land involved, provided such signs are not closer than ten feet to any property line and do not exceed a total of six square feet per lot frontage in residential areas and 32 square feet on any other lot. However, real estate signs over six square feet may be constructed in any residential area providing that:

- (1) The sign area allowance for a combination of lots in aggregate shall not exceed 50 square feet;
- (2) The signs are located at least 130 feet from any home;
- (3) The signs are removed within one year unless an extension is given from the zoning administrator;
- (4) A use permit is granted by the zoning administrator. Real estate signs over 32 square feet per lot frontage and exceeding other sign area limits in business and industrial areas shall require a variance.

(Code 1993, § 9-13.03(8))

### ***Sec. 113-477 - Private traffic signs***

Private traffic circulation signs in parking lots and pedestrian circulation signs in alleys or other hazardous situations may be permitted provided such individual signs do not exceed three square feet, the minimum number necessary for purposes intended is utilized, and such signs are utilized exclusively for purposes intended and permitted.

(Code 1993, § 9-13.03(9))

***Sec. 113-478 - Vacant lots***

Signs on vacant lots shall be permitted in accordance with this article except where governed by building frontage; in such cases, front footage of public right-of-way shall be utilized.

(Code 1993, § 9-13.03(10))

***Sec. 113-479 - Rooftop displays and aerial searchlights***

Rooftop balloons and rooftop displays are not permitted except in a commercial zone for a maximum of five days for a business grand opening or a special civic event sponsored or endorsed by the city council. A temporary sign permit is required for the balloon. Aerial searchlights are not permitted.

(Code 1993, § 9-13.03(11); Ord. No. 0-93-05, § 1, 5-26-1993)

***Sec. 113-480 - Signs on windows and doors***

This chapter does not apply to interior signs painted, attached by adhesive, or otherwise attached directly to or visible through windows and glass portion of doors except that such signs shall not be permitted in the B-1 district.

(Code 1993, § 9-13.03(12))

***Sec. 113-481 - Ground signs***

- (a) No ground sign shall be erected, constructed, altered, rebuilt, or relocated to a height exceeding 20 feet above ground.
- (b) The bottom of the facing of every ground sign shall be at least 30 inches above the ground, which space may be filled with platform or decorative trim of light wood, metal construction, brick, planters or plantings, etc.
- (c) No private sign shall be erected, constructed, or maintained within the boundary of any street, avenue, highway, alley or public ground of the city, county or state.
- (d) Portable signs supported by frames or posts rigidly attached to bases shall be so proportioned that the weight and size of the bases are adequate to resist the wind pressure specified in the building code. Such signs shall not exceed five feet in height or 15 square feet in area.
- (e) The owner of a lot upon which there is a ground sign or the person occupying such lot or both are hereby required to keep such lot and such ground sign clean, sanitary, inoffensive and free and clear of all obnoxious substances and unsightly conditions.

(Code 1993, § 9-13.03(13))

***Sec. 113-482 - Moving or revolving signs (motion signs)***

Moving or revolving signs shall not be permitted except by the granting of a variance.

(Code 1993, § 9-13.03(14))

***Sec. 113-483 - Wall signs***

Wall signs attached to exterior walls of solid masonry or concrete shall be safely and securely attached.

(Code 1993, § 9-13.03(15))

***Sec. 113-484 - Signs painted on walls***

Signs shall not be painted directly on the outside wall of a building. Signs shall not be painted on a fence, tree, stone, or other similar objects or structures in any district.

(Code 1993, § 9-13.03(16))

***Sec. 113-485 - Projecting signs***

Signs shall in no case project from a building or structure more than one foot from the base of building. No projecting sign shall at the lowest point be less than eight feet above the sidewalk or the grade level. All projecting signs for which a permit is required shall be constructed entirely of fire-resistive materials approved by the zoning administrator for this purpose. All metal supports and braces for projecting signs shall be galvanized or of corrosive-resistant material or painted at least once annually.

(Code 1993, § 9-13.03(17))

***Sec. 113-486 - Electric signs***

All signs and displays using electric power shall have a cutoff switch on the outside of the premises and on the outside of the sign. All electrical work shall conform to this article and be subject to city inspection.

(Code 1993, § 9-13.03(18))

***Sec. 113-487 - Construction signs***

These signs are not to exceed 32 square feet in area and shall be allowed in all zoning districts during construction. Such signs shall be removed when the project is substantially completed.

(Code 1993, § 9-13.03(19))

***Sec. 113-488 - Roof signs***

Roof signs are prohibited in all districts.

(Code 1993, § 9-13.03(20))

***Sec. 113-489 - Advertising signs***

Advertising signs are prohibited. By October 1, 1985, all advertising signs shall be considered to be fully amortized and shall be removed by the owners.

(Code 1993, § 9-13.03(22))

***Sec. 113-490 - Multifaced signs***

Multifaced signs shall not exceed two times the allowed square footage of single-faced signs.

(Code 1993, § 9-13.03(23))

***Sec. 113-491 - Large signs***

Except for more restrictive subsections of this sign section, no sign that exceeds 100 square feet in area shall be erected or maintained that would:

- (1) Prevent any traveler on any street from obtaining a clear view of approaching vehicles on the same street for a distance of 500 feet.
- (2) Be closer than 1,350 feet to a national, state, or local park, historic site, picnic or rest area, church or school.
- (3) Be closer than 100 feet to residential structures.

(Code 1993, § 9-13.03(24))

***Sec. 113-492 - Dynamic display signs***

Dynamic displays on signs are permitted subject to the following conditions:

- (1) No dynamic display sign shall be located within 150 feet of a residential district lot line.
- (2) Dynamic display signs are subordinate to ground and pedestal signs and must not be the predominant feature of the sign area. A dynamic display shall not occupy more than 25 percent of the sign area. Only one dynamic display is allowed per sign face.
- (3) The images and messages displayed must be static, and a dynamic display shall display no more than one static image and/or message per 24-hour period, except when changes are necessary to correct the time and temperature information. Time and temperature information is considered a dynamic display and may not be included as a

component of any other dynamic display. Except for time and temperature, change shall take place between 9:00 a.m. and noon.

- (4) No dynamic display sign shall use more than one color of lighting. That is, it shall render images with one constant hue and brightness on an unlighted background.
- (5) The transition from one static display to another must be without any special effects.
- (6) The images and messages displayed must be complete in themselves without continuation in content to the next image or message or to any other sign.
- (7) Dynamic displays must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that the display is not complying with the standards of this section.
- (8) All dynamic displays shall meet the following brightness standards in addition to those in section 113-471(c), (d), and (e):
  - a. Sunrise to sunset: no greater than 2,000 nits,
  - b. Sunset to sunrise: no greater than 500 nits.

(Ord. No. 08-03, § 8, 8-27-2008)

***Secs. 113-493 – 113-499 - Reserved***

**ARTICLE VIII - FLOODPLAIN REGULATIONS<sup>3</sup>**

***Sec. 113-500 - Statutory authorization and purpose***

- (a) *Statutory authorization.* The legislature of the state has, in Minn. Stats. ch. 462, delegated the responsibility to local government units to adopt regulations designed to minimize flood losses.
- (b) *Statement of purpose.*
  - (1) The city wishes to establish eligibility in the National Flood Insurance Program and in order to do so must meet the requirements of 44 CFR Part 60.3(a)
  - (2) The city wishes to minimize potential losses due to periodic flooding including loss of life, loss of property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.

(Ord. No. 09-02, § 2, 8-12-2009)

### ***Sec. 113-501 - Warning and disclaimer of liability***

This article does not imply that areas will be free from flooding or flood damages. This article shall not create liability on the part of the city or any officer or employee thereof for any flood damages which result from reliance on this article or any administrative decision lawfully made thereunder.

(Ord. No. 09-02, § 2, 8-12-2009)

### ***Sec. 113-502 - Permit requirements***

- (a) No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the zoning administrator.
- (b) No manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the zoning administrator for each change.
- (c) No manufactured home shall be placed on improved or unimproved real estate without first obtaining a separate permit for each mobile home from the zoning administrator.

(Ord. No. 09-02, § 2, 8-12-2009)

### ***Sec. 113-503 - Permit application***

To obtain a permit, the applicant shall first file a permit application on a form furnished for that purpose. The form must be completed and submitted to the zoning administrator before the issuance of a permit will be considered.

(Ord. No. 09-02, § 2, 8-12-2009)

### ***Sec. 113-504 - Duties of the zoning administrator***

- (a) The zoning administrator is appointed as the person responsible for receiving applications and examining the plans and specifications for the proposed construction or development.
- (b) After reviewing the application, the zoning administrator may require any additional measures which are necessary to meet the minimum requirements of this article.
- (c) The zoning administrator shall review proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by federal or state law, including section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

(Ord. No. 09-02, § 2, 8-12-2009)

***Sec. 113-505 - Review of permit application***

The zoning administrator shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood prone area, all new construction and substantial improvements (including the placement of manufactured homes) shall be:

- (1) Designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- (2) Constructed with materials and utility equipment resistant to flood damage;
- (3) Constructed by methods and practices that minimize flood damage; and
- (4) Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(Ord. No. 09-02, § 2, 8-12-2009)

***Sec. 113-506 - Subdivisions***

The zoning administrator shall review subdivision proposals and other proposed new development to determine whether such proposals will be reasonably safe from flooding. If a subdivision proposal or other proposed new development is in a flood prone area, any such proposal shall be reviewed to assure that:

- (1) All such proposals are consistent with the need to minimize flood damage within the flood prone area;
- (2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- (3) Adequate drainage is provided to reduce exposure of flood hazard.

(Ord. No. 09-02, § 2, 8-12-2009)

***Sec. 113-507 - Water supply system***

The zoning administrator shall require within flood prone areas, new and replacement water supply systems to be designed to minimize or eliminate infiltration of flood waters into the systems.

(Ord. No. 09-02, § 2, 8-12-2009)

***Sec. 113-508 - Sanitary sewage and water disposal systems***

The zoning administrator shall require within flood prone areas:

- (1) New and replacement sanitary sewage systems to be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters; and
- (2) On-site waste disposal systems to be located to avoid impairment to them or contamination from them during flooding.

(Ord. No. 09-02, § 2, 8-12-2009)

***Sec. 113-509 - Annexations and extraterritorial jurisdiction***

The city shall not approve any development located in a special flood hazard area (SFHA) outside the corporate limits unless such development or plat is in the accordance with the floodplain ordinance that meets the minimum federal (44 CFR 60.3), state (Minnesota Regulation Parts 6120.5000 through 6120.6200), and local requirements for development within a special flood hazard area.

(Ord. No. 09-02, § 2, 8-12-2009)

***Sec. 113-510 - Greater restriction***

Where this article and other regulations conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 09-02, § 2, 8-12-2009)

**Footnotes:**

<sup>1</sup> **State Law reference** – Zoning generally, Minn. Stats. § 462.357.

<sup>2</sup> **State Law reference** – Conditional use permits, Minn. Stats. § 462.3595; conditional uses, Minn. Stats. § 462.357, subds. 1b, 8.

<sup>3</sup> **Editor's note** – Ord. No. 09-03, adopted Sept. 9, 2009 is a summary of Ord. 09-02 for publication purposes. It states: "This ordinance amends Chapter 13 of the Falcon Heights City Code, the zoning ordinance, concerning floodplain regulations. This ordinance adopts a model floodplain ordinance provided by the Minnesota Department of Natural Resources. The ordinance provides the general regulations for development in areas located in the floodplain, addresses potential conflicts with other City ordinances, delineates permitted uses, provides provisions for variances, regulates non-conformities and outlines penalties for violations."