

§1302 GENERAL PROVISIONS§1302.010 NONCONFORMING BUILDINGS STRUCTURES AND USES.

Subd. 1. Purpose. It is the purpose of this Section to provide for the regulation of nonconforming buildings, structures and uses and to specify those requirements, circumstances and conditions under which nonconforming buildings, structures and uses will be operated and maintained. The Zoning Code establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that nonconforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this Section that all nonconforming uses shall be eventually brought into conformity.

Subd. 2. Provisions.

- a) Any nonconforming structure or use lawfully existing upon the effective date of this Code shall not be enlarged or reconstructed, but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified or subsequently amended.
- b) Any proposed structure which will, under this Code, become nonconforming but for which a building permit has been lawfully granted prior to the effective date of this Code may be completed in accordance with the approved plans, provided construction is started within sixty (60) days of the effective date of this Code, is not abandoned for a period of more than one hundred twenty (120) days, and continues to completion within two (2) years. Such structure and use shall thereafter be a legally nonconforming structure and use.
- c) Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary repairs and incidental alterations which do not physically extend or intensify the nonconforming use. (Ref. Ord. 10-1-1062, 1/12/10)
- d) Except as provided in e) below, alterations may be made to a building containing lawful nonconforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or size or volume of the building. A dwelling may not, however, be demolished and a new dwelling constructed unless the new dwelling is in full compliance with this Code.
- e) Nonconforming, single family dwelling units may be expanded to improve livability as a conditional use as regulated by Section 1301.050 of this Code, provided that the nonconformity is not increased.
- f) Nothing in this Section shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Official providing the necessary repairs shall not constitute more than fifty (50) percent of fair market value of such structure. Said value shall be determined by the City.
- g) No nonconforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this Code adoption unless such movement shall bring the nonconformance into substantially closer compliance with the requirements of this Code.

- h) When any lawful nonconforming uses of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to a nonconforming use.
- i) A lawful nonconforming use of a structure or parcel of land may be changed to lessen the nonconformity of use. Once a nonconforming structure or parcel of land has been changed, it shall not thereafter be so altered to increase the nonconformity.
- j) If at any time, a nonconforming building, structure or use shall be destroyed to the extent of more than fifty (50) percent of its fair market value, said value to be determined by the City, then without further action by the Council, the building and the land on which such building was located or maintained shall, from and after the date of said destruction, be subject to all the regulations specified by these zoning regulations for the district in which such land and buildings are located. Any building which is damaged to an extent of less than fifty (50) percent of its value may be restored to its former extent, if it is reconstructed within twelve (12) months after the date of said damage. Estimate of the extent of damage or destruction shall be made by the Building Official.
- k) Whenever a lawful nonconforming use of a structure or land is discontinued for a period of one (1) year, any future use of said structure or lands shall be made to conform with the provisions of this Code. (04-04-1017, 4/13/04)
- l) Wherever a non-conforming use is adjacent to a residential property, and this code would require screening between the non-conforming use and the residential property, if the non-conforming use was in a proper zoning district, such screening requirement is applicable to the non-conforming use. (Ref. Ord. 779, 1/10/89)

§1302.020 BUILDING PERMITS AND STAFF REVIEWS.

Subd. 1. All applications for building permits pertaining to the erection or major alterations of permitted structures located in "R-5", "R-6", "R-B", and all business and industrial districts, which affect the outside dimensions of a structure or its required parking, shall be submitted in duplicate (two copies) to the City Planner for staff review. The City staff shall have fifteen (15) business days to review and provide written comment to the applicant on the following plans submitted with the application: (Ref. Ord. 10-1-1062, 1/12/10)

- a) Contour drainage and grading plans including on-site sand, silt, and oil traps and water storage.
- b) Utilities plans illustrating proposed connections and alignments for water, sanitary sewer, storm water, gas and electricity from service points to new structure.
- c) Complete landscape plans including names, numbers, sizes, root conditions of all plant materials and locations of all turf (seed or sod) or mulch areas (see Section 1302.030, Subd. 7).
- d) Tree preservation plans (See Section 1302.075). (Ref. Ord. 10-1-1062, 1/12/10)
- e) On-site business signage and traffic direction signs.
- f) Emergency plans as required by City staff.
- g) Concept elevations of the building facades.
- h) Other plans as required by City staff.

(Ref. Ord. 726, 8/12/86)

Subd. 2. Each application for a building permit for a new residential principal structure or for new or remodeled business or industrial buildings shall be accompanied by a certified land survey indicating that permanent iron monuments are in place at each lot corner. Permanent iron monuments shall also be placed on each side lot a distance from the front lot line equivalent to the building set-back line. Such certified land survey shall also show thereon the following:

- a) All existing buildings with dimensions of each building and reference dimensions from the lot lines to the nearest point of each building on the lot or parcel.
- b) All proposed buildings with dimensions of each building and reference dimensions from the front and side lot lines to the nearest point of each building.
- c) The elevations to sea level datum of the centerline of the nearest street at points where the side line of proposed buildings are extended intersect said street.
- d) The proposed elevations to sea level datum of the top of the foundation and the lower most floor.
- e) The proposed elevations to sea level datum of grade within five feet (5') of foundation on all sides of proposed buildings.
- f) The proposed slope of ground for a distance of not less than thirty feet (30') on all sides of the foundation.

- g) The elevation and location to sea level of sanitary sewer and water main, if existing, at point of connection. The survey shall show elevation of inverts to nearest manholes up and down stream of proposed building to determine elevation of sewer line.
- h) The location of any and all existing utilities, easements, drainage ways, water ways and swamp land on or within lot.
- i) Any and all variances that are requested or proposed.
- j) All private water and sewer services shall be located on the survey.

(Ref. Ord. 726, 8/12/86; 741, 4/14/87)

Subd. 3. Upon completion of the staff review, the applicant shall meet with the staff to discuss modifications necessary to the site plan. After completion of the modifications by the applicant, the City Planner shall notify the Building Official that the applicant meets or exceeds the City's land use requirements and may proceed with the building permit application.

Subd. 4. The City Planner, in consultation with other City staff members, may require the posting of performance bonds or other assurances of completed work as established in Section 1301.060, Subd. 4.

Subd. 5. The applicant may file an appeal to the City Council (Board of Adjustment and Appeals) concerning the interpretation or requirements placed on the project by the City staff. Said appeal shall follow the public hearing/appeal process established in Section 1301.060. (Ref Ord. No. 726, 8/12/86)

Subd. 6. Exterior Completion of Single-Family and Two-Family Dwelling Unit Buildings.

- a) The roof and all exterior surfaces of single-family dwelling unit and two-family dwelling unit buildings, and buildings and structures accessory thereto, shall be completed with exterior finish materials within one (1) year from the effective date of this subdivision or within one (1) year after the date of the building permit, whichever is later, for the new construction, alteration, remodeling or relocation of such building or structure.

Any person unable to satisfy conditions of this subdivision due to unforeseen conditions having a significant impact on the completion of the exterior, may request an extension to the initial one-year time limit. Such a request shall be made in writing, submitted at least thirty (30) days prior to the initial expiration date and accompanied by a fee of fifteen dollars (\$15.00). The request shall be reviewed by a staff panel consisting of three (3) individuals appointed by the City Manager. One (1) extension of up to one (1) year may be granted by unanimous approval of the staff panel if the exterior work is proceeding expeditiously and will be at least fifty percent (50%) complete at the end of the initial one-year period. The decision of the staff panel may be appealed to the City Council. Subsequent requests for time extensions shall require a formal variance pursuant to Section 1301.060.

- b) The term "finish materials" as used in this subdivision shall mean materials installed in compliance with the building code and shall include, but not be limited to stucco, brick, stone, shingles or shakes, painted, stained or color clad siding materials, windows and doors. Tar paper, unfinished plywood, fiberboard sheathing, foam insulation, brown coat or scratch coat of stucco, plastic sheeting and other similar materials not designed to be exterior finish shall not be considered an acceptable exterior finish.
- c) Any property owner who violates this subdivision shall be liable to pay a penalty of twenty-five dollars (\$25.00) for each day of violation. Payment of these penalties may be enforced by civil action.
- d) Any person who violates this subdivision is guilty of a misdemeanor as per Section 1301.090 of this Code. (Ref. Ord. 911; 4/26/94)

§1302.025 MORATORIUM ON ISSUANCE OF BUILDING PERMITS.

Subd. 1. The City Council finds that there are circumstances where, because of changing development patterns, proposed changes to the City's comprehensive plan, and for other good reasons, it is necessary to establish moratoriums on the issuance of building permits to allow the City staff and City Council to study and make amendments to the City's zoning code, subdivision code, or to consider proposed public improvements. It is the intent of the City Council through this ordinance, to establish an expeditious procedure for the implementation of such moratoriums and to provide persons affected by such moratoriums with a means for seeking a variance from the provisions of such a moratorium.

Subd. 2. After adopting findings setting forth the basis for its action, the City Council, by resolution adopted by a majority of its members voting, may impose a moratorium on the issuance of building permits, not to exceed six (6) months.

Subd. 3. Such moratorium resolution shall describe the land included in the moratorium area and shall establish the expiration date of the moratorium.

Subd. 4. Any individual or entity adversely affected by the imposition of such a moratorium may, upon making written application to the City Council, seek a variance from the provisions of the moratorium. Upon receipt of an application for a variance, the matter shall be heard by the City's Planning Commission, which will make recommendations to the City Council. Upon receipt of such recommendation, the City Council shall consider the application for a variance and when, in its sole discretion, believes the issuance of a variance is appropriate, may pass a resolution varying the terms of the moratorium with regard to the variance application. (Ref. Ord. 872, 6-9-92)

§1302.030 GENERAL BUILDING AND PERFORMANCE REQUIREMENTS.

Subd. 1. Purpose. The purpose of this Section of the Zoning Code is to establish general development performance standards. These standards are intended and designated to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

Subd. 2. Dwelling Unit Restriction.

- a) No cellar, basement, garage, tent or accessory building shall at any time be used as an independent single family residence or dwelling unit, temporarily or permanently, except for approved home accessory apartments or permitted temporary health care dwelling units per Section 1302.125. (Ref. Ord. 10-1-1062, 1/12/10, 16-10-2019, 10/11/16)
- b) Basements may be used as living quarters or rooms as a portion of residential dwellings.
- c) Earth Sheltered dwelling units shall not be considered as a basement or cellar, but shall require a conditional use permit as regulated by Section 1301.050 of this Code.
- d) Tents, play houses or similar structures may be used for play or recreational purposes.

Subd. 3. Platted and Unplatted Property.

- a) Any person desiring to improve property shall submit to the Building Official a survey of said premises and information on the location and dimensions of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to insure conformance to City Codes.
- b) All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets and according to the system and standards employed by the City.
- c) A lot of record existing upon the effective date of this Code (12-19-84) in a residential district which does not meet the requirements of this Code as to area or width may be utilized for single family detached dwelling purpose, provided that:
 - 1) The measurement of such area and width are within seventy (70) percent of the requirements of this Code; and
 - 2) Setbacks and yard requirements shall be in conformance with this Code. (Ref. Ord. No. 09-02-1056, 2/10/09)
- d) Except in the case of planned unit development as provided for in Section 1301.070 of this Code, not more than one (1) principal building shall be located on a lot.
- e) On a double frontage lot (a lot fronting on two (2) parallel streets), both street lines shall be front lot lines for applying the yard and parking regulations of the Code. (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 4. Accessory Buildings and Structures and Uses.

- a) No accessory building or structure shall be permitted on any lot prior to the time of the issuance of the building permit for the construction of the principal building.

- b) Accessory buildings and structures are permitted in the rear and side yard only. On lots which have access to an alley, the garage shall utilize that alley unless an alternative location is approved by the Zoning Administrator, provided that the garage does not face or access the true front of the lot, and on a corner lot, an attached garage must be located in the rear yard. (Ref. Ord. 09-02-1056, 2/10/09)
- c) An accessory structure shall be considered attached if it is located less than six (6) feet from the principal structure. (Ref. Ord. 897, 7/13/93)
- d) Any attached or unattached accessory building which abuts a public street right-of-way shall adhere to the same setback requirement as that of the principal structure except lock boxes as provided in §1303.230, Subd. 5b of this Code. (Ref Ord 915, 12/13/94)
- e) In all residential zoning districts except the "R-1I" and "R-1S" districts, an attached residential garage shall not set within five (5) feet of the side property line and shall maintain the principal structure's minimum setback requirement for the rear yard and when adjacent to the public right-of-way. A property owner who constructs a tuck-under garage shall adhere to the same setback requirements for that of the principal structure. Any detached residential accessory structure, except recreational and water-oriented accessory structures, shall not set within five (5) feet of a side lot line and five (5) feet of the rear lot line. The exterior color, design and/or material of the garage shall be compatible with the principal structure. (Ref. Ord. 804, 3/14/90; 897, 7/13/93; 915, 12/13/94; 981, 10/10/00)
- f) In the "R-1I" and "R-1S" districts, attached and detached residential garages shall not set within fifteen (15) feet of the side lot line except where the high point of the roof of an accessory structure (either attached or detached) exceeds fifteen (15) feet in height, the structure shall be setback from the side lot boundary line an additional one (1) foot for every foot of structure height exceeding fifteen (15) feet. Structure height shall be measured from mean ground grade to the high point on the roof. An attached garage shall also maintain the principal structure's minimum setback requirement for the rear yard and when adjacent to a public right-of-way. A property owner who constructs a tuck-under garage shall adhere to the same setback requirements for that of the principal structure. The exterior color, design and/or material of the garage shall be compatible with the principal structure. (Ref. Ord. 897, 7/13/93)
- g) No detached garages or other accessory buildings except attached garages in residential districts shall be located nearer the front lot line than the principal building on that lot except in planned unit developments or cluster developments.
- h) Accessory structures located on lake frontage lots or lots with a rear alley may be located between the public right-of-way and the principal structure provided that the physical conditions of the lot require such a location. Following are the required setbacks to the public right-of-way: (Ref. Ord. 981, 10/10/00)
 - 1) For lake frontage lots, a twenty (20) foot setback to the public right-of-way is required for an accessory structure (garage or storage shed). (Ref. Ord. 773, 1/10/89; 981, 10/10/00)
 - 2) For lots with a rear alley, a twenty (20) foot setback to the public right-of-way is required for an accessory structure (garage) if the garage door faces the alley. (Ref. Ord. 00-10-981, 10/10/00)

- 3) For lots with a rear alley, a five (5) foot setback to the public right-of-way is required for an accessory structure (garage) if the garage door faces into the yard. (Ref. Ord. 00-10-981, 10/10/00)
 - 4) For lots with a rear alley, a five (5) foot setback to the public right-of-way is required for a storage shed. (Ref. Ord. 00-10-981, 10/10/00)
- i) Up to two (2) accessory structures are permitted for each single or two family dwelling unit, the first being a primary accessory structure (an attached or detached residential garage) and the second being a secondary accessory structure subject to the following conditions: (Ref. Ord. 915, 12/13/94, 10-1-1062, 1/12/10)
- 1) Primary Accessory Structures (Ref. Ord. 10-1-1062, 1/12/10)
 - a) Attached residential garage(s) shall not exceed one (1) story or the height of the principal structure. The maximum gross floor area shall not exceed 100% of the first floor area of the dwelling unit or 1,000 square feet, whichever is more restrictive.
 - b) Detached residential garages shall not exceed fifteen (15) feet in height as measured to the mean of the roofline, or the height of the principal structure, whichever is more restrictive. The maximum gross floor area shall not exceed 100% of the first floor area of the principal structure or 1,000 square feet, whichever is more restrictive. Only one detached garage shall be permitted on any single or two family lot. (Ref. Ord 915, 12/13/94, 00-10-981, 10/10/00)
 - 2) Secondary Accessory Structures. (Ref. Ord. 00-10-981, 10/10/00, 10-1-1062, 1/12/10)
 - a. Storage sheds (120 square feet or less) shall be measured from the ground grade to the top of the roof and shall not exceed twelve (12) feet in height. (Ref. Ord 915, 12/13/94; 00-10-981, 10/10/00)
 - b. Lots containing attached garages: Through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, a second accessory structure no greater than six hundred twenty-five (625) square feet, but not exceeding ten (10) percent of the existing rear yard is allowed, provided that the combined square footage of a second accessory structure and an attached garage for lots having 10,500 square feet or less shall not exceed one thousand (1,000) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. For lots greater than 10,500 square feet, the combined square footage of a second accessory structure and an attached garage shall not exceed one thousand two hundred fifty (1,250) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. Second accessory structures of 120 square feet (storage shed) or less are allowed without an administrative variance and must comply with the combined square footages mentioned above. (Ref. Ord 915, 12/13/94; 00-10-981, 10/10/00; 996, 11/12/02)

- c. Lots containing detached garages: Limited to a second accessory structure of 120 square feet (storage shed) or less without an administrative variance. Through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, a second accessory structure no greater than two hundred (200) square feet, but not exceeding ten (10) percent of the existing rear yard is allowed. Either way, the combined square footage of these accessory structures for lots having 10,500 square feet or less shall not exceed one thousand (1,000) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. For lots greater than 10,500 square feet, the combined square footage of these accessory structures shall not exceed one thousand two hundred fifty (1,250) square feet or 100 percent of the first floor area of the principal structure, whichever is more restrictive. (Ref. Ord 915, 12/13/94; 00-10-981, 10/10/00; 16-01-2007, 1/12/16)
 - d. One recreational or water-oriented accessory structure (other than a lock box) not exceeding fifteen (15) feet in height and two hundred fifty (250) square feet in size shall be permitted. This structure shall be set back at least five (5) feet from the rear property line, and shall maintain the same side yard setback as required for the principal structure. (Ref. Ord. 10-1-1062, 1/12/10)
 - e. For properties less than 10,000 square feet in size, no combination of accessory buildings or uses per single or two-family home shall cover more than 35% percent of the available rear yard, or no more than 42% with an administrative variance pursuant to Section 1301.060, Subd. 6-7 of this Code. For properties 10,000 square feet in size or greater, no combination of accessory buildings or uses per single or two-family home shall cover more than 25% of the available rear yard, or no more than 33% through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code. (Ref. Ord. 10-1-1062, 1/12/10; 16-01-2008, 1/12/16)
 - f. A site plan and permit shall be required for all decks, lock boxes and for all accessory structures used as tool and storage sheds and similar uses. A fee of thirty (\$30.00) dollars shall be required. (Ref. Ord. 00-10-981, 10/10/00, 1015, 1/13/04, 10-1-1062, 1/12/10)
- 3) All single family dwellings hereafter erected on lots of 10,500 square feet or greater or those lots resulting from a subdivision enacted after January 1, 1989 shall have a double garage. All existing double car garages for single family dwellings on lots of the same shall be retained. All single family dwellings on lots having an area less than 10,500 square feet shall have a single car garage. All existing single car garages for single family dwellings on lots of the same shall be retained. All two family dwellings hereafter erected shall have at least a single car garage per unit. All existing two family dwellings which provide a single car garage per unit shall retain said garage. (Ref. Ord. No. 804, 3/14/90)
- j) All accessory buildings over 120 square feet in size shall require a concrete foundation or concrete slab, except for permitted temporary health care dwelling units per Section 1302.125. In lieu of concrete foundation or concrete slab as specified above, accessory buildings of one hundred twenty (120) square feet or less shall have adequate anchorage of the walls to the ground as approved by the Building Official to provide resistance to overturning, uplift or sliding. (Ref. Ord. 10-1-1062, 1/12/10, 16-10-2019, 10/11/16)
 - k) No accessory uses or equipment such as air conditioning cooling structures or condensers which generate noise may be located in a front yard except for townhome units which have no yards

other than front yards or secondary front yards abutting streets where equipment is fully screened from view. (Ref. Ord. No. 848, 07/09/91; 996, 11/12/02; 12-06-1080, 06/12/12)

- l) No accessory buildings in an apartment, multi-family or townhome development shall exceed the height of the principal building. (Ref. Ord. 915, 12/13/94, 10-1-1062, 1/12/10)
- m) Accessory buildings in the commercial and industrial districts shall maintain the building setbacks required for the principal building and shall be located to the rear of the principal building, subject to the building code and fire regulations. (Ref. Ord. 915, 12/13/94)
- n) Houseboats and buildings used as shelters during open water months from which to fish are considered accessory structures for purposes of this ordinance. All houseboats dry-docked outside of a marina area for a period of thirty (30) days or more shall be considered an accessory building. No houseboat shall be used as a permanent residence. (Ref. Ord. 915, 12/13/94)
- o) Ice fishing houses stored on parcels of land during summer months shall be considered as an accessory storage building equivalent to a storage shed. Ice fishing houses shall meet all existing setback and size limitations of this ordinance. (Ref. Ord. 915, 12/13/94)
- p) It shall be the responsibility of the property owner to ensure that: (Ref. Ord. 915, 12/13/94)
 - 1) Every exterior wall, foundation and roof of any accessory building or structure shall be reasonably watertight, weather tight and rodent proof and shall be kept in a good state of maintenance and repair. Exterior walls shall be maintained free from extensive dilapidation due to cracks, tears or breaks of deteriorated plaster, stucco, brick, wood or other material.
 - 2) All exterior wood surfaces other than decay resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. A protective surface of an accessory building or structure shall be deemed to be out of repair if more than twenty-five (25) percent of the exterior surface area is unpainted or paint blistered the surface shall be painted. If twenty-five (25) percent or more of the exterior surface of the pointing of any brick block or stone wall is loose or has fallen out, the surface shall be repaired. (Ref. Ord. No. 845, 6/11/91)

Subd. 5. Drainage.

- a) No land shall be developed and no use shall be permitted that results in additional water runoff, causing flooding or erosion on adjacent properties. Such runoff shall be properly channeled into a storm drain, water course, ponding area, or other public facility. All new developments shall provide for curbs and gutters along public streets. All site plans shall be designed in accordance to the City's Engineering Design Standards and be reviewed and subject to the approval of the City Engineer relative to storm water runoff, based on the following fees (Ref. Ord. No. 15-05-2000, 5/12/15):
 - 1) Review of new grading and/or drainage plans for parcels of a half acre in size or greater shall be subject to an Engineering review fee of two hundred and fifty (\$250) dollars. (Ref. Ord. 08-01-1047, 1/8/08)
 - 2) Review of amendments to existing grading and/or drainage plans and new grading/drainage plan for parcels less than a half acre in size shall be subject to an Engineering review fee of seventy-five (\$75) dollars. (Ref. Ord. 08-01-1047, 1/8/08)

- 3) Grading plans for individual single family parcels shall be exempt from Engineering fees. (Ref. Ord. No. 08-01-1047, 1/8/08)
- b) In the case of all residential subdivisions, multiple family, business and industrial developments, the drainage plans shall be submitted to the City Engineer for his review and the final drainage plan shall be subject to his written approval. In the case of such uses, no modification in grade and drainage flow through fill, erection of retaining walls or other such actions shall be permitted until such plans have been reviewed and received written approval from the City Engineer. Approval from a Watershed District may also be required.
- c) Except for written authorization of the City Engineer, the top of the foundation and garage floor of all structures shall be eighteen (18) inches above the grade of the crown of the street.
- d) All new single-family subdivisions greater than 3 lots that rely on common drainage facilities for stormwater management, and all multiple family residential, commercial, mixed-use and industrial developments that create or re-create 10,000 square feet or more of impervious area shall have stormwater facilities designed and constructed in accordance with the City's Engineering Design Standards. These stormwater facilities require future maintenance, and as such, these developments shall enter into a Stormwater Operation and Maintenance Agreement (SOMA) with the City in order to insure that the stormwater facilities provided are appropriately maintained. Said agreement shall meet the requirements of the City's Engineering Design Standards and be recorded at the County Recorder's Office for all properties associated with the referenced drainage facilities. (Ref. Ord. 10-1-1062, 1/12/10, Ref. Ord. No. 15-05-2000, 5/12/15)

Subd. 6. Fences: (Ref. Ord. 10-1-1062, 1/12/10)

- a) Solid walls in excess of four (4) feet above adjacent ground grades shall be prohibited.
- b) Fences shall be at least thirty percent (30%) open through the structure to allow for passage of light, air and wind, or have an approved foundation.
- c) That side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.
- d) All fences four (4) feet in height and over from the finished grade shall require a site plan and permit. A fee of thirty (\$30.00) dollars shall be required. (Ref. Ord. No. 01-04-1015, 1/13/04)
- e) No fences shall be permitted on public right-of-ways.
- f) In the case of a corner lot, both yards abutting a street shall be considered a front yard.
- g) Fences located within the buildable area of a lot may be up to eight (8) feet in height.
- h) Fences may be permitted along property lines and within required non-buildable setback areas, subject to the following:
- 1) Fences may be placed along property lines provided no construction, grading, or drainage damage results to abutting property.
 - 2) Fences in commercial and industrial districts may be erected along the side and rear lot lines to a height of eight (8) feet with or without a security arm for barbed wire. In no case shall a fence or security arm extension encroach over the property line. (Ref. Ord. 774, 1/10/89)

- 3) Fences in residential districts may be located on any side or rear lot line to a height of six (6) feet above finished grade, beginning at the front building line of the principal structure.
- 4) In residential districts, no fence or wall more than four (4) feet in height shall be constructed within any required front yard. At the intersection of corner lot lines, the height is limited to thirty (30) inches in height (See Municipal Code Section 904.010). On corner lots in residential districts, both yards abutting a right-of-way shall be considered a front yard. A fence up to six (6) feet in height may be allowed within a front yard which qualifies as an equivalent side yard abutting a public right-of-way provided that it is setback at least 12 feet from the property line and does not impede safety by obstructing vision for pedestrians or motor vehicle operators. At no point shall a fence greater than four (4) feet in height be located in front of the front building line of the principal structure. Chain link fences are not permitted in front yards, not including side yard areas otherwise defined as a front yard. (Ref. Ord. 10-1-1062, 1/12/10)

In the case of corner lot houses situated at an angle to the front lot lines, a fence in an equivalent side yard shall not lie any closer to the front lot line than the furthest point of the common front building line adjacent to the equivalent side yard.(Ref. Ord. No. 1024, 10/12/04, 808, 3/14/90)

- 5) Where the property line is not clearly defined, a Certificate of Survey may be required by the Zoning Administrator to establish the property line.
 - 6) In those instances where a boundary line fence exists as an enclosure which restricts access from the front yard, a gate, identifiable collapsible section, or other such means of recognizable ingress shall be provided for emergency vehicles. Such ingress points shall be unobstructed and a minimum of ten (10) feet in width. The location of such ingress points shall be positioned at any point paralleling the front lot line, between the side lot property line and the principal structure.
 - 7) Fences erected within side or rear yards which abut any navigable lake, channel or stream shall not exceed four (4) feet in height. Fencing around pools as required by Section 1302.030, Subd. 20 shall supercede this section. (Ref. Ord. 10-1-1062, 1/12/10)
 - 8) Chain link fences (without slat screens) used for the enclosure of tennis courts or other such recreational purposes shall not exceed ten (10) feet in height and shall be located in a rear yard only.
 - 9) In residential districts, barbed wire fences and electrical fences shall be prohibited. (Ref. Ord. No. 808, 3/14/90)
- i) Every fence shall be constructed in a substantial, workmanlike manner and of substantial material reasonably suited for the purpose for which the fence is proposed to be used. Every fence shall be maintained in a condition of reasonable repair and shall not by reason of age, decay accident or other wise be allowed to become and remain in a state of disrepair so as to be or tend to be a nuisance to the injury of the public or any abutting property. Any fence which is dangerous by reason of its construction or state of disrepair or is otherwise injurious to the public safety, health or welfare is a nuisance; and any such fence which has become or tends to be a nuisance shall upon order of a competent court be repaired or removed as necessary to abate the nuisance caused. (Ref. Ord. 704, 11/12/85; 808, 3/14/90)
 - j) Boundary line fences in residential areas shall not include any of the following temporary type

fences: snow fences, construction fences, silt fences, and chicken wire fences not used for gardening purposes, etc.

Nothing in this section shall prohibit the use of construction or silt fences for the use for which they were intended, provided they are removed in a timely fashion as determined by the City's Building Official. (Ref. Ord. No. 04-10-1024, 10/12/04)

Subd. 7. Required Fencing, Screening, and Landscaping.

- a) Fencing and Screening. Where any business or industrial use (i.e., structure, parking or storage) abuts property zoned for residential use, that business or industry shall provide screening along the boundary of the residential property. Screening shall also be provided where a business or industry is across the street from a residential zone, but not on that side of a business or industry considered to be the front (as determined by the Building Official). All the fencing and screening specifically required by this Code shall be subject to Section 1302.030, Subd. 8 and shall consist of either a fence or a green belt planting strip as provided for below:
- 1) A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Earth mounding or berms may be used, but shall not be used to achieve more than three (3) feet of the required screen. The planting plan and type of plantings shall require the approval of the City Council.
 - 2) A required screening fence shall be constructed of masonry, brick, wood or metal. Such fence shall provide a solid screening effect six (6) feet in height. The design and materials used in constructing a required screening fence shall be subject to the approval of the City Council. Fences in excess of six (6) feet in height shall require approval of the Zoning Administrator and Building Official.
- b) Landscaping, General Residential. The lot area remaining after providing for off-street parking, off-street loading, sidewalks, driveways, building site and/or other requirements shall be landscaped using ornamental grass, shrubs, trees or other acceptable vegetation or treatment generally used in landscaping within one (1) year following the date of building occupancy. Fences or trees placed upon utility easements are subject to removal if required for the maintenance or improvement of the utility. Landscape treatment within boulevard areas may be required to be removed for public works activities at no expense to the City. The City will not be responsible for damage to landscape treatments resulting from public works activity. (Ref. Ord. 913, 9/14/94, 01-03-983, 3/13/01)
- c) Landscaping, New Residential Subdivisions, Semi-Public and All Income-Producing Property Uses. (Excluding residential structures containing less than four [4] dwelling units). Prior to approval of a building permit, all above referenced uses shall be subject to mandatory landscape plan and specification requirements. Said landscape plan (2 copies) shall include the following information:
1. General: Name and address of developer/owner, name and address of architect/designer, date of plan preparation, date and description of all revisions, name of project or development, scale of plan, north point indication.
 2. Site Analysis: Boundary lines of property line with dimensions based upon certified survey, name and alignment of proposed and existing adjacent on-site streets, location of

all proposed utility easements and right-of-way, location of existing and proposed buildings, topographic contours at two (2) foot contour intervals, location of parking areas, water bodies, proposed sidewalks, and percent of site not covered by structures.

3. Landscape Data: A planting schedule table shall contain the following information including symbols, quantities, common names, botanical names, size of plant materials, root specifications, and special planting instructions.
 4. Typical sections and details of fences, tywalls, planting boxes, retaining walls, tot-lots, picnic areas, berms and other landscape improvements.
 5. Typical sections of landscape islands and planter beds with identification of materials used.
 6. Details of planting beds and foundation plantings.
 7. Delineation of both sodded and seeded areas indicated in square footage.
 8. Where landscape or manmade materials are used to provide required screening from adjacent and neighboring properties, a cross section shall be provided at a legible scale illustrating the prospective of the site from the neighboring property and property line elevation.
- d) All landscaping incorporated in said plan shall conform to the following standards and criteria:
1. Minimum Size of Plantings:
 - a. Over story deciduous -- 2-1/2 inch caliper.
 - b. Coniferous -- 6 feet in height.
 - c. Shrubs -- 24 inch (pot)
 - d. Ornamental trees -- 1-1/2 inch caliper.
 2. Method of Installation: All deciduous and coniferous trees shall be ball and burlap and staked and guyed per National Nurserymen's Standards. All shrubs and ornamental trees shall be potted. Bare root materials may be used with approval of the City Planner.
 3. Sodding and Ground Cover: All areas of any site not occupied by building, parking, or storage, shall be sodded. Exceptions to this are as follows:
 - a. Seeding of future expansion areas as shown on approved plans.
 - b. Undisturbed areas containing existing natural vegetation which can be maintained free to foreign and noxious materials.
 - c. Areas designated as open space for future expansion area properly planted and maintained with grass.
 4. Slopes and Berms:
 - a. Final slope grade steeper than the ratio of 3:1 will not be permitted without special approval or treatment, such as terracing or retaining walls.
 - b. Berming used to provide required screening of parking lots and other open areas shall not have a slope to exceed 3:1.

- 5. Use of Landscaping for Screening: Where natural materials, such as trees or hedges are approved in lieu of the required screening by means of walls or fences, density and species of planting shall be such to achieve ninety percent (90%) opaqueness year round.
- 6. Maintenance Policy: It is the responsibility of the property owner to insure that the landscaping is maintained in an attractive condition. The owner shall replace any damaged or dead trees, shrubs, ground covers, and sodding.
- 7. Erosion Control: All open disturbed areas of any site shall be stabilized as an erosion control measure in accordance with the provisions of the City's Engineering Design Standards. (Ref. Ord. 724, 8/12/86, Ord. No. 15-05-2000, 5/12/15)
- 8. Spacing:
 - a. Plant material shall not be planted to conflict with public plantings, based on the judgment of the City staff.
 - b. Where plant materials are planted in two or more rows, plantings shall be staggered in rows unless otherwise approved by the City staff.
 - c. Deciduous trees shall be planted not more than forty (40) feet apart.
 - d. Where massing of plants or screening is intended, large deciduous shrubs shall not be planted more than four (4) feet on center, and/or, evergreen shrubs shall not be planted more than three (3) feet on center.
- 9. Prohibited Trees: It shall be unlawful to plant any of the following trees within the City of White Bear Lake:

<u>Genus</u>	<u>Species</u>	<u>Common Name</u>
Ginkgo	Biloba	Ginkgo (Maidenhair tree female only)
Acer		Negundo Boxelder (ash-leaved maple)
Populus	Deltoides	Eastern Cottonwood
Populus	Nigra Italica	Lombardy Poplar

- 10. Design Standards:
 - a. The landscape plan must show some form of designed site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc., which are largely intended for aesthetic purposes).
 - b. All areas within the property lines (or beyond, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as roads, parking, or storage must be planted into ornamental vegetation (lawns, ground covers, or shrubs) unless otherwise approved by the Zoning Administrator.
 - c. All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.
 - d. All buildings must have an exterior water spigot to insure that landscape maintenance can be accomplished.

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11. Landscape Guarantee:

- a. The City Planner/Zoning Administrator may require a surety bond, irrevocable letter of credit, cash escrow, certificate of deposit, securities, or cash deposit prior to approval of the landscaping plan or initiation of work on the proposed improvement or development. Said security shall guarantee conformance and compliance with the provisions of this section, and where applicable, the conditions of the Conditional Use Permit.
- b. The security shall be in an amount to be determined by the Zoning Administrator, but no less than one hundred twenty-five (125) percent of the cost of construction and materials to guarantee the completion of the required landscaping and to insure proper planting and growth.

12. Existing Trees: With respect to existing trees in new developments, trees on the site shall be preserved and replaced in accordance to §1302.075 of this code. (Ref. Ord. 724, 8/12/86; 876, 8-92)

- e) Mechanical Equipment. The City Council may require all mechanical equipment such as air conditioning units, etc. erected on the roof of any structure, to be screened so as not to be visible.

Subd. 8. Traffic Visibility. Refer to section 904.010.

Subd. 9. Glare. Any lighting used to illuminate an off-street parking area, sign or other structure shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-related glare, whether from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property shall not exceed four-tenths (0.4) foot candles (meter reading) as measured from said property. Except when part of a public safety device or a temporary seasonal display, all LED light sources must be controlled and equipped with opaque covers, lenses, louvers or shields, or otherwise designed to prevent direct views of the light source (Ref. Ord. No. 851, 09/24/91; 12-06-1080, 6/12/12)

Subd. 10. Smoke. The emission of smoke by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

Subd. 11. Dust and Other Particulate Matter. The emission of dust, fly ash or other particulate matter by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

Subd. 12. Odors. The emission of odor by any use shall be in compliance with and regulated by the State of Minnesota Pollution Control Standards, Minnesota Regulation APC 1-15, as amended.

Subd. 13. Noise. The emission of noise by any use shall be in compliance with the City Ordinance relating to noise (Section 703.070). (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 14. Refuse.

- a) Definition of Refuse. The term refuse shall mean all putrescent and non-putrescent waste both combustible and non-combustible including but not limited to both refuse consisting of motor vehicles and refuse not consisting of motor vehicles as defined below. (Ref. Ord. 02-03-989, 3/12/02, 03-03-999, 3/11/03)
- 1) Refuse consisting of motor vehicles. Any motor vehicle including but not limited to any automobile, truck, trailer, marine craft, snowmobile, motorcycle, all terrain vehicle, or equipment for motorized transportation that; (1) has a missing or defective part that is necessary for the normal operation of the vehicle; or (2) is stored on blocks, jacks or other supports; or (3) is not currently licensed. (Ref. Ord. 03-03-999, 3/11/03)
 - 2) Refuse not consisting of motor vehicles. All putrescible animal and vegetable wastes resulting from the handling of food, ashes, paper, rags, cartons, boxes, cardboard, bottles, cans, glass, building material, refuse containers of any design, yard waste including bags or piles of leaves, grass, brush, branches or prunings, dead trees, dismantled/unused or non-working appliances or equipment and car parts but not including properly stored recyclable material as defined at 501.020, subd. 3 of the City Code. (Ref. Ord. 03-03-999, 3/11/03)
 - 3) The following exceptions shall not be considered refuse: (Ref. Ord. 03-03-999, 3/11/03)
 - a. Pioneer, classic, collector vehicles, collector military vehicles, or street rods as defined in Minnesota Statutes Section 168.10, provided such vehicles are licensed and in compliance with Section 1302.055, Subd. 1 of this Code. (Ref. Ord. 03-03-999, 3/11/03)
 - b. Bags of leaves used for insulation purposes between October 1 and May 15 of the following year. (Ref. Ord. 03-03-999, 3/11/03)
 - c. Plant materials stored in a compost container in compliance with City Code Section 509 regarding composting. (Ref. Ord. 03-03-999, 3/11/03)
 - d. Building material being utilized and/or openly stored in conjunction with a legally authorized construction project. (Ref. Ord. 03-03-999, 3/11/03)
 - e. Marine craft less than 150 pounds stored off the ground on saw horses, racks, blocks or similar objects provided said craft is stored in the rear yard. (Ref. Ord. 03-03-999, 3/11/03)
 - f. One inoperable vehicle stored in a garage or other lawfully constructed building. (Ref. Ord. No. 03-03-999, 3/11/03)

- b) Prohibition of Open Storage, Required Container. To protect and promote the interests of public welfare, safety and health, it shall be unlawful to openly store refuse, as defined in §1302.030 Subd. 14a of this code, on any portion of a yard in any district; except as provided herein. Refuse shall be stored in an enclosed building. Refuse not consisting of motor vehicles shall also be stored in a rigid, closed watertight container designed for such storage. The owner of a vacant lot shall be responsible for keeping such land free of all refuse. The following shall be considered allowable exceptions to the open storage and required container regulations when stored behind the front line of any house or related garage, apartment, industrial or commercial building. (Ref. Ord. 999, 3/11/03).
- 1) Yard waste securely tied in bundles not longer than 4 feet in length or bagged in an orderly manner stored between regularly scheduled collection times. (Ref. Ord. 03-03-999, 3/11/03)
 - 2) Up to three (3) rigid closed containers designed for the storage of refuse and one additional such container for recycling provided that none exceed an individual capacity of 90 gallons, or a combined capacity of 120 gallons. (Ref. Ord. 806, 3/14/90; 989, 3/12/02; 999, 3/11/03)
- c) Curbside Storage. Refuse will be stored consistent with 14b above except for collection purposes when refuse shall be placed at the edge of the street or alley where collected after 5:00 p.m. the night before a scheduled collection and shall be removed by 11:00 p.m. the day of collection. Owners of property found in violation of this Subdivision (Subd. 14c) or the open storage, required container exceptions in Subdivision 14b.1 or 14b.2 may be cited for violation without notice. (Ref. Ord. 03-03-999, 3/11/03)
- d) Notice. Whenever the Code Enforcement Officer determines that there are reasonable grounds to believe that there has been a violation of this subdivision (except Subdivision 14b.1, 14b.2, and 14c), he shall utilize the following notice of violation procedures. (Ref. Ord. 02-03-989, 3/12/02, 03-03-999, 3/11/03)
1. Refuse Not Consisting of Motor Vehicles. The notice provided by the Code Enforcement Officer of illegally stored or piled refuse not including motor vehicles shall state that, if within fifteen (15) days of receipt of the notice the violation has not been corrected, the City, at its discretion, may either issue a citation to the property owner or dispose of the refuse or garbage and bill the property owner for the City disposal and reasonable administrative costs incurred. If repayment of such City costs is not forthcoming within thirty (30) days of actual disposal, the City Council shall cause all costs of such disposal to be assessed against the property in accordance with the procedure for assessment in M.S.A. Section 429.061 and subsequent amendments thereto. (Ref. Ord. 03-03-999, 3/11/03, 10-1-1062, 1/12/10)
 2. Refuse Consisting of Motor Vehicles. In the event refuse consisting of a motor vehicle is illegally stored, the City shall give the owner of the vehicle notice of the violation and fifteen (15) days to take corrective action. An owner has taken corrective action when the vehicle is legally parked and licensed, mechanically operable, and in compliance with all state requirements for an operable vehicle on public roads. In the event corrective action is not taken within fifteen (15) days from the notice of the violation, the City may either take the vehicle into custody, impound it, and sell it immediately at public auction pursuant to M.S.A. section 168B.08, or issue a citation to the property owner (Ref. Ord. 10-1-1062, 1/12/10).

- e) Right of Entry. The Code Enforcement Officer is hereby authorized and directed to enter onto private property to investigate any complaint for a violation or any apparent violation of this Subdivision or to dispose of any refuse stored or piled in violation of this Code. The property owner and every property occupant shall give the Code Enforcement Officer free access to the property at all reasonable times for the purpose of such investigation or disposal. (Ref. Ord. 03-03-999, 3/11/03)
- f) Limited Exceptions. The City Council is hereby empowered to grant limited exceptions to the requirements of Subdivisions 14 and 15 of this Section as recommended by the Variance Board. A request for exception to any requirement of these subdivisions may be filed with the Zoning Administrator in accordance with Section 1301.060, Subd. 2 of the Code at any time before a notice of an alleged violation has been served, or within ten (10) days after the day a notice of violation has been served.

Composting as permitted under the Composting Municipal Code Section 509 is a limited exception to this ordinance. Said exception does not require Council approval as described above. (Ref. Ord. No. 863, 2/11/92, 10-1-1062, 1/12/10)

Subd. 15. Exterior Storage.

- a) All building material and construction equipment (not including commercial vehicles as regulated by Code Section 1302.055) shall be stored in an enclosed building. Lawn and garden equipment, snow blowers and detached snow plows shall be stored within buildings or in the rear or side yard (but not in a side yard abutting a street) if screened so as not to be visible from adjoining properties as viewed from ground level, except for the following allowable exceptions: (Ref. Ord. 02-03-989, 3/12/02, 03-03-999, 3/11/03)
- 1) Firewood piles which are neatly stacked and free from vermin shall be stored in the rear and side yards only. In the case of corner lots, both yards abutting a public right of way are considered a front yard.
 - 2) Building materials and construction equipment stored outside in conjunction with a legally authorized construction project shall not be considered unlawful. (Ref. Ord. 989, 3/12/02; 999, 3/11/03)

Subd. 16. Waste Material.

- a) Waste material resulting from or used in commercial servicing, processing or trimming shall be disposed of in a manner approved by the Minnesota State Fire Marshall, the Pollution Control Agency, and the Department of Natural Resources.
- b) Waste material may not accumulate on the site, except where fully screened.
- c) Waste discharged into a public sewer system shall meet the following performance standards.
- 1) Shall be neutralized to a pH of 7.0 as a daily average on a volumetric basis, with a temporary variation of pH 5.0 to 10.0;

- 2) Shall contain no cyanides and no halogens, and shall contain not more than 10 p.p.m. of the following gases: hydrogen, sulphide, sulphur dioxide and nitrous oxide;
- 3) Shall not contain any insoluble substances in excess of 10, or exceed a daily average of 500 p.p.m. or fail to pass a No. 8 Standard Sieve, or have a dimension greater than 1/2 inch;
- 4) Shall not be a temperature in excess of 180° Fahrenheit;
- 5) Shall not have a chlorine demand greater than 15 p.p.m.;
- 6) Shall not contain phenols in excess of .005 p.p.m.;
- 7) Shall not contain any grease or oil or any oily substance in excess of 100 p.p.m. or exceed a daily average of 25 p.p.m.

Subd. 17. Bulk Storage (Liquid). All existing above ground liquid (oil, gasoline, fertilizer, chemicals, and similar materials) storage tanks or structures having a capacity in excess of three hundred (300) gallons shall be inspected by the City and the City Council may require the development of dyking around said tanks or structures, suitably sealed, to hold a leakage capacity equal to one hundred fifteen (115) percent of the capacity of the tank or structure. Any existing tank or structure that, in the opinion of the City Council, constitutes a hazard to the public health or safety shall discontinue operations, and if said conditions are not corrected, the tanks shall be removed by the owner. All storage tanks or structures shall comply with the requirements of the Minnesota State Fire Marshall's and Minnesota Department of Agriculture Offices and have documents from those stating the use is in compliance. All tanks or structures hereafter erected or constructed shall be inspected by the City in order to assure against fire, explosion, water contamination, and other hazards; the City Council may withhold issuance of a building permit if it determines that said hazards exist.

Subd. 18. Radiation Emission. All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

Subd. 19. Electrical Emission. All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

Subd. 20. Swimming Pools. (Ref. Ord. No. 805, 3/14/90)

- a) Building permits are required for all swimming pools except for wading and portable pools. (Ref. Ord. 07-09-1044, 9/12/07)
 - 1) Portable and Wading Pools: Do not require a building permit but must still comply with the general setback and safety requirements as outlined in sections b(1) and b(2)c below. (Ref. Ord. 07-09-1044, 9/12/07)

- 2) All other pools: An application for a building permit shall include a site plan showing the following: the type and size of pool, location of pool, location of house, garage, fencing and other lot improvements, location of structures on all adjacent lots, location of filter unit, pump and wiring indicating the type of such units, location of back flush and drainage outlets, grading plan, finished elevations and final treatment (decking, landscaping, etc.) around pool, location of existing overhead and underground wiring, utility easements, trees, and similar features, location of any water heating unit.
- b) Those pools which require a building permit are subject to the following requirements:
- 1) In general:
 - a. Pools shall not be located beneath overhead utility lines nor over underground utility lines of any type.
 - b. Pools shall not be located within any private or public utility, walkway, drainage or other easement.
 - c. All access for construction shall be over the owner's land. Due care shall be taken to avoid damage to public streets and adjacent private or public property.
 - d. To the extent feasible, back-flush water or water from pool drainage shall be directed onto the owner's property or into approved public drainage ways. Water shall not drain onto adjacent or nearby private land or sanitary sewers.
 - e. The filter unit, pump, heating unit, and any other noise-making mechanical equipment associated with above-ground, in-ground, and portable pools shall be located a minimum of fifty (50) feet from any adjacent or nearby residential structure and not closer than ten (10) feet to any lot line. The filter unit, pump, and heating unit for a hot tub apparatus shall be located a minimum of ten (10) feet from any lot line. (Ref. Ord. 03-06-1002, 6/24/03)
 - f. Lighting for the pool shall be directed toward the pool and not toward the adjacent property.
 - g. Water in the pool shall be maintained in a suitable manner to avoid health hazards of any type. Such water shall be subject to periodic inspection by the local Health Official. (Ref. Ord. 07-09-1044, 9/12/07)
 - h. All wiring, installation of heating units, grading, installation of pipes, and all other installation and construction shall be subject to inspection.
 - i. Where required, structure or safety fencing shall be completely installed prior to filling the pool. (Ref. Ord. 07-09-1044, 9/12/07)
 - j. Drainage of pools into public drainage ways shall require written permission of the City Engineer.
 - k. Any proposed variation from the dimensional standards and requirements of this section shall require a variance in accordance with normal zoning procedures. (Ref. Ord. 07-09-1044, 9/12/07)

- 2) Private Residential Pools (Single Family-Two Family)
 - a. Above Ground Pools (Ref. Ord. 04-05-1019, 5/11/04):
 1. Pools shall not be located within twenty (20) feet of any side or rear lot line nor within six (6) feet of any principal structure or frost footing. Pools shall not be located within any required front yard. On corner lots in residential districts, a pool may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way provided that it is setback twenty (20) feet from the property line. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 2. Such pools shall be completely enclosed by a fence at least four (4) feet in height and with the bottom being no more than four (4) inches above grade. The fence shall be constructed as to not have openings, holes, or gaps in which a four (4) inch sphere may pass. When a fence has horizontal members spaced less than forty-five (45) inches apart, the horizontal members shall be placed on the pool side of the barrier. Any decorative design work on the side away from the pool, such as protrusions, indentations, or cutouts, which render the barrier easily climbable, is prohibited. If chain link fence is utilized, the mesh must be not greater than one-and-three-fourths (1¾) inch. All fence openings or point of entry into the pool area shall be equipped with self-closing and self-latching devices located on the pool side of the fence placed at least three (3) inches from the top of the gate or otherwise inaccessible to small children. The gate and fence shall have no opening greater than one-half (½) inch within eighteen (18) inches of the self-latching device. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 3. Depth of water shall be plainly marked at or above the deck of the pool at points of change or slope between the deep and shallow portions and at intermediate increments of depth spaced at no more than twenty-five (25) foot intervals.
 4. The enclosure for above-ground swimming pools may utilize the wall(s) of the pool itself, or with a barrier extension mounted to the pool edge to achieve an overall height of four (4) feet above grade. (Ref. Ord. 04-05-1019, 5/11/04, Ref. Ord. 07-09-1044, 9/12/07)
 - b. In-ground pools
 1. Pools shall not be located within twenty (20) feet of any side or rear lot line nor within six (6) feet of any principle structure or frost footing. Pools shall not be located within any required front yard. On corner lots in residential districts, a pool may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way provided that it is setback twenty (20) feet from the property line. (Ref. Ord. 877, 8/11/92; 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)

2. Such pools shall be completely enclosed by a fence at least six (6) feet in height and with the bottom being no more than four (4) inches above grade. The fence shall be constructed as to not have openings, holes, or gaps in which a four (4) inch sphere may pass. When a fence has horizontal members spaced less than forty-five (45) inches apart, the horizontal members shall be placed on the pool side of the barrier. Any decorative design work on the side away from the pool, such as protrusions, indentations, or cutouts, which render the barrier easily climbable, is prohibited. If chain link fence is utilized, the mesh must be not greater than one-and-three-fourths ($1\frac{3}{4}$) inch. All fence openings or points of entry into the pool area shall be equipped with self-closing and self-latching devices located on the pool side of the fence placed no more than one (1) foot from the top of the gate or otherwise inaccessible to small children. The gate and fence shall have no opening greater than one-half ($1/2$) inch within eighteen (18) inches of the self-latching device. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 3. In the case of in-ground pools, the necessary precautions shall be taken during the construction: a) Avoid damage, hazards, or inconvenience to adjacent or nearby property; b) Assure that proper care shall be taken in stockpiling excavated material to avoid erosion, dust or other infringements upon adjacent property. (Ref. Ord. 07-09-1044, 9/12/07)
 4. Depth of water shall be plainly marked at or above the deck or walk of the pool at points of change or slope between the deep and shallow portions and at intermediate increments of depth spaced at no more than twenty five (25) foot intervals.
 5. A deck at least three (3) feet wide, measured from the pool's water edge shall be provided which extends completely around the pool. Such decking shall be subject to approval by the City Building Official.
- c. Portable and Wading Pools: (Ref. Ord. 07-09-1044, 9/12/07)
1. Safety fencing is not required, however, all above ground portable pools which are constructed or erected to be accessible by means of a ladder are required that such ladder be detachable and so placed that no child can use them to gain entrance without the owner's consent. (Ref. Ord. 07-09-1044, 9/12/07)
 2. Wading pools may be placed in any yard, but shall not sit within five (5) feet of a lot line. Portable pools are not permitted in front yards. On corner lots in residential districts, a portable pool may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way provided that it is set back twenty (20) feet from the property line. In rear and side yards a portable pool must be setback five (5) feet from the side and rear lot lines. (Ref. Ord. 04-05-1019, 5/11/04, 07-09-1044, 9/12/07)
 3. Such pools shall not be in place longer than six (6) months in a calendar year.

d. Hot Tubs:

- 1) Hot tubs shall not be located within ten (10) feet of any side or rear lot line provided that in no case shall a hot tub be located closer than twenty-five (25) feet from the living area of an adjacent residential structure. Hot tubs shall not be located within any required front yard. On corner lots in residential districts, a hot tub may be permitted within a front yard which qualifies as a side yard abutting a public right-of-way, provided that it is set back 20.5 feet from the property line. (Ref. Ord. 03-06-1002, 6/24/03)
- 2) Such pools shall be equipped with a child-resistant cover. (Ref. Ord. 03-06-1002, 6/24/03)
- 3) Hot tubs are permitted on attached or detached decks if it can be proven that the deck is engineered to be structurally sound enough to support the bearing load of the hot tub. (Ref. Ord. 03-06-1002, 6/24/03)

3) Multiple Family Dwelling Pools:

- a. No part of the water surface of the swimming pool shall be less than thirty (30) feet from any lot line.
- b. Pumps, filter or other apparatus use in connection with or to service the swimming pool shall be located a minimum of fifty (50) feet from any adjacent or nearby residential structure and not closer than ten (10) feet to any lot line.
- c. Such pools shall be completely enclosed by a non-climbable type fence at least five (5) feet in height and no more than six (6) feet in height and no more than two (2) inches above grade. All fence openings or point of entry into the pool area shall be equipped with self-closing and self latching devices placed no more than one (1) foot from the top of the gate or otherwise inaccessible to small children. Adequate screening, including but not limited to, landscaping shall be placed between the pool area adjacent single-family district boundary lines.
- d. All deck areas, adjacent patios, or other similar areas used in conjunction with the swimming pool shall be located at least thirty (30) feet from any lot line in an adjacent single-family district.
- e. Depth of water shall be plainly marked at or above the deck or walk of the pool at points of change or slope between the deep and shallow portions and at intermediate increments of depth spaced at no more than twenty five (25) foot intervals.

Subd. 21. Garage, Rummage or Yard Sales. The sale of used household goods at a garage, yard or rummage sale may be conducted on residential property for no more than three consecutive days nor more than six days per calendar year. Such sale(s) may only be conducted by a resident of the property on which the sale(s) are conducted. Such sale(s) lasting more than three consecutive days or more than six days in a calendar year are prohibited. The sale of new, unused goods purchased or consigned for resale at such a garage, yard or rummage sale within a residential district shall be considered a violation of this Code. (Ref. Ord. No. 768, 8/9/88; 870, 6/9/92)

Subd. 22. Solar Energy Systems.

- a. The installation and construction of a roof-mounted solar energy system shall be subject to the following development and design standards:
1. May be mounted on either a principal or accessory building.
 2. Height limitations of the respective Zoning District shall apply.
 3. On a flat roof, the panels must be set back 6 feet from the edge of the roof. On all other roof types, panels may not extend past the roofline.
 4. All lines and accessory equipment shall be located internally or otherwise hidden from view.
 5. All residential systems must be roof-mounted unless it is demonstrated that a roof-mounted system is not feasible. Residential roof-mounted systems must be flush mounted on pitched roofs.
- b. The installation and construction of a ground mounted solar energy system shall be subject to the following development and design standards:
1. The height of the solar collector and any mounts shall not exceed 4 feet when oriented at maximum tilt.
 2. If located within the Shoreland Overlay District, the surface area of a ground-mounted system, regardless of the mounted angle, shall be calculated as impervious area coverage.
 3. Through an administrative variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, ground mounted systems may be allowed on residential properties. The system may not exceed 100% of the footprint of the home, must be located in the side or rear yard, and rear yard cover regulations shall apply.
 4. For commercial and industrial properties, the system may not exceed the size of an accessory structure, as limited by the underlying zoning district or 30% of the gross floor space of the principal use, whichever is less.
 5. The setback distance from the property lines (including electrical equipment) shall be equivalent to the accessory building setback requirement of the underlying zoning district.
 6. All lines and accessory equipment shall be located underground or otherwise hidden from view.
 7. Systems may not encroach on required open space, required buffer areas, wetlands or other protected natural areas, or on public drainage, utility, roadway or trail easements.
 8. Trees, which were either preserved or planted as part of an approved tree preservation plan for a property shall not be removed to accommodate solar systems without the prior approval of the Zoning Administrator.
- c. For both roof-mount and ground-mount, reflection angles shall be oriented away from neighboring principal structures. Should glare with an intensity sufficient to cause annoyance, discomfort or

loss in visual performance and visibility result, screening may be required.

- d. No solar energy system may be used to display permanent or temporary advertising, such as signage, or other displays. The manufacturers and equipment information, such as UL listing info., safety warnings, or indication of ownership shall be allowed on any equipment of the solar energy system provided they comply with the current sign regulations.
- e. A solar energy system shall not be installed until a zoning permit has been approved and issued. A site plan may be required to show compliance with the above-stated regulations.

(Ref. Ord. 16-03-2010, 3/8/16)

§1302.040 GENERAL YARD AREA AND BUILDING REQUIREMENTS.

Subd. 1. Purpose. This Section identifies yard, lot area, building size, building type, and height requirements in each zoning district.

Subd. 2. Usable Open Space. Each multiple family dwelling site shall contain at least five hundred (500) square feet of usable open space as defined in Section 1301.030 of this Code for each dwelling unit contained thereon.

Subd. 3. Height.

- a) The building height limits established herein for districts shall not apply to the following:
- 1) Belfries
 - 2) Chimneys or flues
 - 3) Church spires
 - 4) Cooling towers
 - 5) Cupolas and domes which do not contain usable space
 - 6) Elevator penthouses
 - 7) Flag poles
 - 8) Parapet walls extending not more than three (3) feet above the limiting height of the building
 - 9) Monuments
 - 10) Water towers
 - 11) Poles, towers, and other structures for public and semipublic essential services.
 - 12) Independent broadcasting and reception antennas or towers not exceeding forty-five (45) feet. Antennas attached to a building shall not exceed ten (10) feet above the roof.
- b) Building heights and broadcasting and reception antennas in excess of those permitted within the District provisions of this code may be permitted through a conditional use permit provided that:
- 1) The site is capable of accommodating the increased intensity of use.

- 2) The increased intensity of use does not cause an increase in traffic volumes beyond the capacity of the surrounding streets.
 - 3) Public utilities and services are adequate.
 - 4) For each additional story over three (3) stories or for each additional ten (10) feet above forty (40) feet, front and side yard setback requirements shall be increased by five (5) percent.
 - 5) The increased height is not in conflict with airport zoning regulations.
 - 6) The provisions of Section 1301.050, Subd. 2.e) of this Code are considered and satisfactorily met.
- c) No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than twenty-five (25) percent of the area of such roof nor exceed ten (10) feet unless otherwise noted.

Subd. 4. Yards. No lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Code, and if the existing yard or other open space as existing is less than the minimum required, it shall not be further reduced. No required open space provided about any building or structure shall be included as part of any open space required for another structure.

- a) The following shall not be considered as encroachments on required yard setbacks:
- 1) Chimneys, flues, belt courses, sills, pilaster, lintels, ornamental features, cornices, eaves, gutters and the like, provided they do not project more than two (2) feet into a required yard.
 - 2) A one (1) story enclosed entrance for a detached single family, two family or townhouse dwelling up to 64 square feet in area, may extend into the front yard setback not more than five (5) feet. (Ref. Ord. 06-05-1036, 5/9/06)
 - 3) Unenclosed terraces, covered and uncovered porches, stoops, landings or similar features in front or rear yards, provided they do not extend above the entrance floor level of the building or more than eight (8) feet in the required yard. (Ref. Ord. 06-05-1036, 5/9/06)
 - 4) Laundry drying and recreational equipment, arbors, trellises, air conditioning or heating equipment in rear yards to a point no closer than three (3) feet from any lot line.
 - 5) Balconies ten (10) feet above grade in rear yards, provided they do not extend more than five (5) feet into the required yard and are at minimum five (5) feet from a property line.
 - 6) Steps leading to a first floor entrance. (Ref. Ord. 06-05-1036, 5/9/06)
 - 7) An unenclosed, uncovered ramp or modified steps and landings for handicap accessibility leading to a first floor entrance may encroach into the required setbacks provided it does not extend closer than two (2) feet from a side lot line and ten (10) feet from a rear or front lot line (Ref. Ord. 10-1-1062, 1/12/10, 11-1-1074, 1/11/11)

- b) For lots platted prior to the effective date of this Code, accessory buildings or structures as provided for in §1302.030, Subd. 4 of this Code.
- c) Where the front yard setback of existing buildings in residentially zoned districts is greater or lesser than the minimum front yard setback required and said existing buildings are within one hundred (100) feet on either side of a structure to be erected, then the setback for the new structure shall be the mean depth of the adjacent structures. In the case where an adjacent structure is within one hundred (100) feet on either side of a structure to be erected and on the other side an adjacent property is vacant, then the setback shall be the average of the adjacent structure and the required minimum front yard setback. In the case of a corner lot or a lot abutting a corner lot but not addressed to the same street, the setback shall be the average of the adjacent building addressed to the same street and the required minimum front yard setback. Except for those properties abutting a lake, pond, or wetland area, the said average setback distance may be varied by an Administrative Variance, pursuant to Section 1301.060, Subd. 6-7 of this Code, if the structure to be erected is no greater or lesser than ten (10) feet from the average setback requirement. For existing non-conforming structures where a proposed addition is closer to the average setback requirement, no variance shall be required. In the case of a lot having lake frontage in the "S" Shoreland District, for the purposes of complying with this provision, the yard abutting the lake shall be considered the front yard. (Ref. Ord. 775, 1/10/89; 916a, 1/10/95; 996; 11/12/02)
- d) Where an addition is proposed to a pre-existing, dimensionally non-conforming structure or side of a structure, and the proposed addition extends no closer to a property line or other structure than the pre-existing, non-conforming structural encroachment currently on the site, the required building setbacks may be varied by an Administrative Variance, pursuant to Section 1301.060, Subd. 6-7 of this Code. (Ref. Ord. 731, 8/12/86; 916a, 1/10/95; 996; 11/12/02)

Subd. 5. Efficiency Apartments. Except for elderly (senior citizen) housing, the number of efficiency apartments in a multiple dwelling shall not exceed five (5) percent of the total number of apartments. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed twenty (20) percent of the total number of apartments.

Subd. 6. Minimum Floor Area - Commercial and Industrial Structures. Commercial buildings having less than one thousand (1,000) square feet of floor area or industrial buildings having less than two thousand five hundred (2,500) square feet of floor area (principal structures) may only be allowed upon approval of a conditional use permit as provided for in §1301.050 of this Code.

Subd. 7. Townhouse, Quadraminium, Apartments.

- a) No single townhouse structure shall contain more than eight (8) dwelling units.
- b) Minimum unit lot frontage for townhouses shall be not less than twenty (20) feet.
- c) Townhouses, quadraminiums, and apartments intended for owner occupancy shall be subdivided on an individual unit basis according to the provisions of §1301.070 of this Code.

Subd. 8. Subdivision of Two Family, Townhouse or Quadraminium Lots. The subdivision of base lots containing two family, townhouse or quadraminium dwellings to permit individual private ownership of a single dwelling within such a structure is acceptable upon the approval by the City Council. Approval of a subdivision request is contingent on the following requirements:

- a) Prior to a two family dwelling or a quadraminium subdivision, the base lot must meet all the requirements of the zoning district.
- b) The following are minimum unit lot requirements for two family dwelling and quadraminium subdivisions where the City sewer or water systems are available:

Zoning District	Type of Dwelling Unit	Lot Area / Dwelling Unit	Lot Width	Front Yard	Rear Yard	Side Yard Adjacent to Another Lot	Side Yard Adjacent to Public ROW
R-5, R-6, R-6	2 Family	* 5,000	40'	30'	30'	** 10'	20'
R-5, R-6, R-7	Quadraminium	* 5,000	50'	30'	30'	** 15'	30'

* No multiple dwelling is permitted without public sewer and water.

** Side yard setback is not applicable where structure has a shared wall(s) as in the case of two family dwellings and quadraminiums.

- c) There shall be no more than one (1) principal structure on a base lot in all residential districts. The principal structure on unit lot created in a two family or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.
- d) Permitted accessory uses as defined by the zoning districts are acceptable, provided they meet all the zoning requirements.
- e) A property maintenance agreement must be arranged by the applicant and submitted to the City Attorney for his review and subject to approval. The agreement shall ensure the maintenance and upkeep of the structure and the lots to meet minimum City standards. The agreement is to be filed with the Ramsey County Recorder's office as a deed restriction against the title of each unit lot.
- f) Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the City Engineer.
- g) The subdivision is to be platted and recorded in conformance to requirements of the White Bear Lake Subdivision Code.
- h) Deviations from the lot size standards for quadraminiums as listed in b) above and for townhouses may be allowed through a planned unit development conditional use permit.

§1302.045 TELECOMMUNICATIONS - ANTENNAS, DISH ANTENNAS AND TOWERS.

Subd. 1. Purpose and Objectives. The purpose and objective of this Section is to provide for safe and aesthetically acceptable installation and usage of antennas, dish antennas, and towers. The provisions of this section are intended to protect the health, safety, and general welfare of the community, while providing for well designed and efficient telecommunications systems. The provisions are intended to lessen the adverse aesthetic impact on the community by providing for placement of commercial antennas on designated municipally owned facilities and to ensure that antennas, dish antennas, and towers are installed in a manner that can withstand high winds and other adverse weather conditions. To meet these objectives, the City Council has determined to impose location, size, heights, and installation requirements on antennas, dish antennas, and towers.

Subd. 2. Permit Required; Exemptions. No antenna, dish antenna, or tower of any kind shall be erected, constructed or placed, re-erected or re-constructed, or replaced anywhere within the City without first making an application for and obtaining a permit from the City. Provided, however, no permit shall be required for the following:

- a) Dish antennas not greater than nine square feet (9 sq. ft.) in cross sectional area, which do not exceed six feet (6 feet) in height as measured from the base of the dish antenna to the highest point of the dish antenna.
- b) All towers or other antennas which do not exceed six feet (6 feet) in height as measured from the base of the antenna or tower to the highest point of the antenna or tower.
- c) Antennas, dish antennas, and towers erected or constructed by the City for City purposes.

Subd. 3. Application for Permit; Issuance; Fee. Application for a permit required by the Section shall be made to the Building Official in the same manner, and containing the same information, as for the building permit pursuant to Section 1302.020 of this Code. The application shall be accompanied by the fee set forth in Section 1201.050 of this Code. Such a permit shall be issued by the Building Official.

Subd. 4. General Requirements. All antennas, dish antennas, and towers for which a permit is required shall comply with the following requirements:

- a) All applicable provision of Section 1302.020 of this Code, including wind loading requirements set forth in the State Building Code.
- b) Antennas, dish antennas, and towers shall be grounded for protection against a direct strike by lightning and shall comply, as to electrical wiring and connections, with all applicable provisions of this Code and State law.
- c) No antennas, dish antennas, or towers shall exceed a height equal to the distance from the base of the antenna, dish antenna, or tower to the nearest overhead electrical power line (except individual service drops), less five feet (5 feet).
- d) Antennas, dish antennas, or towers shall be protected by a City approved barrier to discourage climbing by unauthorized persons.
- e) No antennas, dish antennas, or towers shall have affixed to it in any way any signs, banners, or placards of any kind, except one sign not over ten square inches (10 sq. in.) may be affixed indicating the name of the manufacturer or installer. Lighting may be permitted by the City, for safety purposes only.
- f) No tower shall have constructed on it, or attached to it in any way, any platform, catwalk, crow's nest, or similar structure.
- g) All towers shall be constructed of corrosive-resistant steel or other corrosive-resistant, non-combustible materials. Towers shall not be constructed or made of wood, including timbers or logs.
- h) No part of any antenna, dish antenna, or tower, or any lines, cables, equipment, wires, or braces used in connection with any tower or antenna shall, at any time, extend across or over any part of a street, sidewalk, or alley.
- i) The applicant shall present documentation of the possession of any required license by any Federal, State, or local agency.

Subd. 5. Conditional Use, Location and Setback.

- a) In all residential districts, private receiving or transmitting antennas more than twenty feet (20 feet) in height above a man-made structure or more than fifty feet (50 feet) in height above the ground, if constructed on the ground, are prohibited.
- b) Commercial receiving or transmitting antennas regardless of height or size with the exception of satellite dish antennas shall connect to and use the Municipal antenna site, if use of such facilities is technically feasible. The applicant shall have the burden of providing proof to determine that a municipal location is not feasible.
- c) Commercial receiving or transmitting antennas not located on the Municipal antenna site shall be restricted to industrial and business warehouse zoning districts and shall require a conditional use permit processed per Section 1301.050.
- d) Private and Commercial receiving or transmitting antennas not located on the Municipal antenna site shall have a setback from any lot line equal to the height of the antenna plus five feet (5 feet).
- e) Dish antennas greater than nine square feet (9 sq. ft.) in cross section area shall not be located on the roof or exterior wall of a principal or accessory building.
- f) Dish antennas shall only be located in the rear yard.
- g) No antenna, dish antenna, or tower shall be located in the front yard.
- h) No antenna, dish antenna, or tower shall be constructed, located, or maintained, at any time, permanently or temporarily, closer to the allowed buildable area of a principal building on any adjacent lot than it is to the principal building on the lot on which it is located.

Subd. 6. Standards. All antennas, dish antennas, and towers shall be designed and situated to be visually unobtrusive, shall be screened as appropriate, shall not be multi-colored, and shall contain no signage, including logos, except as may be required by any State and Federal regulations.

Subd. 7. Existing Transmitting and Receiving Facilities. Existing transmitting and receiving facilities at the time of the adoption of this Title may remain in service. However, at such time as any material change is made in the facilities, full compliance with this Title shall be required. No transmitting or receiving antennas may be added to existing nonconforming facilities.

§1302.050 OFF-STREET PARKING REQUIREMENTS

Subd. 1. Purpose. The regulation of off-street parking spaces in these zoning regulations 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 of motor vehicles in accordance with the utilization of various parcels of land or structures.

Subd. 2. Application of Off-Street Parking Regulations. The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts of the City except the Central Business District.

Subd. 3. Site Plan Drawing Necessary. All applications for a building or an occupancy permit in all zoning districts shall be accompanied by a site plan drawn to scale and dimension indicating the location of off-street parking and loading spaces in compliance with the requirements set forth in this Section. (Ref. Ord. No. 809, 3/14/90)

Subd. 4. General Provisions.

- a) Floor Area. The term "floor area" for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent, except as may hereinafter be provided or modified.
- b) Reduction of Existing Off-Street Parking Space or Lot Area. Off-street parking spaces and loading spaces or lot area existing upon the effective date of this Code (12/13/83) shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use. (Ref. Ord. No. 841, 6/11/91)
- c) Nonconforming Structures. Should a nonconforming structure or use be damaged or destroyed by fire, it may be re-established if elsewhere permitted in these zoning regulations, except that in doing so, any street parking or loading space which existed before shall be retained.
- d) Change of Use or Occupancy of Land. No change of use or occupancy of land already dedicated to a parking area, parking spaces, or loading spaces shall be made, nor shall any sale of land, division or subdivision of land be made which reduces area necessary for parking, parking stalls, or parking requirements below the minimum prescribed by these zoning regulations.
- e) Change of Use or Occupancy of Buildings. Any change of use or occupancy of any building or buildings including additions thereto requiring more parking area shall not be permitted until there is furnished such additional parking spaces as required by these zoning regulations.

- f) On and off-street parking facilities accessory to residential use shall be utilized for the parking of licensed and operable passenger vehicles and recreational vehicles and equipment. One commercial usage vehicle is allowed per dwelling unit but must be stored in a garage or other lawfully constructed building. Under no circumstances shall exterior parking facilities accessory to residential structures be used for the storage of commercial vehicles or equipment or for the parking of automobiles belonging to the employees, owners, tenants, or customers of business or manufacturing establishments. (Ref. Ord. No. 841, 6/11/91)
- g) Calculating Space.
- 1) When determining the number of off-street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.
 - 2) In stadiums, sports arenas, churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-two (22) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements.
 - 3) Except as provided for under joint parking and shopping centers, should a structure contain two (2) or more types of use, each use shall be calculated separately for determining the total off-street parking spaces required.
- h) Stall, Aisle and Driveway Design.
- 1) Parking Space Size. Each parking space shall be not less than eight and one-half (8-1/2) feet wide and twenty (20) feet in length, exclusive of access aisles, and each space shall be served adequately by access aisles.
 - 2) Within Structures. The off-street parking requirements may be furnished by providing a space so designed with the principal building or one (1) structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Code.
 - 3) Except in the case of single, two family, townhouse and quadraminium dwellings, parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single, two family, townhouse and quadraminium dwellings, parking area design which requires backing into the public street is prohibited.

- 4) Only in the case of lots platted prior to the effective date of this Code (12/13/83) and having a lot width of seventy-five (75) feet or less, the required parking spaces serving one and two family dwellings may be designed for parking not more than two (2) vehicles in a tandem arrangement for each dwelling unit in order to comply with the requirements of this code. (Ref. Ord. No. 841, 6/11/91)
- 5) No curb cut access shall be located less than forty (40) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the intersection of lot lines.
- 6) (Ref. Ord. No. 841, 06/11/91)
- 7) No curb cut shall exceed twenty-four (24) feet in width in single and two family developments and thirty-two (32) feet in width in all other districts unless approved by the City Engineer. (Ref. Ord. 776, 1/10/89)
- 8) Driveway Setbacks for single, two-family, townhomes and quadraminiums.
 - a. On residential lots platted prior to the effective date of this Code (12/13/83) and having a lot width of seventy-five (75) feet or less, shall maintain a minimum side yard setback of one (1) foot in all districts. (Ref. Ord. No. 841, 6/11/91)
 - b. For residential lots platted after the effective date of this Code (12/13/83) or having a lot width greater than seventy-five (75) feet shall maintain a minimum side yard setback of five (5) feet in all districts. (Ref. Ord. 841, 6/11/91)
 - c. Driveway side yard setbacks may be reduced with special approval from the City Zoning Administrator.
- 9) All properties shall be entitled to at least one (1) curb cut. Each property shall be allowed one (1) curb cut access for each one hundred twenty-five (125) feet of street frontage except for single family uses. Single family uses shall be limited to one (1) curb cut access per property unless a Conditional Use Permit is reviewed by the Planning Commission and approved by the City Council. Except in the case of single, two family, quadraminium and townhouse dwellings, the distances between driveway access curb openings onto a public street shall not be located less than forty (40) feet from one another. (Ref. Ord. No. 841, 6/11/91)

- 10) Drainage. All driveways and parking areas, except those for less than five (5) vehicles, shall be graded according to a drainage plan, which has been approved by the City Engineer. The grade elevation of any parking area shall not exceed five (5) percent. (Ref. Ord. 776, 1/10/89)
- 11) (Ref. Ord. No. 841, 06/11/91)
- 12) Surfacing. All areas intended to be utilized for parking areas, driveways and loading areas shall be surfaced with blacktop, concrete or other hard surface material; design and material used, to be approved by the City Engineer. (Ref. Ord. 775, 1/10/89; 841, 06/11/91)
- 13) Striping. Except for single, two family, townhouse and quadraminiums, all parking stalls shall be marked with white or yellow painted lines not less than four (4) inches wide.
- 14) Lighting. Any lighting used to illuminate an off-street parking area shall be hooded and so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and be in compliance with Section 1302.030, Subd. 9 of this Code.
- 15) Curbing. Except for single, two-family, townhouses and quadraminiums, all off-street parking of five (5) or more spaces shall have a poured, six (6) inch concrete curb and gutter barrier around the entire parking lot perimeter. (Ref. Ord. No. 841, 6/11/91)
 - a) Curbing shall be required around parking lot islands.
 - b) Curb cuts and ramps for the handicapped shall be in accordance with State law.
 - c) The City may exempt curbing.
 1. Where the parking lot directly abuts a sidewalk which is sufficiently higher than the grade of the parking lot and satisfies the curbing requirement.
 2. Where the City has approved future expansion. (Ref. Ord. 776, 1/10/89)
- 16) Required Screening and Landscaping.
 - a) Parking Lot Screening. All open off-street parking areas of five (5) or more spaces shall be screened from abutting property and views from the public right-of-way in compliance with Section 1302.030, Subd. 6 and Subd. 7 of this Code and the following:
 1. Perimeter parking lot landscaping provides for the enhancement and screening of parking lots by requiring a scheme of pedestrian walls and/or landscaping along shared lot lines. Perimeter landscaping is required for all parking lots and shall be established along the edge of the parking lot. The landscape treatment shall run the full length of the parking lot and be located between the property line and the edge of the parking lot. All perimeter parking lot screening areas shall be protected with raised concrete curbs.
 2. The perimeter parking lot landscaping area shall be at least fifteen (15) feet in width, as measured from the right-of-way line to the back of curb and five (5) feet from adjacent shared property lines to the back of curb in order to

accommodate vehicle bumper overhang and ensure planting areas that are adequate in size.

3. One tree measuring two and one-half (2-1/2) inches in caliper shall be planted for each twenty-five feet of landscaped area length. Trees may be grouped or staggered to maximize their effect as approved by the City.
 4. One shrub, measuring a minimum of 18 inches in height at planting and not to exceed 5 feet at maturity, for every 3 feet of landscaped area length, spaced linearly to adequately screen vehicle bumpers, and/or a low pedestrian wall the height of which provides effective screening to a maximum height of 3-1/2 feet.
 5. Landscaped areas outside of shrub and tree masses shall be planted in turf or other groundcover.
- b) Screening of Loading Areas. For uses with loading docks, they shall be located at the rear of the building, where possible, and shall be adequately screened with a wall, fence, and/or landscaping that is a minimum of 6 feet in height, unless such screening is determined to be unnecessary by the City.
- c) Interior Parking Lot Landscaping. All parking facilities of twenty (20) contiguous spaces or more shall be subject to interior landscaping at the rate of one hundred and forty-four (144) square feet of parking lot landscaped island area for every ten (10) parking spaces. Landscaping areas located along the perimeter of a parking lot beyond the curb or edge of pavement shall not be included toward satisfying this requirement. Interior parking lot landscaping areas shall be a minimum of eight (8) feet in width, as measured from back of curb to back of curb. The landscape areas shall be improved as follows:
1. Interior parking lot landscaping areas shall consist of planting islands or planting strips that are protected with concrete curbing and shall be dispersed throughout the parking lot in a design and configuration that corresponds to the size and shape of the parking lot.
 2. The primary plant materials used in parking lots shall be shade tree species. Ornamental trees, shrubbery, hedges and other plant materials may be used to supplement the shade tree plantings, but shall not be the sole contribution to such landscaping. One (1) shade tree with a trunk size a minimum of two and one-half (2-1/2) inches in caliper shall be provided for every one-hundred and forty-four (144) square feet of landscaping area.
 3. A minimum of fifty percent (50%) of every interior parking lot landscaping area shall be planted with an approved groundcover in the appropriate density to achieve complete cover within two (2) years.
- d) Irrigation. All perimeter and interior parking lot landscaping shall have an automatic irrigation system supplied with a rain gauge sensor.

- e) Maintenance. All plant material shall be maintained in good condition so as to present a healthy, neat, and orderly appearance and shall be kept free of refuse and debris. Fences and walls shall be maintained in good repair and neat appearance. Landscaping shall be trimmed so as not to obstruct public or private sidewalks, parking lots, and driveways. All landscape areas shall have automatic irrigation system installed and properly maintained to promote the health of the plant material and conservation of water, including rain shut offs. The owner of the premises and any tenant shall be jointly responsible for maintenance, repair, and replacement of all landscape materials, fences, and barriers. (Ref. Ord. 10-1-1062, 1/12/10)
- 17) Setbacks.
- a) Except for single, two family, townhouse and quadraminiums, exterior all parking and hard surfaced areas (except that portion of the driveway crossing the public right-of-way to give access to the street) shall be:
 - 1) No closer than fifteen (15) feet from any street right-of-way or street easement.
 - 2) No closer than five (5) feet from any side or rear lot line unless adjacent to an alley, then the setback shall be increased to fifteen (15) feet.
 - 3) No closer than five (5) feet from the main building. (Ref. Ord. 776, 1/10/89; 841, 6/11/91)
 - b) For single, two family, townhouse and quadraminium dwellings, there shall be no off-street parking within fifteen (15) feet of any street curblin or pavement edge and no off-street parking within a five (5) foot setback from the nearest street right-of-way line, whichever is the greatest setback from the pavement edge. (Ref. Ord. No. 725, 8/12/86; 841, 6/11/91)
- 18) Off-street parking shall be provided for all vehicles concerned with any use on the lot. (Ref. Ord. 776, 1/10/89)
- 19) All new and replacement driveways (not including pavement overlay or sealcoating) shall require a site plan and permit. A fee of thirty (\$30.00) dollars shall be required (Ref. Ord. 01-04-1015, 1/13/04)

Subd. 5. Maintenance. It shall be the joint and several responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping and required fences.

Subd. 6. Location. All accessory off-street parking facilities required by this Code shall be located and restricted as follows:

- a) Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except under the provisions of Section 1302.050, Subd. 10 and 11 of this Code. (Ref. Ord. 10-1-1062, 1/12/10)
- b) Except for single, two family, townhouse and quadraminium dwellings, head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street, shall be prohibited.

- c) (Ref. Ord. No. 725, 8/12/87; 841, 6/11/91)
- d) The boulevard portion of the street right-of-way shall not be used for parking except when leased or otherwise conveyed by the City to the adjoining property owner. (Ref. Ord. No. 725, 8/12/86)
- e) Setback Area. Required accessory off-street parking shall not be provided in required front yards or in side yards in the case of a corner lot, in "0", R-1, R-2, R-3, R-4, R-5, R-6, R-7, R-B and B-1 Districts.
- f) In the case of single family, two family, townhouse and quadraminium dwellings, parking shall be prohibited in any portion of the front or side yard except designated driveways leading directly into a garage or one (1) open, hard surfaced space located on the side of a driveway or garage. A hard surface space may be allowed in front of the principal living area through the Administrative Variance process, pursuant to Section 1301.060, subd. 6-7 of this code, provided that the applicant can effectively demonstrate that such space is needed for turning around a vehicle so as not to have to back onto a roadway designated as a local collector or greater, and that conditions such as the lot width and/or placement of structure(s) on the property, or other factors, would preclude the placement of a similar space not located in front of the principal living area. Such parking spaces shall be a maximum of ten (10) feet wide and twenty (20) feet long. Said parking space shall adhere to the side yard setbacks established for the lot's driveway and shall be set back from the front right-of-way line a minimum of fifteen (15) feet. Said extra space shall be surfaced with blacktop, concrete or other hard surface material approved by the City Engineer and is subject to impervious surface limits. Parking on parking spaces located in front of living area of a dwelling shall be limited to passenger vehicles as defined in Section 1301.030, subd. 16.

Parking spaces located adjacent to a driveway shall be connected to the driveway with a continuous hard surfacing. (Ref. Ord. 841, 6/11/91; 05-03-1028, 3/8/05)

Subd. 7. Use of Required Area. Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles as regulated by Section 1302.030, Subd. 15 of this Code, and/or storage of snow.

Subd. 8. Number of Spaces Required. The following minimum number of off-street parking spaces shall be provided and maintained by ownership and/or lease for and during the life of the respective uses hereafter set forth.

- a) Single Family. All new single family dwelling on lots of ten thousand five hundred (10,500) square feet or greater, or any lots resulting from a subdivision enacted after January 1, 1989 shall have a double garage. All new single family dwellings on lots having an area less than ten thousand five hundred (10,500) square feet, that were subdivided before January 1, 1989, shall have at least a single garage. (Ref. Ord. 777, 1/10/89; 841, 6/11/91)
- b) Boarding House. Two (2) spaces plus at least one (1) parking space for each person for whom accommodations are provided for sleeping.
- c) Duplex and Multi-family Dwelling. At least two (2) rent free spaces per unit, one of which must be fully enclosed. (Ref. Ord. 777, 1/10/89)

- d) Motels Motor Hotels, Hotels. One (1) space per each rental unit plus one (1) space for each ten (10) units and one (1) space for each employee on any shift.
- e) School, Elementary and Junior High (Public or Private). At least one (1) parking space for each classroom plus one (1) additional space for each fifty (50) student capacity.
- f) School, High School through College (Public and Private). At least one (1) parking space for each three (3) students based on design capacity plus one (1) for each three (3) classrooms.
- g) Church, Theatre, Auditorium. At least one (1) parking space for each three (3) seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Code.
- h) Private Athletic Stadiums. At least one (1) parking space for each eight (8) seats of design capacity.
- i) Community Centers, Health Studios, Libraries, Private Clubs, Lodges, Museums, Art Galleries. Ten (10) spaces plus one (1) for each two hundred fifty (250) square feet in excess of two thousand (2,000) square feet of floor area in the principal structure.
- j) Sanitariums, Convalescent Home, Rest Home, Nursing Home or Day Nurseries. Four (4) spaces plus one (1) for each three (3) beds for which accommodations are offered.
- k) Elderly (Senior Citizen) Housing. Reservation of area equal to one space per unit. Initial development shall require one-half (1/2) enclosed space and one-quarter (1/4) exposed space per senior citizen unit. The balance of the one stall per unit shall be supplied at such time as the City Council determines the need for the additional parking. (Ref. Ord. 776, 1/10/89)
- l) Drive-In. At least one (1) parking space for each fifteen (15) square feet of gross floor area, but not less than fifteen (15) spaces (sit down eating area not included). (Ref. Ord. 10-1-1062, 1/12/10)
- m) Drive-Thru. At least 3 stacking spaces at each window or menu per lane. Stacking required separate of and in addition to the parking requirements of the use. (Ref. Ord. 10-1-1062, 1/12/10)
- n) Office Buildings, Animal Hospitals, Professional Offices and Medical Clinics. At least one (1) space for each two hundred (200) square feet of floor area. (Ref. Ord. 10-1-1062, 1/12/10)
- o) Bowling Alley. At least five (5) parking spaces for each alley, plus additional spaces as may be required herein for related uses contained with the principal structure.
- p) Motor Fuel Station. At least four (4) off-street parking spaces plus two (2) off-street parking spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts or service shall be required to provide additional parking in compliance with other applicable sections of this Code.

- q) Retail Store and Service Establishment. At least one (1) off-street parking space for each two hundred (200) square feet of floor area.
- r) Retail Sales and Service Business with Fifty (50) Percent or More of Gross Floor Area Devoted to Storage, Warehouses and/or Industry. At least eight (8) spaces or one (1) space for each two hundred (200) square feet devoted to public sales or service plus one (1) space for each five hundred (500) square feet of storage area; or at least eight (8) spaces or one (1) space for each employee on the maximum shift whichever is appropriate.
- s) Restaurants, Cafes, Private Clubs Serving Food and/or Drinks, Bars, On- Sale Nightclubs. At least one (1) parking stall for every two and one-half (2.5) seats based on the maximum design capacity of the use. (Ref. Ord. 03-06-1001, 6/10/03)
- t) Undertaking Establishments. At least twenty (20) parking spaces for each chapel or parlor, plus one (1) parking space for each funeral vehicle maintained on the premises. Aisle space shall also be provided off the street for making up a funeral procession.
- u) Auto Repair, Major Bus Terminal, Taxi Terminal, Boats and Marine Sales and Repair, Bottling Company, Shop for a Trade Employing Six (6) or Less People, Garden Supply Store, Building Material Sales in Structure. Eight (8) off-street parking spaces, plus one (1) additional space for each eight hundred (800) square feet of floor area over one thousand (1,000) square feet.
- v) Private Skating Rink, Dance Hall, or Public Auction House. Twenty (20) off-street parking spaces, plus one (1) additional off-street parking space for each two hundred (200) square feet of floor space over two thousand (2,000) square feet.
- w) Golf Driving Range, Miniature Golf, Archery Range. Ten (10) off-street parking spaces plus one (1) for each one hundred (100) square feet of floor space.
- x) Manufacturing, Fabricating or Processing of a Product or Material. One (1) space for each three hundred fifty (350) square feet of floor area, plus one (1) space for each company owned truck (if not stored inside principal building).
- y) Warehousing, Storage or Handling of Bulk Goods. That space which is solely used as office shall comply with the office use requirements and one (1) space per each one thousand (1,000) square feet of floor area, plus one (1) space for each employee on maximum shift and one (1) space for each company owned truck (if not stored inside principal building).

- z) Car Wash. (In addition to required magazinging or stacking space.)
- 1) Automatic Drive Through, Serviced. A minimum of ten (10) spaces, or one (1) space for each employee on the maximum shift, whichever is greater.
 - 2) Self-Service. A minimum of two (2) spaces.
 - 3) Motor Fuel Station Car Wash. Zero in addition to that required for the station.
- aa) Shopping Centers. Five and one-half (5 1/2) spaces per each one thousand (1,000) square feet of gross leasable floor area (exclusive of common areas).
- bb) Private Racquetball, Handball and Tennis Courts. Not less than six (6) spaces per each court.
- cc) Other Uses. Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) size of building type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles.

Subd. 9. Handicapped Parking. All uses shall provide and maintain parking in accordance with Chapter 1341-7 of the State Uniform Building Code. (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 10. Joint Facilities. All uses shall provide and maintain parking in accordance with Chapter 1340.0000 of the State Uniform Building Code.

- a) The City Council may, after receiving a report and recommendations from the Planning Commission, approve a conditional use permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the Planning Commission shall not recommend that such permit be granted nor the Council approve such a permit except when the following conditions are found to exist:
- 1) Up to fifty (50) percent of the parking facilities required for a theatre, bowling alley, dance hall, community centers, health studios, libraries, private clubs, lodges, museums, art galleries, bar or restaurant may be supplied by the off-street parking facilities provided by types of uses specified as primarily daytime uses in 4) below. (Ref. Ord. 10-1-1062, 1/12/10)
 - 2) Up to fifty (50) percent of the off-street parking facilities required for any use specified under 4) below as primary daytime uses may be supplied by the parking facilities provided by the following night time or Sunday uses; auditoriums incidental to a public or parochial school, churches, bowling alleys, dance halls, community centers, health studios, libraries, private clubs, lodges, museums, art galleries, theatres, bars, apartments, or restaurants. (Ref. Ord. 10-1-1062, 1/12/10)

- 3) Up to eighty (80) percent of the Parking facilities required by this Subdivision for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses specified under 4) below as primarily daytime uses.
- 4) For the purpose of this section, the following uses are considered as primarily daytime uses: banks, business offices, marinas, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing wholesale and similar uses. (Ref. Ord. 10-1-1062, 1/12/10)
- 5) Conditions required for joint use:
 - a. The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within three hundred (300) feet of such parking facilities.
 - b. The application shall show that there is no substantial conflict in the principal operating house of the two (2) buildings or uses (for which joint use of off-street parking facilities is proposed).
 - c. A properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the Ramsey County Recorder.

Subd. 11. Off-Site Parking.

- a) Any off-site parking which is used to meet the requirements of this Code shall be a conditional use as regulated by Section 1301.050 of this Code and shall be subject to the conditions listed below.
- b) Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Code.
- c) Reasonable access from off-site parking facilities to the use being served shall be provided.
- d) Except as provided below, the site used for meeting the off-site parking requirements of this Code shall be under the same ownership as the principal use being served or under public ownership.
- e) Off-site parking for multiple family dwellings shall not be located more than one hundred (100) feet from any normally used entrance of the principal use served.
- f) Except as provided below, off-site parking for nonresidential uses shall not be located more than five hundred (500) feet from the main public entrance of the principal use being served.
- g) Any use which depends upon off-site parking to meet the requirements of this Code shall maintain ownership and parking utilization of the off-site location until such time as on-site parking is provided or a site in closer proximity to the principal use is acquired and developed for parking.
- h) Compliance with off-street parking requirements provided through leased off-street parking may be approved by the City Council, subject to the following additional conditions.

- 1) The lease shall specify the total number and location of parking spaces under contract and this number, when added to any on-site parking provided, must be equal to the total number of parking spaces required.
- 2) The lease instrument shall legally bind all parties to the lease and provide for amendment or cancellation only upon written approval from the City of White Bear Lake.
- 3) The lease agreement shall incorporate any other provisions, as recommended by the White Bear Lake City Attorney that are deemed necessary to ensure compliance with the intent of this Code.

Subd. 12. Bicycle Parking. All non-residential uses, except for uses in B-5 zoning district, shall provide bicycle parking at the rate of one bicycle space for every 30 parking spaces. Lots with less than 30 parking spaces shall provide at least 1 bicycle parking space. Bicycle parking racks shall be of a style that allows the bicycle to be locked at the frame, rather than the tires. The location of any bicycle parking shall not result in a bicycle obstructing a walkway. Bicycle racks shall be installed to the manufacturer's specifications, including the minimum recommended distance from other structures. (Ref. Ord. 10-1-1062, 1/12/10)

§1302.055 PERMITTED STORAGE

Subd. 1: Vehicle Parking in Residential Zones. Motor vehicles, recreational equipment and vehicles shall be stored subject to the following chart and regulations:

a) Permitted Parking or Storage

<u>Type of Vehicle</u>	<u>Permitted Location</u>	<u>Numerical Restriction</u>
1) Automobiles; motorcycles, pickup trucks and passenger vans with a capacity not to exceed: one (1) ton or a gross vehicle weight of twelve thousand (12,000) pounds, whichever is less.	In a garage or other lawfully constructed building. On the designated driveway and/or on a hard surface space located adjacent to a driveway or garage. Said space shall be constructed and used in accordance with 1302.050, subd. 6(f) of this code.	None One vehicle per licensed driver residing on the premises, plus one.
2) Commercial vehicles		
Type I commercial vehicles.	Must be stored off of the street and right-of-way and only on a driveway or other legally constructed hard surface area or in a garage. Said space shall not be located in front of the principal structure's living area.	Not more than one Type I commercial vehicle per dwelling unit, said vehicle shall be counted against the numerical restriction in a(1) above.
Type II commercial vehicles.	Prohibited in residential districts except as provided for in subd. 1.b) below.	
3) Recreational vehicles and equipment.	On the designated driveway and/or on one hard surface space located adjacent to a driveway or garage. Said space shall not be located in front of the principal structure's living area. In a garage.	None None
	In the rear or side yards except for corner lots in which case the side yard abutting a street shall also be considered a front yard.	None
4) Inoperable vehicles.	In a garage or other lawfully constructed building.	One
5) Any vehicle parked on residential property and posted for sale must be owned and licensed to the property owner or tenant of the premises and shall be parked on a designated driveway.		

(Ref. Ord. 02-03-989, 3/12/02, 05-03-1028, 3/8/05)

- b) Commercial vehicles and equipment may only be stored on properties or streets within a residential zone in the City as noted above except for the following:
- 1) Any equipment or vehicles described above being used by a public utility, governmental agency, construction company, moving company or similar company which is currently being used to service a residence not belonging to or occupied by the operator of the vehicle. (Ref. Ord. 02-03-989, 3/12/02)
 - 2) Any equipment or vehicle described above which is making a pickup or delivery at the location where it is parked. Parking for any period of time beyond the time reasonably necessary to make such a pickup or delivery and in excess of the two hour limit shall be unlawful. (Ref. Ord. 02-03-989, 3/12/02)
 - 3) Any equipment or vehicle exceeding the above described length or height limitations, but which is classified as recreation equipment as defined in City code. (Ref. Ord. 02-03-989, 3/12/02)
 - 4) Any commercial vehicle which is parked or stored on property zoned residential and being lawfully used as a church, school, cemetery, golf course, park, playground or publicly owned structure provided the equipment or vehicle is used by said use in the conduct of its normal affairs. (Ref. Ord. 02-03-989, 3/12/02)
 - 5) School buses may be parked on-street for up to ninety (90) minutes provided they are set back at least fifty (50) feet from any intersection. (Ref. Ord. 02-03-989, 3/12/02)

Subd. 2: Measurement. For purposes of measurement of vehicle dimensions under this Section, the "height" of a vehicle shall be the vertical distance between the lowest part of the tires of the measured vehicle to the top of the highest part of the vehicle, and the "length" of a vehicle shall be the horizontal distance between the front edge of the vehicle to the rear edge of the vehicle. For purposes of these measurements, accessories, attachments, and materials fixed or carried upon such vehicle shall be considered part of the vehicle (with the exception of aerial antennas, hitches and trailers). (Ref. Ord. 02-03-989, 3/12/02)

Subd. 3: Certain Trailers Prohibited:

- a) Trailers that have a trailer bed of greater than eight feet six inches (8'6") in length or are greater than six feet (6') in height shall not be parked or stored on any residentially zoned lot or in the public right-of-way or street in residentially zoned areas, subject to the following exceptions and limitations: (Ref. Ord. 02-03-989, 3/12/02)
- 1) Trailers otherwise restricted by this Section which are recreational vehicles within the meaning of the Code may be parked or stored on a site if properly parked or stored per City code. (Ref. Ord. 02-03-989, 3/12/02)

- 2) Trailers otherwise restricted by this Section may be temporarily parked at a site while being loaded or unloaded or used in connection with the rendering of a service at a site. (Ref. Ord. 02-03-989, 3/12/02)
 - 3) Trailers otherwise restricted by this Section may be parked or stored on a site when housed within a garage. (Ref. Ord. 02-03-989, 3/12/02)
 - 4) Trailers otherwise restricted by this Section may be parked on a residentially zoned lot when the lawful principal use of the lot under the Zoning Code is other than residential and the vehicle is directly related to that lawful use. (Ref. Ord. 02-03-989, 3/12/02)
- b) For purposes of the measurement of trailer dimensions, the “height” of a trailer shall be the vertical distance between the lowest part of the tires of the measured trailer to the top of the highest part of the trailer, and accessories, attachments, and materials carried upon such trailer shall be considered part of the trailer. The “length” of a trailer bed shall be the horizontal distance between the front and rear edges of the trailer bed, not including the trailer’s hitch. (Ref. Ord. 02-03-989, 3/12/02)
- c) Only one trailer of a size permitted under this ordinance shall be parked or stored on a residentially zoned lot outside of a garage provided it is stored in the rear or side yard. Trailers loaded with recreational vehicles shall not be counted for purposes of this limitation. (Ref. Ord. 02-03-989, 3/12/02)

§1302.060 OFF-STREET LOADING

Subd. 1. Purpose. The regulation of loading spaces in these zoning regulations is to alleviate or prevent congestion of the public right-of-way and so to promote the safety and general welfare of the public, by establishing minimum requirements for off-street loading and unloading from motor vehicles in accordance with the utilization of various parcels of land or structures.

Subd. 2. Location.

- a) All required loading berths or loading areas shall be off-street and located on the same lot as the building or use to be served.
- b) All loading berth or loading area curb cuts shall be located at minimum fifty (50) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the property line.
- c) Except for loading berths or loading area required for multiple family, no loading berth or loading area shall be located closer than fifty (50) feet from a residential district unless within a structure.
- d) Loading berths or loading areas located at the front, or at the side of buildings on a corner lot, shall require a conditional use permit.
 - 1) Loading berths or loading areas shall not conflict with pedestrian movement.
 - 2) Loading berths or loading area shall not obstruct the view of the public right-of-way from off-street parking access.
 - 3) Loading berths or loading areas shall comply with all other requirements of this Section.
- e) Each loading berth or loading area shall be located with appropriate means of vehicular access to street or public alley in a manner which will cause the least interference with traffic.

Subd. 3. Surfacing. All loading berths or loading areas and accessways shall be improved to control the dust and drainage according to a plan submitted to and subject to the approval of the City Engineer.

Subd. 4. Accessory Use, Parking and Storage. Any space allocated as a required loading berth, loading area, or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet the off-street parking area.

Subd. 5. Screening. Except in the case of multiple dwellings all loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with Section 1302.030, Subd. 7.a) of this Code.

Subd. 6. Size. Unless otherwise specified in this Code, the first loading berth or loading area shall be not less than fifty-five (55) feet in length and additional berths or areas required shall be not less than thirty (30) feet in length and all loading berths or loading areas shall be not less than ten (10) feet in width and fourteen (14) feet in height, exclusive of aisle and maneuvering space.

Subd. 7. Number of Loading Berths or Loading Areas Required. The number of required off-street loading berths shall be as follows:

- a) Nonresidential Building and Uses. For each building one (1) loading berth or loading area and one (1) additional berth or area for each additional ten thousand (10,000) square feet or fraction thereof.
- b) Multiple-Family Dwellings. Where such building has ten (10) or more dwelling units, one (1) loading berth or loading area per structure.

Subd. 8. Off-Street Loading Required. 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.

§1302.070 LAND ALTERATION AND MINING

Subd. 1. Purpose. The purpose of this ordinance is to promote, preserve, and enhance the natural resources within the City and protect them from adverse effects by activities that would have an adverse and potentially irreversible impact on water quality.

Subd. 2. Definitions.

- a) Land alteration. The grading or depositing of fill on the same property from which it was excavated or importation of fill on any lands within the City.
- b) Mining. The extraction and removal of sand, gravel, or other material from any lands in the City in an amount exceeding four hundred (400) cubic yards.

Subd. 3. Provisions.

- a) No development, utility or street construction will be allowed and no permits will be issued unless the development is in full compliance with the requirements of this Ordinance.
- b) All land disturbing activities within the City that will result in more than 6,000 square feet of disturbed area or will result in more than 100 cubic yards of cut or fill are required to follow the Erosion and Sediment Control standards set within the City's Engineering Design Standards.
- c) Projects that meet either of the following criteria are required to develop both a Stormwater Management Plan and Erosion and Sediment Control Plan as specified by the City's Engineering Design Standards.
 - 1) Create 10,000 or more square feet of new impervious surface or fully reconstruct 10,000 or more square feet of impervious surface.
 - 2) Single family subdivisions greater than 3 lots that rely on common drainage facilities for stormwater management.
- d) Mining shall be permitted only upon issuance of a conditional use permit. Such permit shall include, as a condition thereof, a plan for a finished grade and land reclamation which will not adversely affect the surrounding land or the development of the site on which the mining is being conducted, and the route of trucks moving to and from the site.

Subd. 4. Inspection. The Permittee must inspect the construction project as detailed in the City's Engineering Design Standards. The City may conduct inspections as needed to ensure that both Erosion and Sediment Control and Stormwater Management measures are properly installed and maintained prior to construction, during construction, and at the completion of the project. The Applicant shall notify the City a minimum of seventy-two (72) hours prior to the following required City inspections.

- a) Initial Inspection – When all Erosion and Sediment Control BMPs are installed. This inspection must be completed before a Building Permit can be issued.
- b) Project Complete Inspection – When the project is complete, including, but not limited to, Final Grading, installation of all Stormwater Management Facilities, and Final Stabilization measures are complete.

Subd. 5. Site Maintenance. All site maintenance activities shall be performed to the requirements within the City's Engineering Design Standards.

Subd. 6. Final Stabilization. The Permittee(s) must ensure Final Stabilization of the site after the completion of construction activities and prior to the termination of the permit. Final Stabilization is not complete until all of the requirements within the City's Engineering Design Standards are complete that are intended to prevent discharge of pollutants associated with stormwater dischargers from the project.

Subd. 7. Enforcement. Any person, firm or corporation violating any provision of this ordinance shall be fined for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues, in accordance with Zoning Code §1301.090.

- a) Restoration of Lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the City may take necessary corrective action, the cost of which may, after notice and opportunity for hearing, be specially assessed against the property and collected along with the ordinary taxes by the City. (Ref. Ord. 15-05-2000, 5/12/15)

§1302.075 TREE PRESERVATION

Subd. 1. Purpose. The purpose of this ordinance is to provide for minimal tree loss and for the mitigation of tree removal resulting from development in wooded areas of the City. Tree cover is beneficial in terms of aesthetics, screening, cooling, wildlife habitat, watershed, erosion control and property value. Alteration of land in such a way as to cause destruction of trees diminishes and impairs the public health, safety and general welfare. This ordinance provides guidelines relating to the cutting, removal or killing of trees in areas where natural vegetation and topography of the land are to be altered.

Subd. 2. Applicability. This document shall apply to the following:

- a) Parcels of land containing wood lots or treed areas having significant and or specimen trees which are being developed for single family residential, multiple family residential, commercial, mixed-use and industrial developments. Does not apply to development involving building additions or accessory structures for single-family, two-family or medium density residential. (Ref. Ord. 10-1-1062, 1/12/10)

Subd. 3. Site Alteration Permit.

- a) General requirements:
 - 1) No person shall alter any lot containing significant and or specimen trees without first obtaining a site alteration permit.
 - 2) Before any construction or grading takes place, snow fencing or erosion control fencing shall be placed around the borders of any woodlot or the drip lines of significant trees to be preserved. Signs shall be placed along this fence prohibiting grading beyond the fence line.
 - 3) If any protected significant tree dies after the completion of the project, the tree must be replaced with a tree of the same or other approved species. The minimum size permitted for replacement is designated in the approved species list. If ornamentals are used a minimum caliper size of one and one-half (1½) inch ornamental trees is required.

Subd. 4. Permit Procedures.

- a) The applicant shall submit a Site Alteration Permit Application to the Zoning Administrator with the designated application fee and a site plan of the property and tree protection and replacement plan.
- b) The Site Plan shall contain the following information:
 - 1) An inventory of all significant trees on the site, certified by a Minnesota registered land surveyor and/or landscape architect or forester, which contains the following information.

- a. The size, species, condition and location of all significant trees (on large wooded sites, forest mensuration methods may be used to determine the total caliper inches of the trees outside the area of the proposed land alteration). The location of the trees should be depicted on the site plan relative to the proposed building and site alteration boundaries, location of utilities, parking lots and the limits of the proposed grading activity.
 - b. The number, type, size and location of trees required to be replaced.
 - c. Prior to submitting the plan to the City, the applicant shall mark all trees proposed for removal on the site with a yellow ribbon.
- 2) The tree replacement plan shall contain the following information:
- a. The number, type, size and location of the replacement trees.
 - b. The methods to be used for the protection of trees which are to remain and the location where protection will take place.
 - c. Existing vegetation on the site, which is to remain.
- 3) The Zoning Administrator will review the application and make recommendations regarding tree protection, site plan adjustments to mitigate tree loss and advise on tree replacement.
- 4) The Zoning Administrator is authorized to approve or deny the Site Alteration Permit based on compliance with the regulations stated in this ordinance. If denied, the Zoning Administrator shall state findings of fact as to why the application does not comply with the ordinance.
- 5) If the permit application is denied, the applicant may appeal the decision to the City Council. The appeal must be submitted in writing by the applicant within ten (10) days of the Zoning Administrator's decision.
- 6) The applicant may amend his application so as to reduce the number of trees to be removed at any time.
- c) Guarantee
- 1) The applicant shall submit to the Zoning Administrator a surety bond, irrevocable letter of credit, cash escrow, certificate of deposit, securities or cash deposit prior to approval of the Site Alteration Permit.
 - 2) The guarantee shall be in an amount to be determined by the Zoning Administrator to guarantee the completion of the project as permitted by the Site Alteration Permit. (Ref. Ord. 876, 8/11/92)

Subd. 5. Tree Replacement.

- a) The removal of significant and for specimen trees on the site requires tree replacement. Trees shall be replaced based on the following formula: (Ref. Ord. 888, 3/9/93)

$$(A1/B) \times C1 \times A1 = D$$

$$(A2/B) \times C2 \times A2 = D$$

- A1 = Total caliper inches of significant premium trees lost as a result of land alteration.
- A2 = Total caliper inches of significant secondary trees lost as a result of land alteration.
- B = Total caliper inches of significant trees situated on the land.
- C1 = Tree replacement constant, premium tree (1.33)
- C2 = Tree replacement constant, secondary tree (.266)
- D = Replacement Trees (number of caliper inches)

(Ref. Ord. 888, 3/9/93, 10-1-1062, 1/12/10)

- b) No more than one-third (1/3) of the replacement trees shall be of the same type of tree, without approval of the Zoning Administrator. Replacement trees must meet the following minimum size requirements:

- 1) Deciduous trees - 2½ caliper inches
- 2) Coniferous trees - 6 feet tall
- 3) Ornamental trees - 1½ caliper inches

- c) Recommended Species List:

<u>Common Name</u>	<u>Latin Name</u>
Red Maple	Acer rubrum
Sugar Maple	Acer saccharum
Silver Maple	Acer saccharinum
Paper Birch	Betula papyrifera
River Birch	Betula nigra
Hackberry	Celtis occidentalis
American Mountain Ash	Sorbus americana
Tamarac	Larix laricina
Ironwood	Ostrya virginiana

Cottonwood-male	Populus deltoides
Big Tooth Aspen	Populus grandidentata
Trembling Aspen	Populus tremuloides
Wild Plum	Prunus americana
Wild Black Cherry	Prunus serotina
Bur Oak	Quercus macrocarpa
Swamp White Oak	Quercus bicolor
White Oak	Quercus alba
Red Oak	Quercus rubra
Northern Pin Oak	Quercus ellipsoidalis
Arborvitae	Thuja occidentalis
Black Willow	Salix nigra
American Basswood	Tilia americana
Butternut	Juglans cinerea
Black Walnut	Juglans nigra
White Spruce	Picea glauca
White Pine	Pinus strobus

(Ref. Ord. 10-1-1062, 1/12/10)

- d) Replacement trees can be utilized in a required landscape and screening plan for the proposed development.
- e) If the development property does not contain sufficient area or it is otherwise not practical to plant the replacement trees on the development property, then these trees can be planted on public property as approved by the Zoning Administrator.
- f) Replacement trees shall be planted within twelve (12) months after the issuance of the Site Alteration Permit. If the applicant cannot meet this performance requirement, the Zoning Administrator may extend the time for performance. The applicant shall inform the Zoning Administrator when the replacement trees have been planted. The site shall then be inspected by the designated City representative.
- g) Any replacement tree which dies or is unhealthy one (1) year after the date that the last replacement tree has been planted must be removed and replaced. The replacement tree shall be the same species and size of the original replacement tree.
- h) Trees which are removed illegally without City approval must be replaced. The replacement trees required for trees removed illegally shall equal twice the caliper inches as determined by the tree replacement formula.

(Ref. Ord. 876, 8/11/92)

§1302.080 ESSENTIAL SERVICES

Subd. 1. Purpose. The purpose of this Section is to provide for the installation of essential services such as telephone lines, pipelines, electric transmission lines and substations in such a manner that the health, safety and welfare of the City will not be adversely affected. Essential services should also be installed in cognizance of existing and projected demands for such services.

Subd. 2. All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines and substations less than 33 KV, when installed in any public right-of-way in any zoning district, shall require a special permit approved by the City Engineer.

Subd. 3. All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead electric transmission lines less than 33 KV, which are intended to serve more than one parcel and are proposed to be installed at locations other than in public right-of-way, shall require a special permit issued by the City after approval by the City Engineer. Approval by the City Engineer shall be based upon the information furnished in the following procedural requirements.

- a) Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
- b) The Zoning Administrator shall transmit the map and accompanying information to the City Engineer for his review and approval regarding the project's relationship to the Comprehensive Plan and/or Codes and parts thereof.
- c) The City Engineer shall report in writing to the Zoning Administrator his findings as to the compliance of the proposed project with the Comprehensive Plan and Codes of the City.
- d) In considering applications for the placement of essential services, as regulated in this Section, the aforesaid City staff shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
- e) Upon receiving the approval of the City Engineer, the Zoning Administrator shall issue a special permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the Zoning Administrator to deny its issuance, the applicant may appeal said decision to the Board of Appeals and Adjustments under the rules and procedures as set forth in Section 1301.060 of this Code.

Subd. 4. All transmission pipelines (i.e. pipelines not required for local distribution network) and overhead transmission and substation lines in excess of 33 KV shall be a conditional use in all districts, subject to the following procedural requirements:

- a) Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the Planning Commission to review the proposed project.
- b) The Zoning Administrator shall transmit the map and accompanying information to the Planning Commission for its review and recommendations regarding the project's relationship to the Comprehensive Plan and parts thereof.
- c) The Planning Commission shall hold the necessary public hearings as prescribed by the Code for conditional uses.
- d) The Planning Commission shall report in writing to the City Council its findings as to compliance of the proposed project with the Comprehensive Plan.
- e) In considering the applications for the placement of essential services, as regulated by this subdivision, the City Council shall consider the advice and recommendations of the Planning Commission and the effect of the proposed project upon the health, safety and general welfare of the City, existing and anticipated; and the effect of the proposed project upon the Comprehensive Plan.

§1302.090 BUS SHELTERS

Subd. 1. Purpose. The purpose of this Section is to provide for the erection or placement of bus shelters and covered bus benches in the public right-of-way.

Subd. 2. Procedure. The erection and placement of bus shelters and covered bus benches in the public right-of-way shall require a conditional use permit as regulated under the provisions of Section 1301.050 of this Code.

§1302.100 MOBILE HOMES

Subd. 1. Mobile homes (used on a temporary or permanent basis) as defined in Section 1301.030 of this Code, shall only be permitted within the "R-MH" Mobile Home Park District as established by Section 1301.090 of this Code and as provided below:

- a) During the reconstruction of a home that has been damaged or destroyed so as to be uninhabitable, the City Council may grant a nonrenewable permit for a period of not to exceed one (1) year for a mobile home in any zoning district.

§1302.110 MODEL HOMES

Subd. 1. The purpose of this Section is to provide for the erection of model homes in new subdivisions without adversely affecting the character or surrounding residential neighborhoods or creating a general nuisance. As model homes represent a unique temporary commercial use, special consideration must be given to the peculiar problems associated with them and special standards must be applied to insure reasonable compatibility with their surrounding environment.

Subd. 2. Procedure. The erection of a model home(s) shall require approval of the White Bear Lake City Council.

Subd. 3. Special Requirements.

- a) Temporary parking facilities equal to four (4) spaces per model home dwelling unit shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the City Engineer.
- b) Access from a temporary parking facility onto a local, residential street shall be discouraged. Where this requirement is physically impracticable, access shall be directed away from residential neighborhoods to the greatest extent possible.
- c) No model home shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in Section 1302.030, Subd. 9 of this Code.
- d) All model home signage shall comply with the sign regulations as established in the White Bear Lake Sign Code.
- e) All criteria for conditional use consideration, but not procedural requirements, as contained in Section 1301.050 of this Code shall be considered and satisfactorily met.

§1302.115 THE MOVING OF STRUCTURES.

Subd. 1. All the requirements associated with the moving of a building or structure shall apply only to destinations within the City of White Bear Lake limits.

Subd. 2. No building or structure which has been wholly or partially erected shall be moved within the White Bear Lake limits unless a building permit to move said building or structure has been obtained as provided herein. Said permit application shall include:

- a) A site plan of both the existing and the proposed sites including an illustration of how and where the structure will be located during and after the moving operation.
- b) A designated route and any stops which the structure must make.
- c) An administrative fee of \$100.00, in addition to the building permit fee, shall cover all City administration costs such as police, fire, street supervision, tree inspection, and other City costs associated with the transfer of the structure. The City Building Official shall collect these fees prior to issuance of the building permit to move the structure. Additional unanticipated administration costs, incurred by the City during the move shall be paid by the applicant prior to issuance of a certificate of occupancy. These additional charges shall also be collected by the City Building Official.
- d) A proposal to move a structure may be approved on a form supplied by the Building Official after review by the following:
 - 1) The electrical and natural gas utilities serving the existing and proposed sites.
 - 2) The telephone and cable utilities serving either or both sites.
 - 3) The City of White Bear Lake Engineering, Utility, Water, Public Works, Police and Fire Departments, the City Forester, and the County or State Highway Department. The Building Official shall prepare for the applicant a report on the building code compliance of the house prior to beginning the actual move.
- e) A performance bond in the sum of \$20,000 payable to the City of White Bear Lake, in a form approved by the City Manager. Said bond shall be exercised by the City to complete utility, foundation, site grading and minimum standards set forth in Section 502.100 of this Code if said improvements are not complete within 21 days from the date the permitted structure is placed on the site. The Building Official may grant a time extension if weather conditions do not allow required improvements.

Subd. 3. Any such building or structure proposed to be moved shall meet the requirements of the Building Code as required by the Building Official. All life safety requirements shall be met. In addition, the Building Official may request a Planning Commission review of the structure to determine architectural compatibility with other adjacent structures.

Subd. 4. All moving operations of the structure within public property shall be performed only from 10:00 P.M. to 6:00 A.M., unless the Building Official specified otherwise.

Subd. 5. No structure shall be raised on moving blocks more than seven (7) calendar days prior to or fourteen (14) days after completion of an approved move. In no case shall an exposed vacant basement be left unfenced by the applicant. A minimum four (4) foot high safety fence shall be placed around the entire perimeter of any exposed basement.

Subd. 6. All exposed basements shall be filled in or back filled with clean granular fill within seven (7) calendar days after removal of the house from the lot. If the exposed basement is left uncovered more than seven (7) calendar days, the Building Official may direct the City Public Works Director to fill in the basement. All City costs attributable to such filling shall be considered an unanticipated City administration expense to be paid by the landowner.

Subd. 7. All excavations and basements at the proposed site of the structure shall be filled in or back filled within twenty-one (21) days after completion of the move, unless the building Official grants an extension of time because of frost conditions.

Subd. 8. All fine grading, seeding and sodding in required yards shall be completed prior to issuance of a certificate of occupancy, unless the Building Official grants an extension of time because of frost or other weather conditions.

Subd. 9. The City Police Department shall post temporary no parking signs along both side of the entire moving route twenty-four (24) hours in advance of the move.

Subd. 10. No building or structure shall be moved from a site outside the White Bear Lake City Limits through the City on City streets to a site outside the White Bear Lake City limits without approval of the Building Official. Such a move shall not be made unless the following subdivisions (above) are complied with: 2b, 2c, 2d, 4, and 9.

Subd. 11. Farm buildings, prebuilt or panelized housing, mobile homes, construction sheds, buildings moved from one lot to another lot without use of City street systems, or temporary structures to be located on a site for twelve (12) months or less shall be exempt from the moving review process.

Buildings of fourteen (14) feet or less in width to be moved on City streets shall be exempt from the moving process. Such buildings do require a building permit.

Subd. 12. Building movers must meet all State of Minnesota requirements, including those imposed by MSA 221.81. (Ref. Ord. Nos. 709, 2/18/86; 937, 10/23/96)

§1302.120 HOME OCCUPATIONS

Subd. 1. Purpose. The purpose of this Section is to prevent competition with business districts and to provide a means through the establishment of specific standards and procedures by which home occupations can be conducted in residential neighborhoods without jeopardizing the health, safety and general welfare of the surrounding neighborhood. In addition, this Section is intended to provide a mechanism enabling the distinction between permitted home occupations and special or customarily "more sensitive" home occupations, so that permitted home occupations may be allowed through an administrative process rather than a legislative hearing process.

Subd. 2. Application. Subject to the nonconforming use provision of this Section, all occupations conducted in the home shall comply with the provisions of this Section. This Section shall not be construed, however, to apply to home occupations accessory to farming.

Subd. 3. Procedures and Permits.

- a) Registered Home Occupation. Any home occupation determined by the Zoning Administrator to meet the specific provisions of Section 1302.120, Subdivision 4 b), shall be considered a registered home occupation. The Zoning Administrator is authorized to waive the formal permit requirements for a registered home occupation. The applicant shall register the home occupation with the city by submitting a letter of intent to the Zoning Administrator describing the nature of the home occupation and consenting to comply with all of the provisions for a registered home occupation and other applicable provisions of this Code.

The home occupation shall be allowed to continue until such time as there has been a change in conditions or until such time as the provisions of this Section have been breached. At such time as the city has reason to believe that either event has taken place, the Zoning Administrator shall determine whether the applicant shall be required to make formal application for a permit. (Ref. Ord. 908; 4/12/94)

- b) Permitted Home Occupation. Any permitted home occupation as defined in this Code shall require a "permitted home occupation permit". Such permits shall be issued subject to the conditions of this Section, other applicable City Codes and State law. This permit may be issued by the Zoning Administrator or his agent based upon proof of compliance with the provisions of this Section. Application for the "permitted home occupation permit" shall be accompanied by a fee as adopted by the City Council. If the Administrator denies a permitted home occupation permit to an applicant, the applicant may appeal the decision to the Planning Commission. The Planning Commission shall make a recommendation to the Council, which shall make the final decision. The permit shall remain in force and effect until such time as there has been a change in conditions or until such time as the provisions of this Section have been breached. At such time as the City has reason to believe that either event has taken place, a public hearing shall be held before the Planning Commission. The City Council shall make a final decision on whether or not the permit holder is entitled to the permit.

- c) Special Home Occupation. Any home occupation which does not meet the specific requirements for a permitted home occupation as defined in this Section shall require a "special home occupation permit" which shall be applied for, reviewed and disposed of in accordance with the provisions of Section 1301.050 of this Code (Conditional Use).
- d) Declaration of Conditions. The Planning Commission and City Council may impose such conditions on the granting of a special home occupation permit as may be necessary to carry out the purpose and provisions of this Section.
- e) Effect of Permit. A "special home occupation permit" may be issued for a period of one (1) year after which the permit may be reissued for periods of up to three (3) years each. After a decade of continuous operation, the permit may be reissued for periods of up to six (6) years each. The first renewal shall be processed in accordance with the procedural requirement of the initial "special home occupation permit". After the one year renewal, each application for permit renewal shall be subject to the procedures of Section 1301.060, Subd.7, (Administrative Variances) and shall be contingent upon the results of a mail notice to all owners within 350 feet of the subject property calling for any concerns or objections to be voiced within 10 business days. If concerns or objections are received, the renewal may be processed in accordance with the procedural requirements of the initial "special home occupation permit". (Ref. Ord. No. 21-10-2051, 10/12/21)
- f) Transferability. Permits shall not run with the land and shall not be transferable.
- g) Lapse of Special Home Occupation Permit by Nonuse. Whenever within one (1) year after granting a permit the use as permitted by the permit shall not have been initiated, then such permit shall become null and void unless a petition for extension of time in which to complete the work has been granted by the City Council. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original permit. There shall be no charge for the filing of such petition. The request for extension shall state facts showing a good faith attempt to initiate the use. Such petition shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.
- h) Reconsideration. Whenever an application for a permit has been considered and denied by the City Council, a similar application for a permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial unless a decision to reconsider such matter is made by a majority vote of the City Council.
- i) Renewal of Permits. An applicant shall not have a vested right to a permit renewal by reason of having obtained a previous permit. In applying for and accepting a permit, the permit holder agrees that his monetary investment in the home occupation will be fully amortized over the life of the permit and that a permit renewal will not be needed to amortize the investment. Each application for the renewal of a permit will be considered de novo without taking into consideration that a previous permit has been granted. The previous granting of renewal of a permit shall not constitute a precedent or basis for the renewal of a permit. (Ref. Ord. 908; 4/12/94)

Subd. 4. Requirement, General Provisions. All home occupations shall comply with the following general provisions and according to definition, the applicable requirement provisions.

a) General Provisions.

- 1) No home occupation shall produce light glare, noise, odor or vibration that will in any way have an objectionable effect upon adjacent or nearby property.
- 2) No equipment shall be used in the home occupation which will create electrical interference to surrounding properties.
- 3) Any home occupation shall be clearly incidental and secondary to the residential use of the premises, should not change the residential character thereof, and shall result in no incompatibility or disturbance to the surrounding residential uses.
- 4) No home occupation shall require internal or external alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
- 5) There shall be no exterior storage of equipment or materials used in the home occupation, except licensed passenger vehicles used in the home occupation may be parked on site provided they are in accordance to §1302.030, Subd. 15, Exterior Storage and §1302.050, Off-Street Parking Requirements. (Ref. Ord. 871, 6-9-92)
- 6) The home occupation shall meet all applicable fire and building codes.
- 7) There shall be no exterior display or exterior signs or interior display or interior signs which are visible from outside the dwelling with the exception of directional and identification/business signs to the extent authorized by the City's Sign Code.
- 8) All home occupations shall comply with the provisions of the City Nuisance Ordinance.
- 9) No home occupation shall be conducted between the hours of 10:00 P.M. and 7:00 A.M. unless said occupation is contained entirely within the principal building and will not require any on-street parking facilities.
- 10) Commercial vehicles utilized in the home occupation shall be stored according to Section 1302.030, Subd. 15, Exterior Storage, Section 1302.050, Off-Street Parking Requirements; and 1302.055, Permitted Storage. (Ref. Ord. 871, 6-9-92, 10-1-1062, 1/12/10)

- b) Requirements-Registered Home Occupation. The Zoning Administrator is authorized to waive the permit requirement if the home occupation can be conducted subject to the following restrictions:
- 1) No goods or services shall be produced or provided which require customers or clients to visit the premises.
 - 2) The home occupation shall be conducted entirely within the principal dwelling.
 - 3) No signs shall be permitted on or off the premises.
 - 4) No person other than those who customarily reside on the premises shall be employed.
 - 5) No commercial vehicles shall be utilized in conducting the home occupation, with the exception of pick up or delivery of materials by parcel delivery services.
 - 6) In addition to 1 through 5 above, the home occupation shall be conducted in compliance with the standards of Subdivision 4 a), General Provisions, of this Section. Where the provisions are found to conflict, the more restrictive standard shall apply. (Ref. Ord. No. 908; 4/12/94)
- c) Requirements - Permitted Home Occupations.
- 1) No person other than those who customarily reside on the premises shall be employed.
 - 2) All permitted home occupations shall be conducted entirely within the principal dwelling and may not be conducted in accessory buildings.
 - 3) Permitted home occupations shall not create a parking demand in excess of that which can be accommodated in an existing driveway, where no vehicle is parked closer than fifteen (15) feet from the curb line or edge of paved surface.
 - 4) Permitted home occupations include and are limited to: Art studio, contractor's offices, dressmaking, secretarial services, professional offices and teaching with musical, dancing and other instructions which consist of no more than one (1) pupil at a time and similar uses. (Ref. Ord. 871, 6/9/92)
 - 5) The home occupation shall not involve any of the following: repair service or manufacturing which requires equipment other than customarily found in a dwelling; teaching which customarily consists of more than one (1) pupil at a time; over-the-counter sale of merchandise produced off the premises, except for those brand name products that are not marketed and sold in a wholesale or retail outlet.

d) Requirements - Special Home Occupation.

- 1) No person other than a resident shall conduct the home occupation, except where the applicant can satisfactorily prove unusual or unique conditions or need for nonresident assistance and that this exception would not compromise the intent of this Code.
- 2) Examples of special home occupations include: Barber and beauty services, contractor fabrication of materials being conducted in an accessory structure, photography studio, group lessons, saw sharpening, small appliances and small engine repair and the like. (Ref. Ord. 871, 6-9-92)
- 3) The special home occupation may involve any of the following: retail business, stock-in-trade incidental to the performance of the service, repair service or manufacturing which requires equipment other than customarily found in a home, the teaching of musical, dancing and other instruction of more than one (1) pupil at a time.
- 4) Special home occupations may be allowed to accommodate their parking demand through utilization of on-street parking. In such cases where on street parking facilities are necessary, however, the City Council shall maintain the right to establish the maximum number of on-street spaces permitted and increase or decrease that maximum number when and where changing conditions require additional review.

Subd. 5. Nonconforming Use. Existing home occupations lawfully existing on the date of this Code may continue as nonconforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing home occupation that is discontinued for a period of more than thirty (30) days, or is in violation of the Code provisions under which it was initially established shall be brought into conformity with the provisions of this Section.

Subd. 6. Inspection. The City of White Bear Lake hereby reserves the right upon issuing any home occupation permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this Section or any conditions additionally imposed.

§1302.125 HOME ACCESSORY APARTMENTS

Subd. 1. Purpose. The purpose of this section is to provide standards for the establishment and use of home accessory apartments in owner-occupied single family residences located within any residential zoning district where a single family home is a permitted use. This section is also intended to provide standards for the establishment and use of temporary health care dwellings for single family residences located within any residential zoning district where a single family home is a permitted use. (Ref. Ord. 02-08-993, 8/13/02, 16-10-2019, 10/11/16)

Subd. 2. Application. Subject to the nonconforming use provisions of this code, all home accessory apartments established after the effective date of this code (December 23, 1983) shall comply with the provisions of this Section.

Subd. 3. Procedures and Permits. All home accessory apartments shall require a conditional use permit. Applicants for such a permit shall follow the application procedures for a conditional use permit provided in Section 1301.050 of this code.

- a) Permanent Home Accessory Apartments. All permanent home accessory apartments shall require a conditional use permit. Applicants for such a permit shall follow the application procedures for a conditional use permit provided in Section 1301.050 of this code. (Ref. Ord. 16-10-2019, 10/11/16)
- b) Temporary Health Care Dwelling Units. A temporary health care dwelling unit shall require a zoning permit. Applicants seeking to install a temporary health care dwelling unit shall follow the application procedures for a zoning permit provided in Section 1302.030, Subd. 4 of this code. (Ref. Ord. 16-10-2019, 10/11/16)

Subd. 4. Requirements for Permanent Home Accessory Apartments. All permanent home accessory apartments shall comply with the following requirements: (Ref. Ord. 16-10-2019, 10/11/16)

- a) Accessory apartments shall be located in existing single family structures (principal or accessory) only; the owner of the single family structure shall reside in the principal structure. The accessory apartment shall remain an accessory rental apartment, owned by the occupant of the principal structure. There shall be no separate ownership of the accessory rental apartment. (Ref. Ord. 02-08-993, 8/13/02)
- b) In no case shall an accessory apartment be allowed to occupy that portion of an accessory structure required by code to be utilized for car storage. In no case shall an accessory apartment above a garage exceed the allowable height requirement unless authorized through a variance per City Code Section 1301.060. (Ref. Ord. 02-08-993, 8/13/02)
- c) Only exterior modifications, which in the judgement of City Council, do not detract from the single family character of the neighborhood shall be permitted for an accessory apartment provided all other applicable requirements of the City's zoning ordinance are met. (Ref. Ord. 02-08-993, 8/13/02)
- d) A separate exterior entrance to the accessory unit may be required. Any exterior alterations or expansion shall be constructed of similar size, color, and type of materials as the principal single family unit provided that no unenclosed ramps or stairways are utilized to access either the primary or accessory unit and provided that not more than one entrance faces the same city street. (Ref. Ord. 02-08-993, 8/13/02)

- e) Interior and exterior modifications to create a barrier free dwelling may be required after considering occupant mobility. (Ref. Ord. 02-08-993, 8/13/02)
- f) Accessory apartments shall not exceed eight hundred eighty (880) square feet or forty (40) percent of the habitable area within the single family home, whichever is less. (Ref. Ord. 02-08-993, 8/13/02)
 - 1. The unit shall have a floor area of not less than two hundred (200) square feet of habitable floor area for the first occupant and at least 100 square feet of habitable floor area for each additional occupant. (Ref. Ord. 02-08-993, 8/13/02)
 - 2. The unit shall be provided with a separate closet.
 - 3. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than thirty (30) inches in front. (Ref. Ord. No. 770, 9/14/88)
 - 4. Accessory apartments shall conform to the Minnesota State Building Code requirements concerning adequate light, ventilation, minimum room dimensions and sanitation.
 - 5. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
 - 6. The unit shall meet all fire suppression and alarm systems as stipulated for a two (2) family home in the 1985 Building Code and adopted by the City of White Bear Lake.
- g) No separate driveway or curb cut shall be permitted for the accessory apartment unit. Additional parking may be required. Off-street parking shall be required for all vehicles. Said parking is restricted to a garage and/or approved hard surface area. (Ref. Ord. 02-08-993, 8/13/02)
- h) Where conditions or circumstances make implementation of these standards for a specific accessory apartment impractical, the City Council may, after citing the specific problem unique to the site or building, alter the condition of this section to allow establishment of a specific accessory apartment unit. Such alterations shall become part of the Conditional Use Permit. (Ref. Ord. 02-08-993, 8/13/02)
- i) Upon receiving a conditional use permit, the owner(s) must file on subject property a certified copy of the conditional use permit with the County Recorder. Proof of recording shall be supplied to the City prior to any related alterations or occupancy. The permit shall state that the right to rent a temporary accessory apartment ceases upon transfer of title unless reissued by the City Council. The permit shall become null and void if the owner ceases to reside in the residence. (Ref. Ord. 02-08-993, 8/13/02)
- j) The owner will obtain a certificate of occupancy for the conditional use once a year in the month of January for the duration of the use, presenting, at the time of such renewal, proof in the form of an affidavit that the circumstances for which the conditional use was granted have not changed. An administrative fee, as established by Council resolution, shall be charged at the time of each renewal. (Ref. Ord. 02-08-993, 8/13/02)
- k) In no case shall the number of permanent occupants of an accessory apartment exceed four (4). (Ref. Ord. 02-08-993, 8/13/02)
- l) Except where this ordinance is more restrictive, all accessory apartments will be in compliance with the City's Minimum Housing Standards as outlined in Section 502 of the City's Municipal

Code. (Ref. Ord. 770, 9/14/88; 993, 8/13/02)

Subd. 5. Requirements for Temporary Health Care Dwelling Units. All temporary health care dwelling units shall comply with the following requirements:

- a) The caregiver or relative must apply for a Zoning Permit to install a temporary health care dwelling unit, including a dimensioned Site Plan indicating the proposed location of the temporary health care dwelling unit, as well as location of the principle structure and the garage and distance to property line(s). The permit application must be signed by the primary caregiver, the owner of the property on which the dwelling unit will be located, and the resident of the property if the property owner does not reside on the property, and include:
 1. The name, address and contact information of the property owner, the resident of the property if different from the owner, and the primary caregiver responsible for the care of the mentally or physically impaired person; and the name(s) of the individual(s) who will reside in the temporary health care dwelling unit;
 2. Written certification that the occupant of the temporary health care unit requires assistance with two or more instrumental activities of daily living signed by a physician, a physician assistant, or an advanced practice registered nurse licensed to practice in the state of Minnesota;
 3. Copy of an executed contract for septic service management or other proof of adequate septic service management;
- b) A temporary health care dwelling must be located on the same lot where the primary caregiver or relative resides.
- c) Temporary health care dwelling units shall not be located in the front yard of the residential lot and shall provide a minimum setback of 10 feet from any side or rear lot line. The caregiver shall reside in the principal structure located on the same lot.
- d) A temporary health care dwelling unit must be located on the lot so that septic services and emergency vehicles can gain access to the temporary health care dwelling unit.
- e) A temporary health care dwelling unit may not exceed 300 square feet and must be universally designed and meet state-recognized accessibility standards.
- f) A temporary health care dwelling is limited to two occupants, one of whom is a mentally or physically impaired person.
- g) A temporary health care dwelling unit shall provide access to water and electric utilities either by connecting to the utilities that are serving the principal dwelling on the lot or by other comparable means.
- h) In no case shall a temporary health care dwelling unit be allowed to occupy or obstruct access to that portion of an accessory structure required by code to be utilized for car storage.
- i) The initial temporary dwelling permit is valid for six (6) months. The applicant may renew the permit one (1) time for an additional six (6) months. If the applicant wishes to seek renewal for a second six (6) month term, an application for a conditional use permit for a permanent home accessory apartment shall be submitted. In no case shall a temporary health care dwelling unit remain on a lot for more than one (1) year. (Ref. Ord. 16-10-2019, 10/11/16)

§1302.130 ANIMALS

Subd. 1. General. Except as otherwise provided for in this Code, or other City regulations, all domestic house pet animals shall be allowed as permitted uses in any zoning district and domestic farm animals may be considered as conditional uses, provided they are maintained on an existing farm property. Horses may be kept in the "O" zoning district, on property not used for farming, provided they are sheltered or corralled at a distance of not less than two hundred (200) feet from an adjoining residential property. The ratio of horses to lot acreage shall not exceed one horse for every two and one-half (2-1/2) acres of land, unless a conditional use permit is first obtained by the owner. (Ref. Ord. 16-07-2015, 7/12/16)

In all districts, the governing body may order the owner or occupier of any property to apply for a conditional use permit to keep non-domestic wild animals, including existing uses, provided it is found by the governing body that the use may pose a threat to the public health, safety, convenience or general welfare.

Subd. 2. Care of Animals. Animals kept within any zoning district shall be subject to the following requirements:

- a) The size, number, species, facilities for and location of animals kept shall be maintained so as not to constitute a danger or nuisance by means of odor, noise or otherwise.
- b) The person caring for any animal(s) shall be of sufficient age, knowledge and experience to adequately and safely care for and control the animal(s).
- c) Facilities for housing animal(s) shall be:
 - 1) Constructed of such material as is appropriate for the animal(s) involved.
 - 2) Maintained in good repair.
 - 3) Controlled as to temperature, ventilated and lighted compatible with the health and comfort of the animal(s).
 - 4) Of sufficient size to allow each animal to make normal postural and social adjustments with adequate freedom of movement. Inadequate space may be indicated by evidence of malnutrition, poor condition of debility, stress or abnormal behavior patterns.
 - 5) Cleaned as often as necessary to prevent contamination of the animal(s) contained therein and to minimize disease hazards and reduce odors.

- d) Animals shall be provided wholesome, palatable food and water free from contamination and of sufficient quantity and nutritive value to maintain all animals in good health.
- e) Animals kept in pet shops or kennels shall be kept in accordance with regulations for pet shops and kennels in addition to the regulations provided by this Code.

Subd. 3. Dog Kennels. Dog kennels as defined in Section 1301.030 are conditional uses in all zoning districts (requires a conditional use permit based on the procedures set forth in and regulated by Section 1301.050 of this Code) provided that:

- a) Minimum lot size of one (1) acre is required.
- b) All the provisions of Section 1302.130, Subd. 2 must be complied with.
- c) Any building in which animals are kept shall not be closer than fifty (50) feet from any lot line.

§1302.140 DAY CARE AND GROUP CARE FACILITIES

Subd. 1. Purpose. The regulation of day care and group care facilities in these zoning regulations is to establish standards and procedures by which such facilities can be conducted within the City of White Bear Lake without jeopardizing the health, safety, and general welfare of the day care participants and/or the surrounding neighborhood. This section establishes the City's minimum requirements for the establishment of day care and group care facilities.

Subd. 2. Application. Day care facilities shall be allowed as a permitted use or conditional use in all zoning districts in the City. A day care facility shall be permitted in all districts with a conditional use permit as provided in Section 1301.050. Day care family and day care group nursery shall be permitted in all zoning districts. Group care facilities with fewer than seven (7) individuals shall be considered a permitted use within all zoning districts in the City. In addition to the City regulations, all day care operations shall be licensed in accordance with State Law and shall otherwise comply with the minimum requirements of the MN DPW Rule 3 as may be amended. (3-27-85)

Subd. 3. General Provisions. Day care and group care facilities shall be permitted as a principal or an accessory use provided that the day care and group care facilities meet all the applicable provisions of this Section of the White Bear Lake Code.

- a) Lot Requirements and Setbacks. The proposed site for a day care or group care facility must meet the minimum lot area, lot width and the setback requirements of the respective zoning district.
- b) Municipal Sanitary Sewer and Water. All day care and group care facilities shall have access to municipal sewer and water to protect the health and safety of all persons who occupy the facility.
- c) Screening. Where the day care or group care facility is in or abuts any commercial or industrial use or zoned property, the facility shall provide screening along the shared boundary of the two uses. All of the required fencing and screening shall comply with the fencing and screening requirements in Section 1302.030, Subd. 6 and 7 of this Code.
- d) Parking.
 - 1) There shall be adequate off-street parking which shall be located separately from any outdoor play area and shall be in compliance with Section 1302.050 of this Code. Parking areas shall be screened from view of surrounding and abutting residential districts in compliance with Section 1302.030, Subd. 7 of this Code.
 - 2) When a day care or group care facility is an accessory use within a structure containing another principal use, each use shall be calculated separately for determining the total off-street parking spaces required.

- e) Loading. One (1) off-street loading space in compliance with Section 1302.060 of this Code shall be provided.
- f) Signage. All signing and informational or visual communication devices shall be in compliance with the White Bear Lake Sign Ordinance.
- g) Day Care or Group Care Facility. The building plans for the construction or alteration of a structure that shall be used as a day care or group care facility shall be submitted to the City for review by the City Building Official to insure the structure is in compliance with the State Building Code. The facility shall meet the following conditions:
- 1) 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 of property values or constitute a blighting influence within a reasonable distance of the lot.
 - 2) When the day care or group care facility is an accessory use within a building, it shall be located in a portion of the building separated from the other uses located within the structure.
 - 3) An accessory use day care or group care facility shall be adequately soundproofed to remove extraneous noise that would interfere with the day care or group care operation and would affect the health, safety and welfare of the day care or group care participants.
 - 4) Internal and external site land use compatibility and sufficient peripheral area protections shall be provided by the day care or group care facility.
 - 5) Primary Space
 - a. There shall be a minimum of thirty-five (35) square feet of usable floor space (primary space) per person in attendance, exclusive hallways, bathrooms, lockers, kitchens and floor space occupied by sanitary equipment, but including equipment and furnishings regularly used by the participants.
 - b. No more than twenty-five (25) percent of the proposed primary space shall be occupied by equipment to be left stationary.
 - c. The state licensing agent shall designate the licensed capacity of the program.
 - d. All stairways and corridors leading to exits shall be kept clear and free from obstructions at all times.

- 6) Bathroom Facilities
- a. Toilet and washbowls must be provided in a well ventilated place. (Ref. Ord. 10-1-1062, 1/12/10)
 - b. There must be at least one toilet and one washbowl provided for each fifteen (15) participants and one additional toilet and washbowl for each additional fifteen (15) participants or fraction thereof. Toilets and washbowls must be reachable. (Ref. Ord. 10-1-1062, 1/12/10)
- 7) Day Care Facility Sick Room. Day care facility participants who are not well should not be required to be with a group or involved in its activities. Neither should an ill child be placed in solitary confinement. Centers must provide care for a child who becomes ill. Supervision must be provided until the child is picked up.
- a. Space designated for use by an ill child need not be permanently arranged, but shall be:
 1. Used only for compatible purposes, e.g., private office, library, staff's room, or
 2. Effectively protected from the main activity area and the kitchen by screening, and
 3. Equipped with a child's cot, and
 4. Within sight and hearing of an adult.
- 8) Day Care Facility Sleeping Area. Children in a day care program need rest and quiet as part of the daily activity. A cot or a crib must be provided for each child taking a nap in a program that includes a rest. Adequate space and accessibility of exit must be maintained.
- 9) Day Care Facility Outdoor Play Area. Good child education requires adequate room to engage in large-muscle activity under safe conditions. Outdoor space is also appropriate for other learning activities.
- a. Outdoor play area of at least seventy-five (75) square feet per child and no less than one thousand (1,000) square feet per program must be provided. This requirement will be considered fulfilled by any one of the following:
 1. An adjacent play area where children are rotated in appropriate numbers to maintain seventy-five (75) square feet per child for outdoor play.

2. Adjacent park facilities within one thousand (1,000) feet, or
 3. Park space that is more than one thousand (1,000) feet from the day care center, where daily transportation is provided.
- b. Play space must be adequately enclosed where necessary to prevent children from leaving the premises unattended and outdoor playtime must be directly supervised with the required staff-to-child ratio as specified in the Department of Welfare Regulations D.P.W. Rule 3.
 - c. Outdoor play areas shall not be provided within the required front yard setbacks.

Subd. 4. Inspection. The City of White Bear Lake hereby reserves the right to inspect the day care or group care facility in which the occupation is being conducted to insure compliance with the provisions of this Section.

§1302.150 PLAN REVIEW

Subd. 1. Purpose. The purpose of this Section is to establish a formal plan review procedure and provide regulations pertaining to the enforcement of site design and construction standards as agreed to by the contractor through his officially submitted plan documents.

Subd. 2. Plans Required. In addition to other plan requirements outlined in this Code, site and construction plans will be required and shall be submitted to and approved by the Building Official prior to the issuance of any building permit.

Subd. 3. Plan Agreements. All site and construction plans officially submitted to the City shall be treated as a formal agreement between the Building Contractor and the City. Once approved, no changes, modifications, or alterations shall be made to any plan detail, standard or specification without prior submission of a plan modification request to the Building Official for his review and approval.

Subd. 4. Erosion and Sediment Control Plan. Every applicant for a building permit, grading permit, or any other permit that allows land disturbing activities that will result in more than 6,000 square feet of disturbed area or 100 cubic yards of cut or fill must submit an Erosion and Sediment Control Plan in accordance with the City's Engineering Design Standards.

Subd. 5. Stormwater Management Plan. Every applicant for a building permit, grading permit, or any other permit that creates or fully reconstructs 10,000 or more square feet of impervious surface, including all single family subdivisions greater than 3 lots is required to submit a Stormwater Management Plan in accordance with the City's Engineering Design Standards as well as obtain a separate NPDES Construction Site Permit. A copy of the NPDES permit shall be submitted to the City. All projects that require a Stormwater Management Plan shall also submit an Erosion and Sediment Control Plan as outlined in Subd. 4 above.

Subd. 6. Maintenance Agreement. All projects that require permanent stormwater facilities must enter into a Maintenance Agreement acceptable to the City. The Stormwater Operation and Maintenance Agreement (SOMA) shall be in accordance with the City's Engineering Design Standards.

Subd. 7. Enforcement. The Building Official shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this Section has been officially documented by the Building Official.

(Ref. Ord. 10-1-1062, 1/12/10, 15-05-2000, 5/12/15)

§1302.160 TOBACCO PRODUCTS SHOP

Subd. 1. Purpose. The purpose of this section is to allow tobacco products shops in certain zoning districts within the City, subject to certain regulations.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision.

- a) Day Care. “Day care” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- b) Public Park. “Public park” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- c) Residential Treatment Facility. “Residential treatment facility” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- d) School. “School” has the meaning given the term in Section 1302.170, subd. 2 of this Code.
- e) Tobacco Products Shop. A retail establishment with a current tobacco license issued by the City that:
 - 1) Has an entrance door opening directly to the outside;
 - 2) Prohibits persons under the age of 21 years from entering the establishment at any time;
 - 3) Is in compliance with all applicable provisions of this Code; and
 - 4) Derives more than 90 percent of its gross revenue from the sale of tobacco, tobacco-related devices, and electronic delivery devices, as defined in Minnesota Statutes, section 609.685, and in which the sale of other products is merely incidental.

The term does not include a tobacco department or section of any individual business establishment with any type of liquor, food, or restaurant license.

Subd. 3. Allowed Use. A tobacco products shop is a permitted use within the B-4, General Business District.

Subd. 4. Separation Buffer. A tobacco products shop shall not be located within 1,000 feet of a school and shall not be located within 500 feet of a day care, residential treatment facility, or a public park.

(Ref. Ord. 23-09-2070; 9/26/2023)

§1302.170 EDIBLE CANNABINOID BUSINESS

Subd. 1. Purpose. The purpose of this section is to initially establish zoning regulations associated with businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and in anticipation of the eventual retail sales of cannabis products by cannabis businesses under Minnesota Statutes, chapter 342. The City is expressly authorized by Minnesota Statutes, section 342.13(c) to adopt reasonable time, place, and matter restrictions on the operation of cannabis businesses. The City has adopted a moratorium on cannabis businesses, which does not apply to businesses selling edible cannabinoid products at retail under Minnesota Statutes, section 151.72, and anticipates updating these regulations before the moratorium expires no later than January 1, 2025. The Office of Cannabis Management will be developing sample regulations for local governments to consider when adopting or amending its regulations. It is not clear when these guidance documents will be available and so these regulations are intended to apply to cannabis businesses licensed under Minnesota Statutes, chapter 342 in case the guidance documents are not available in time to update these regulations before January 1, 2025. The City anticipates being able to update these regulations before that date, but if that is not reasonably possible the City Council does not want to leave a gap in the zoning regulations applicable to state licensed cannabis businesses.

Subd. 2. Definitions. For the purposes of this section, the following terms shall have the meanings given them in this subdivision. If a term is not defined herein, it shall have the meaning given the term in Section 1301.030 of this Code and, if not defined therein, it shall have the meaning given it in Minnesota Statutes, section 151.72 or Minnesota Statutes, section 342.01.

- a) Cannabis Business. “Cannabis business” means any business included in the definition of cannabis business in Minnesota Statutes, section 342.01, subdivision 14. The term does not include an edible cannabinoid business as defined in this subdivision.
- b) Edible Cannabinoid Business. “Edible cannabinoid business” means any business offering for sale or selling at retail an edible cannabinoid product, as defined in Minnesota Statutes, section 151.72, subdivision 1(f), or a lower-potency hemp edible product, as defined in Minnesota Statutes, section 342.01, subdivision 50, to the public. The term does not include any business that also sells any other product containing tetrahydrocannabinol that requires a license to sell under Minnesota Statutes, section 342.
- c) Day Care. “Day care” means a facility that is licensed by the Minnesota Department of Human Services as any of the following: (1) an adult day care licensed under Minnesota Rules, parts 9555.9600 to 9555.9730; (2) a residential or nonresidential day care program required to be licensed under Minnesota Statutes, section 245A.03; (3) a family day care or group family day care facility required to be licensed under Minnesota Rules, parts 9502.0315 to 9502.0445; or (4) any other day care facility required to be licensed by the state to provide day care services.
- d) School. “School” means a public or private facility that provides educational programs to 10 or more persons that are under the age of 21 in a classroom setting. The term includes, but is not limited to, any school operated by an independent school district or a charter school operating under Minnesota Statutes, chapter 124E.
- e) Residential Treatment Facility. “Residential treatment facility” means a facility providing mental health, alcohol, or drug treatment services established or operated in accordance with Minnesota Rules, chapter 2960, or Minnesota Statutes, chapters 245G or 260C.

- f) Public Park. “Public park” means an open space, playground, athletic field, or other facility owned by the City, a school district, the county, or other public entity that is open to, and regularly used by, those under the age of 21.

Subd. 3. Edible Cannabinoid Business. An edible cannabinoid business is a permitted use within any of the commercial districts identified in Section 1303.010, Subd. 1(b) of this Code, provided the business also has a current tobacco license or a current on-sale or off-sale intoxicating liquor license.

(Ref. Ord. 23-09-2070; 9/26/2023)