



AGENDA

Economic Development Commission Meeting In-Person Meeting with Public Electronic Access

New Brighton City Hall; 803 Old Hwy 8 NW
Upper Level Conference Room
November 3rd, 2021 | 7:30 a.m.

- **Attend the meeting in Person:** Members of the public may attend the meeting in person. Attendees required to wear masks and comply with social distancing parameters regardless of vaccination status.
- **Watch the meeting electronically:** To observe the meeting electronically, visit www.newbrightonmn.gov or tune into CTV Channel 8023 (CenturyLink) or Channel 16 (Comcast).
- **Join the meeting electronically:** If you would like to interact with our public officials or staff but are not comfortable attending the meeting in person, you may join the meeting electronically. Visit: <https://us02web.zoom.us/j/82196592215?pwd=VGVZZE9DU2xiMUtVQlVlRGNKVTA1dz09> (no app needed) or use your Zoom app to join by entering: Meeting ID: 821 9659 2215 and Passcode: 672150

I. Call to Order

II. Roll Call*

- | | |
|-------------------------------|--------------------------------|
| ▪ Chair Harry Carter | ▪ Commissioner Max Nundahl |
| ▪ Commissioner Bob Benke | ▪ Commissioner Anthony Pledger |
| ▪ Commissioner Bret Fynewever | ▪ Commissioner Jacqui Sauter |
| ▪ Commissioner Clint Kuipers | ▪ Commissioner Paul Zisla |
| ▪ Commissioner Mike Murlowski | |

III. Approval of Agenda

IV. Approval of Minutes

1. October 6th, 2021

V. Report from City Council Liaison

* A quorum of the City Council may be present.

VI. Business Items

1. Event Tourism discussion with Director of Parks and Rec. Jennifer Fink
2. Business Outreach Update
 - A) Update from Commissioner Sauter
 - B) Template Newsletter Review
3. Zoning Code Update

VII. Adjournment



MINUTES
New Brighton Economic Development Commission
Regular Meeting – October 6, 2021
7:30 a.m.

I. Call to Order

Chair Carter called the meeting to order at 7:30 a.m.

II. Roll Call

Members Present: Chair Harry Carter, Commissioners Bob Benke, Mike Murlowski, Max Nundahl, Anthony Pledger, and Paul Zisla

Members Absent: Commissioners Bret Fynewever, Clint Kuipers and Jacqui Sauter (excused)

Also Present: Ben Gozola- Assistant Director of Community Assets & Development, Jennifer Fink-Parks and Recreation Director, and Councilmember Pam Axberg

III. Approval of Agenda

Motion by Commissioner Nundahl, seconded by Commissioner Benke to approve the agenda as presented.

Approved 7-0

IV. Approval of Minutes

Motion by Commissioner Carter, seconded by Commissioner Benke to approve the minutes from the August 4, 2021 meeting.

Approved 6-0

Motion by Commissioner Carter, seconded by Commissioner Benke to approve the minutes from the September 1, 2021 meeting.

Approved 6-0

V. Report from Council Liaison

Councilmember Axberg provided the EDC with an update from the City Council. She discussed the work the Council has been doing in order to create an Equity Statement and Equity

Commission. She explained the City would be recruiting seven to nine Commissioners for this group at the end of this year and staff was conducting interviews in order to hire a DEI Coordinator.

Commissioner Benke discussed the 2020 census data noting the demographics in the community were changing. Councilmember Axberg explained the Council would be taking a deeper dive into the census information at a future meeting.

VI. Business Items

A. Guest Speaker Kersten Elverum, Hopkins Director of Planning and Development - Public Art Initiatives

Gozola stated Director Elverum will be talking to the commissioners about how the City of Hopkins incorporated more public art into their community, specifically Art Street and the Artery, and would be available to answer commissioners questions on how New Brighton can learn from these examples.

Kersten Elverum, Hopkins Director of Planning and Development, introduced herself to the Commission and discussed the size and population of Hopkins. He discussed how art has impacted her community and described the partnerships that have been cultivated to help fund public art. She commented on how the art in the community assists in telling Hopkins' story and communicate values. She noted how public art supports creative people and businesses, while also encouraging investment in the community. She stated true public art is informed by the community and commented on how art pieces can be on loan for short periods of time to enhance the community.

Parks and Recreation Director Fink discussed the Friends of the Arts program in St. Louis Park.

Discussion included:

- The Commission asked how Hopkins pursued new art. Ms. Elverum explained staff reaches out to businesses with ideas and also requires a piece of public art with new developments.
- Further discussion ensued how The Artery and public art has been funded in St. Louis Park.
- The Commission described how the restaurants in the downtown area in Hopkins assists in drawing people to the community art.
- The Commission discussed how New Brighton would have to create a sense of place prior to pursuing public art.
- The Commission commended Hopkins on their great work to provide public art to the community.

B. Event Tourism Discussion with Director of Parks and Recreation Jennifer Fink

Gozola reported this item would be addressed with Parks and Recreation Director Fink in November.

C. US Bank Redevelopment TIF District 35 Follow-Up Examination

Gozola reported on August 4 the EDC heard initial information regarding a request for TIF assistance to support redevelopment of the former US Bank site at 2299 Palmer Drive. Given information available at that time, both the EDC and staff felt that a TIF support package of \$3.9 million was appropriate for this project. He stated during August and September a preliminary PRD application was reviewed and establishment of TIF 35 was authorized by Council. TIF finalization was scheduled for October 12, 2021. Discussions focused on ways to leverage this project to generate not only support for affordable housing units on this site, but funding to preserve existing affordable housing elsewhere in the City OR to support additional affordable units in future new construction. Achieving that goal would require an amended approach to TIF District #35, and Council would like feedback from the EDC prior to heading down that road. It was noted TIF 35 as currently envisioned by the City Council would offer considerable funding and support for affordable units not only in this building, but also throughout the City over the life of the TIF District.

Michaela Huot, discussed the proposed TIF package for the US Bank redevelopment project. She noted the developer was proposing 132 units with studio, one and two bedroom units. She explained 10% of the units would be affordable. She commented TIF was requested to assist with acquiring, demolishing and redeveloping the site. She provided the EDC with fundamental information regarding TIF and described how TIF dollars were pooled. She reported a pay-as-you-go note over 26 years would be used for this TIF District. It was noted the developer was trying to bring a high end multi-family housing product into the community.

Discussion included:

- The Commission asked why demolition was considered an extraordinary expense. Ms. Huot reported demolition was considered extraordinary compared to greenfield sites.
- A Commissioner expressed concern with the level of TIF being proposed given the fact demolition and underground parking should not be considered extraordinary expenditures.
- Further discussion ensued regarding how 14 units would have to be provided and maintained as affordable units.

Motion by Commissioner Zisla, seconded by Commissioner Murlowski to support the proposed TIF structure for TIF District #35.

Approved 6-0

D. Current Project Updates

Gozola reported this item would be addressed in November.

VII. Adjourn

Motion by Commissioner Benke, seconded by Chair Carter to adjourn the meeting.

6 Ayes, 0 Nays, Motion carried

Meeting adjourned at 8:57 am

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ben Gozola". The signature is fluid and cursive, with the first name "Ben" and last name "Gozola" clearly distinguishable.

Ben Gozola
Assistant Director of Community Assets and Development



Agenda Section: VI
Item: 1
Report Date: 10/27/21
Commission Meeting Date: 11/03/21

REQUEST FOR COMMISISON CONSIDERATION

ITEM DESCRIPTION: Event Tourism Discussion
DEPARTMENT HEAD'S APPROVAL:
CITY MANAGER'S APPROVAL:
No comments to supplement this report ____ Comments attached ____

Recommendations: ▪ Listen to Director of Parks and Recreation, Jennifer Fink, on what she believes are the best opportunities to bring awareness and traffic into the city and move forward with a plan of support.

History: ▪ The EDC has previously discussed interest in New Brighton hosting sporting events/food truck events/ races/ and capitalizing on some of the several parks that we have in our neighborhoods.

Financial Impact: ▪ None

Summary: ▪ Jennifer Fink will talk to commission about the current limitations the city has when it comes to event tourism and suggest specific ways that the commission can support increased traffic and publicity to the city.

Attachments: *Wayfinding Monuments Background Reading*

Ben Gozola, AICP,
Assistant Director of Community Assets and Development



Agenda Section:	VI
Item:	2
Report Date:	10/26/21
Commission Meeting Date:	11/03/21

REQUEST FOR COMMISISON CONSIDERATION

ITEM DESCRIPTION:	Business Outreach Program Updates
DEPARTMENT HEAD'S APPROVAL:	
CITY MANAGER'S APPROVAL:	
No comments to supplement this report	Comments attached

Recommendations: ▪ Listen to Commission and staff updates regarding the Business Outreach Program, ask questions, and provide feedback/direction on next steps.

History: ▪ The EDC has previously provided direction on outreach techniques and suggested creation of a quarterly newsletter.

Financial Impact: ▪ None

Summary: ▪ Staff would like to take an opportunity on to update the commission on our initial outreach efforts, feedback received to date, and share a first draft/template of the quarterly newsletter we intend to publish as part of this program.

Attachments: A) *Draft Newsletter Template*

Ben Gozola, AICP,
Assistant Director of Community Assets and Development



Agenda Section:	VI
Item:	3
Report Date:	10/28/21
Commission Meeting Date:	11/03/21

REQUEST FOR COMMISISON CONSIDERATION

ITEM DESCRIPTION:	Update on the Zoning Code Project
DEPARTMENT HEAD'S APPROVAL:	
CITY MANAGER'S APPROVAL:	
No comments to supplement this report	Comments attached

Recommendations: ▪ Listen to staff updates regarding the Zoning Code rewrite.

History: ▪ The zoning code steering committee has met twice so far this year to review and provide comment on drafts of five chapters of the new zoning code we're hoping to have completed by sometime in 2022.

Financial Impact: ▪ An easy-to-use and accessible zoning code will not have any direct financial impact on the City, but it can and will make the City more attractive to new residents and developers who are comparing communities in which to locate. Updating regulations to be legally sound and defensible also helps to protect the City from unnecessary lawsuits in the future.

Summary: ▪ Staff would like to take an opportunity to update the commission on our progress on the zoning code update and relay what this means for businesses in New Brighton.

Attachments: A) *Memo to the Zoning Code Steering Committee (edited for the EDC)*

B) *Present day draft of Chapters 1, 2, 6, 7, and 8*

Ben Gozola, AICP,
Assistant Director of Community Assets and Development



WAYFINDING SIGNAGE PLAN

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Section 1: Introduction

Definition

Wayfinding refers to the information systems that guide people through a physical environment by providing visual information for navigation. Signage is one example that provides the information necessary to direct users to specific destinations.

Purpose

The purpose of the wayfinding signage plan is to establish a set of comprehensive guidelines for the design and implementation of public wayfinding signs. The signs are meant to improve circulation within the community by guiding residents and visitors alike to specific destinations in and around the City of Sandstone. The signs are set up in a hierarchical system with design characteristics reflective of the community to enhance the sense of place. By using a consistent design theme, the overall effect is meant to provide a specific identity associated with the City of Sandstone. The City of Sandstone chose to use materials reflective of the native Sandstone rock that was mined from the quarry, metal that is reflective of the quarry operational equipment, and a curvy design reflective of the Kettle River.

The wayfinding system established for the City of Sandstone includes the following signs;

- Gateway / Entrance Signs
- Monument / Business Park Signs
- Directional Signs
- Kiosks

This document provides general guidelines and the City code requirements associated with each type of wayfinding sign listed above. The guidelines and design recommendations are meant to provide a starting point in the overall design process for the signs and the final design may be slightly altered, as long as the overall design in the sign program remains consistent and the codes are adhered to. As an example, specific design materials or colors should carry through to all of the designs in some manner to allow for a consistent theme. If the signs vary too much, the design may actually detract from the overall City of Sandstone characteristic and it will have a negative impact on the users.

Section 2: Gateway / Entrance Signs

Sign Description and Map

Gateway / entrance signs are meant to provide a noticeable and welcoming sense of arrival to the City of Sandstone at the entrance points to the City. These may also be used in specific areas where they make the most sense, which may not align with actual City borders. Monument signs should be lit.

The following is a map indicating some potential areas for the location of monument signs. The design and installation shall follow applicable City, County and/or State codes and permit requirements.

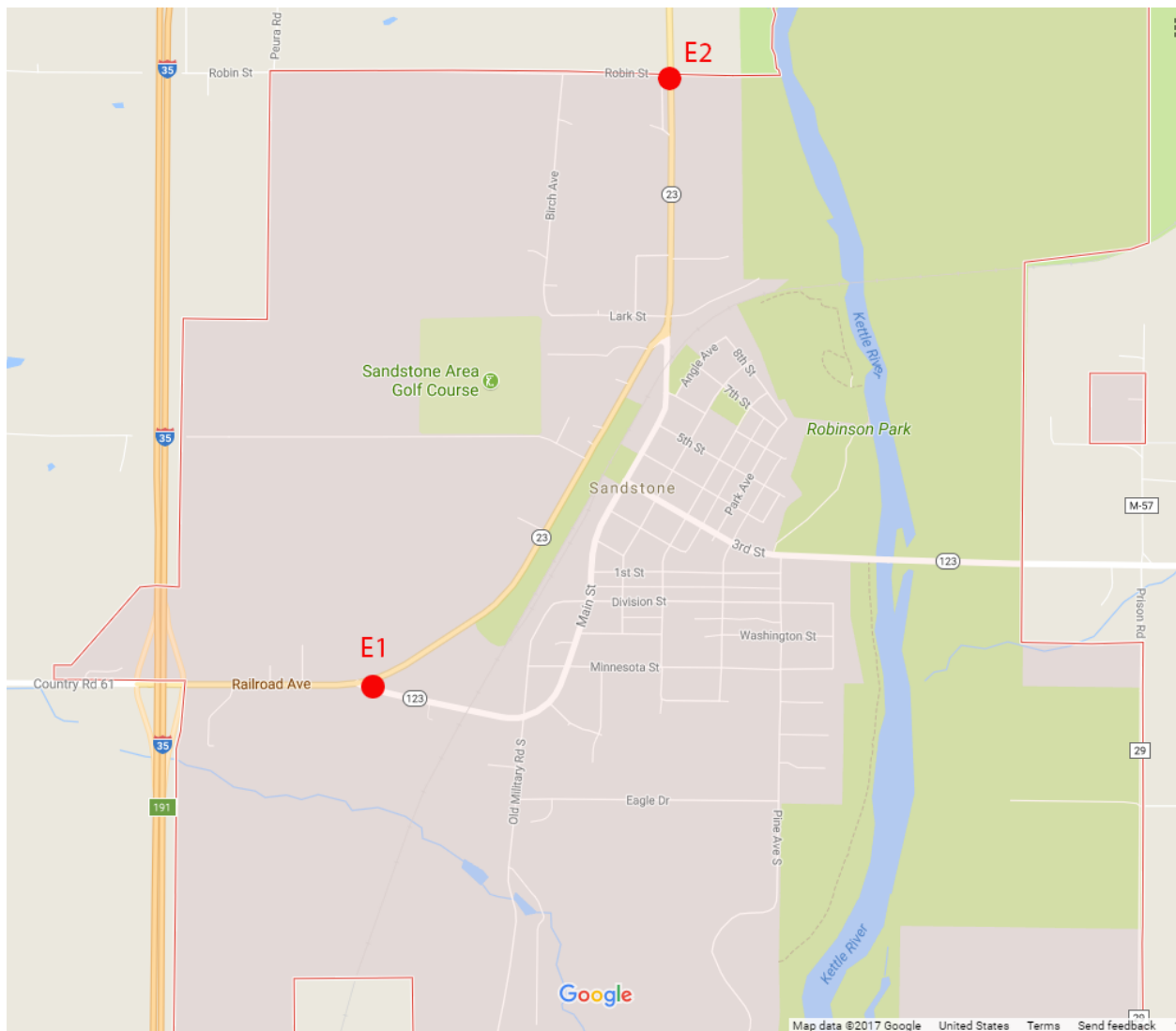


Figure 1: Gateway Sign Location Map

Gateway / Entrance Sign Design Guidelines

Gateway signs are to be constructed of natural stone similar in color and texture to the native sandstone and metal that is either cor-ten weathered metal or a metal colored to resemble the weathered metal. The signs should be approximately 5 to 7 feet in height and 9 to 11 feet in width, though actual measurements should correspond to the space available for proper viewing and any specific requirements that may dictate final sizes by the City, County and State. The lettering can be either etched into the actual sign or they can be raised letters attached to the sign.

As the map illustrates, the E1 gateway / entrance monument is shown at the intersection of 23 and 123 along the land adjacent to Casey's where an existing monument sign currently exists, as this is the primary entrance inviting visitors entering from Interstate 35 into the downtown business district. This monument would be the largest of the three monuments. The E2 monument is located on the north side of Sandstone at the border. The E2 monument would likely be smaller in scale due to the limited space in this location.



Figure 2: Gateway / Entrance Sign Graphic

Section 3: Monument Signs

Sign Description and Map

Monument signs are meant to provide a noticeable identification of a specific destination that would merit the need for a larger monument sign. These would generally include business and industrial park signs, as well as the main monument entrance signs to Robinson Park. Monument signs are recommended to be lit due to the importance of the identification, though not required.

The following is a map indicating some potential areas for the location of future monument signs specifically for Robinson Park and the location of a recently added business park monument sign. There are various monument signs that currently exist and other future locations would be determined by the City. The design and installation shall follow applicable City, County and/or State codes and permit requirements.

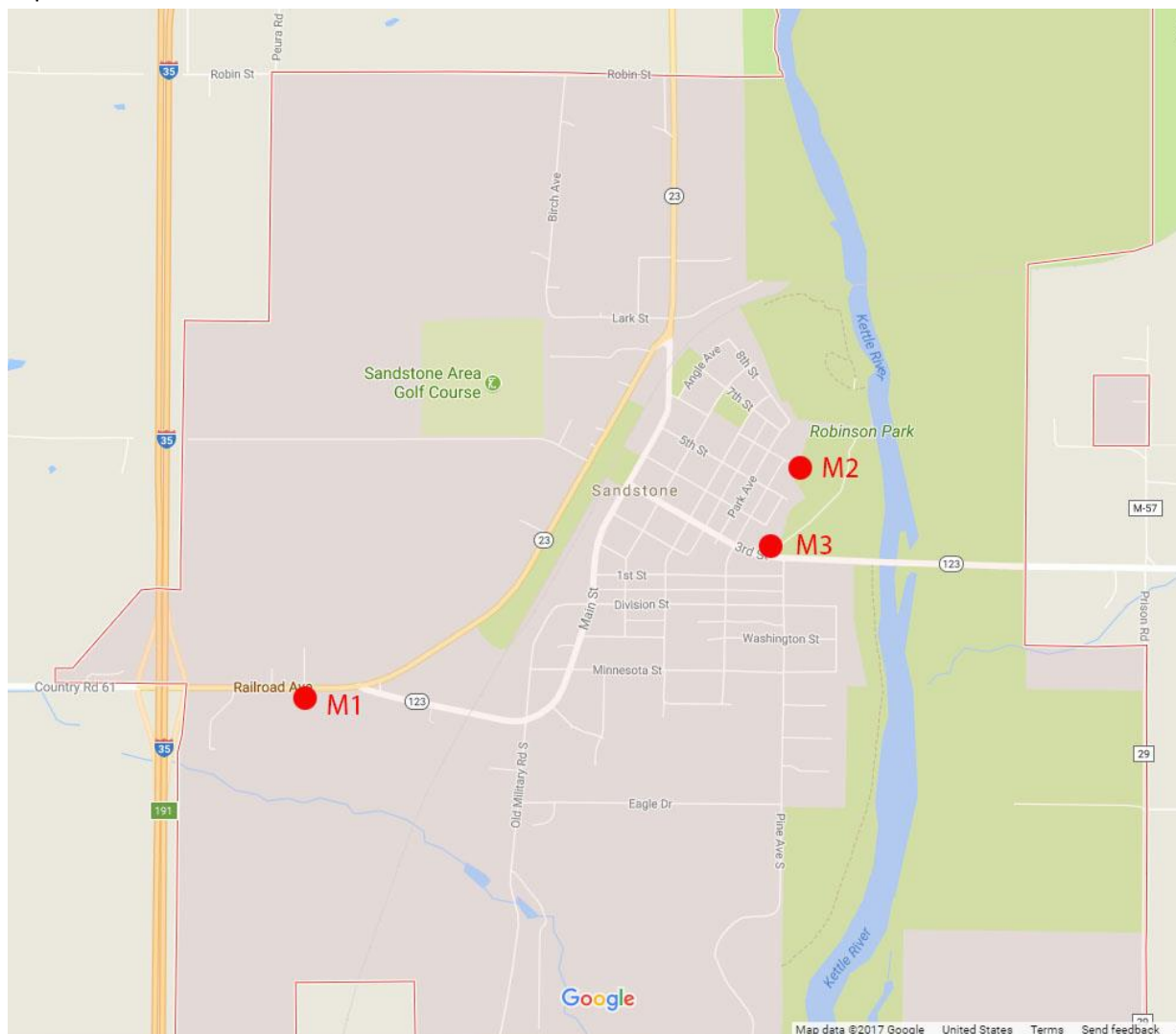


Figure 3: Monument Sign Location Map

Monument Sign Design Guidelines

Monument signs for businesses are to be constructed of natural stone similar in color and texture to the native limestone and metal accent pieces that are either corten weathered metal or a metal colored to resemble the weathered metal with dusted steel as a backing for the sign information. The sign is shown to include an aluminum header with LED lights shining down beneath it. Large business signs can range in size from approximately 11 feet in height and width with an approximate 12 inch thickness, though the width may vary depending on the amount of business names needed on the sign face. Smaller business signs can follow the same design but would decrease in width prior to adjusting the height. Actual measurements should correspond to the space available for proper viewing and any specific requirements that may dictate final sizes by the City, County and State. The header lettering should be raised letters attached to the sign and the business listings can be either etched into the individual sign panel or they can be raised letters attached to the sign panel.

The new business park monument sign is located at the new Sandstone Medical and Business Park located along Highway 23/Railroad Avenue south of the intersection of Lundorff Drive.

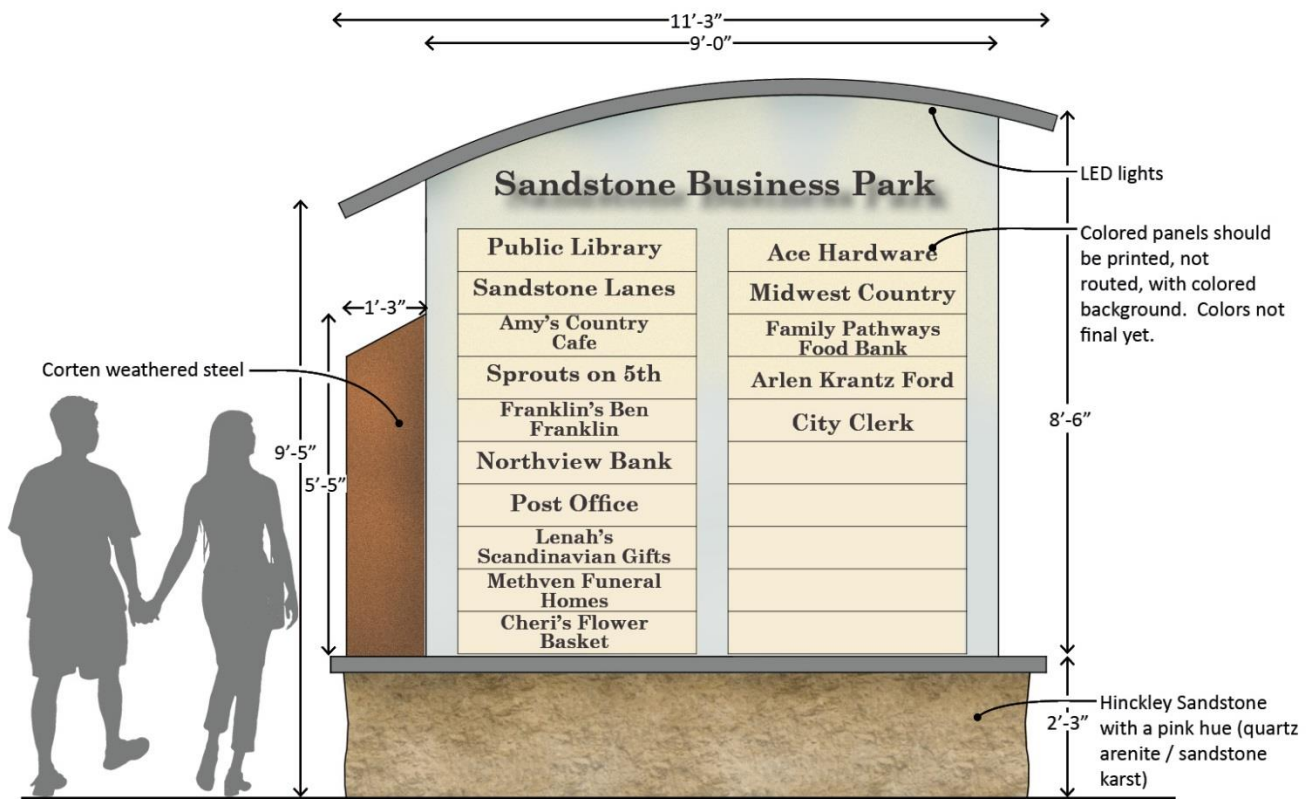


Figure 4: Large Monument Sign Graphic

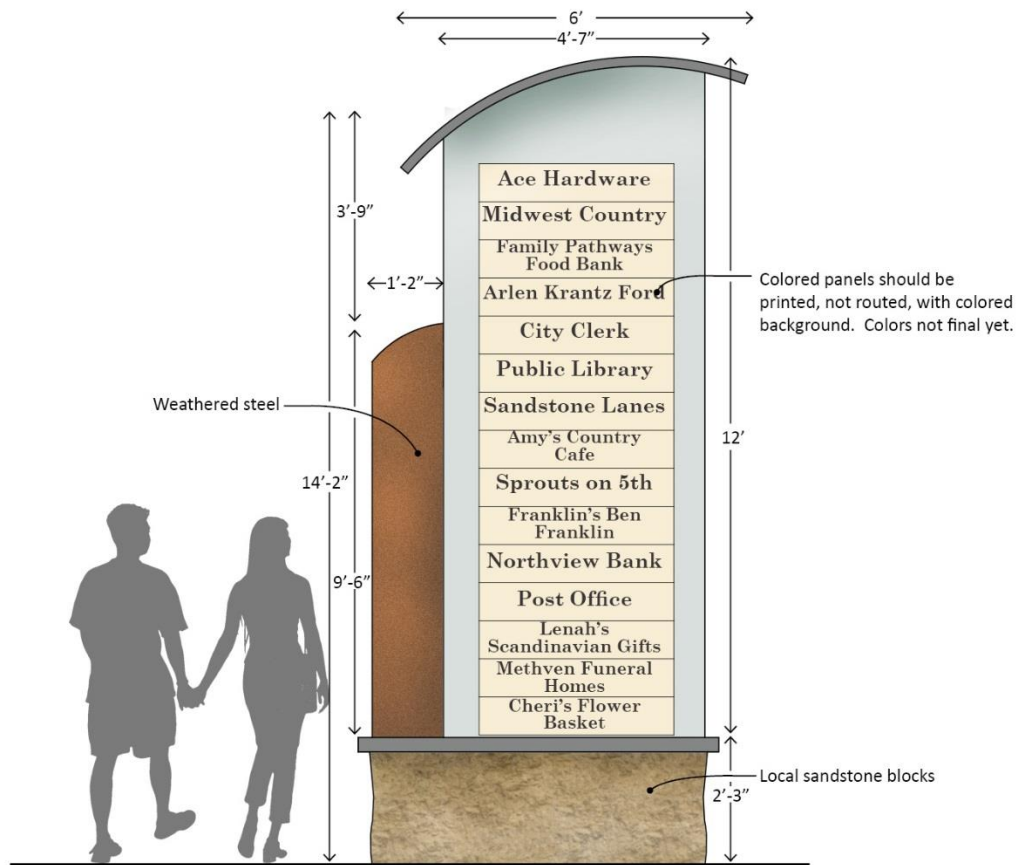


Figure 5: Small Monument Sign Graphic

The two Robinson Park monument signs would be located at the entrance points to the park. The largest of the two would be located at the main entrance to lower Robinson at Old Wagon Road and Highway 123. The main park sign face would be routed stone attached to salvaged quarry rubble along both sides. A taller post with cables extending from it and attached to the sign and salvaged rubble would be placed off to one side to reflect the cable wires used in the quarry operations.

A smaller monument sign would be located at the main entrance to upper Robinson at the end of 6th Street where it enters the water tower location. A stand-alone etched stone sign would be sufficient at this location as the vehicular traffic in this area is going much slower than along the highway.

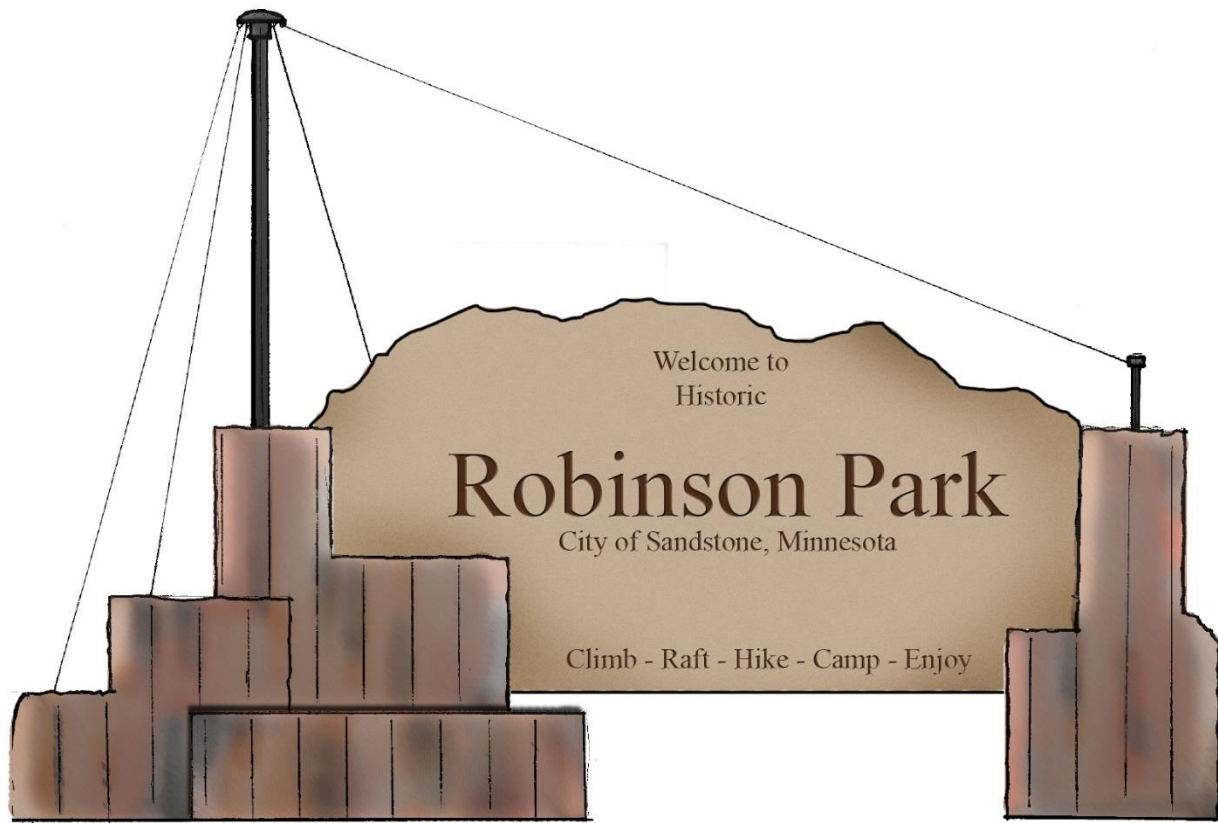


Figure 6: Large Park Monument Sign Graphic

Section 4: Directional Signs

Sign Description and Map

Directional signs are meant to provide vehicular traffic, bicyclists and pedestrians advance notice of a destination and direction to take in a clear and readable format. Therefore, directional signage is developed according to the needs of each in terms of size and height requirements. Arrows or even measurements can be added to directional signs. Directional signs are one-sided and the background color is determined by the State of Minnesota Manual of Uniform Traffic Control Devices (MMUTCD).

The following is a map indicating some potential areas for the location of higher priority directional signs related to specific points of interest in Sandstone. Additional signs and locations can be determined by the City of Sandstone and all final locations should adhere to the MMUTCD in terms of spacing with other signs. The design and installation shall also follow applicable City, County and/or State codes and permit requirements.

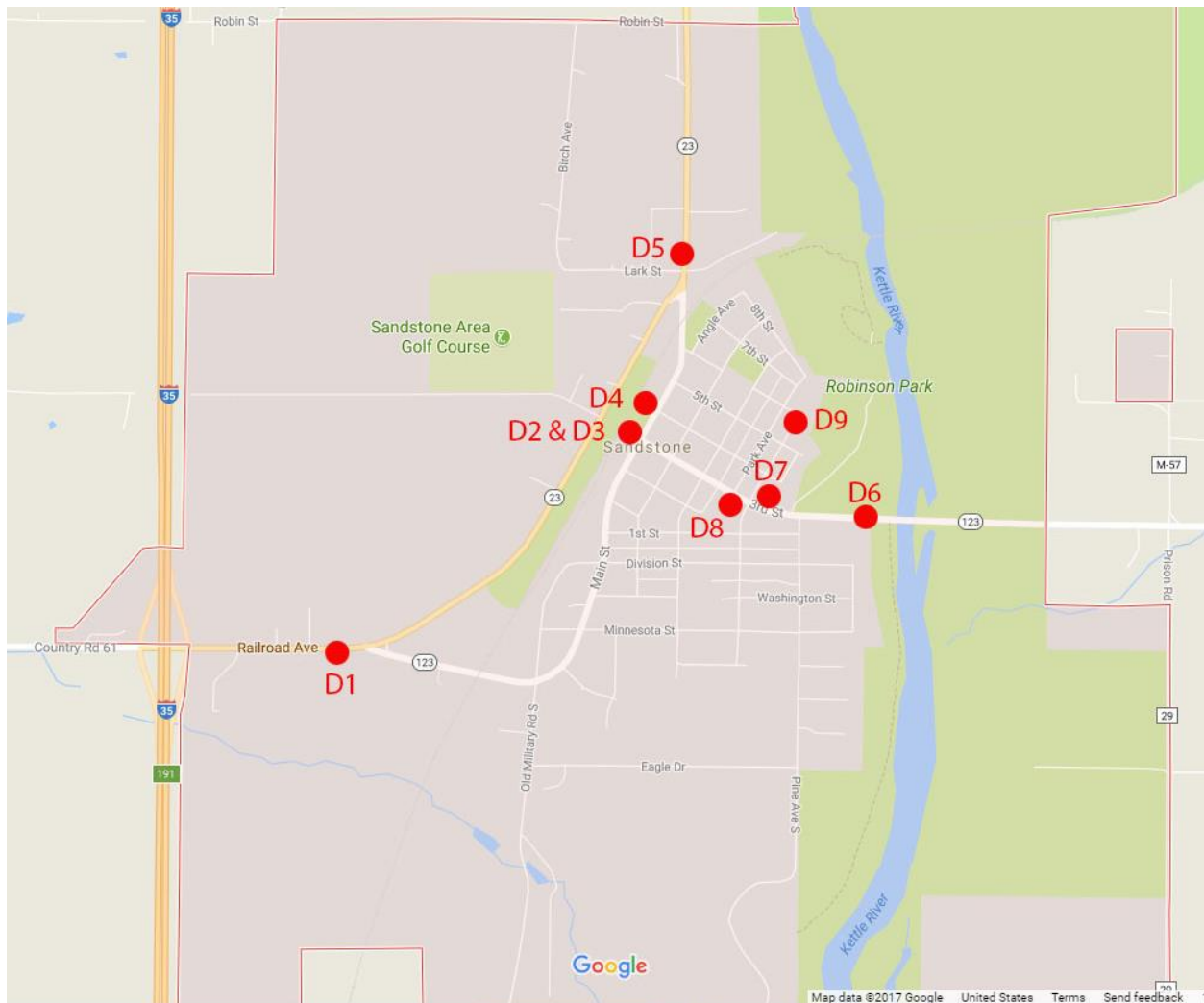


Figure 7: Directional Sign Location Map

Directional Design Guidelines

The directional signs are broken down into different types depending on the use, as described below.

Directional Sign - Type A

The proposed vehicular directional/destination sign is a single-sided sign that is intended to direct vehicular traffic. The size measures approximately 48 inches in width though height sizes will vary based on content and directions. Text height for upper case letters are 6 inches and lower case letters are 4-1/2 inches in height. Sign panels are made of sheet aluminum with required reflective material. Smaller signs and signs located within the downtown business district are recommended to be attached to a 3" diameter ornamental post with a breakaway connection at grade but the majority of the signs will need to be installed with two or more U-channel posts. If allowed, a header plate on the top of the directional sign would tie the sign better into the overall wayfinding signage program.

Signs must have a 9 foot clearance to the ground plane. In areas where the speed limit is below 40 mph, the signs should be offset 2 feet from the back of curb and in areas over 40 mph they should be offset 6 feet from the back of curb or edge of the traveled roadway.

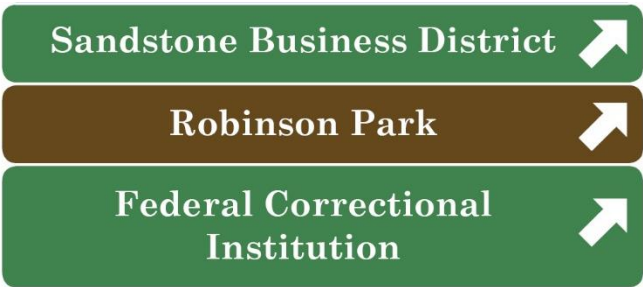
The following is a general graphic illustrating the directional sign design.



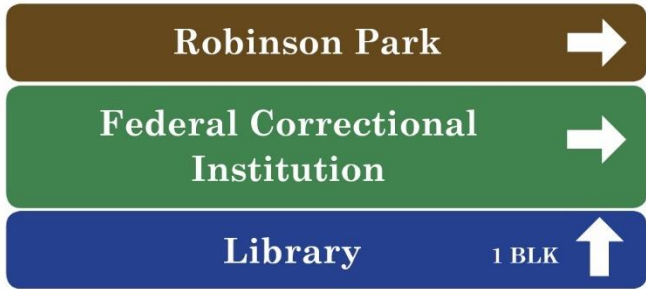
Figure 8: Directional Sign Type A Graphic

Specific directional signs are described below, refer to Figure 7 for locations.

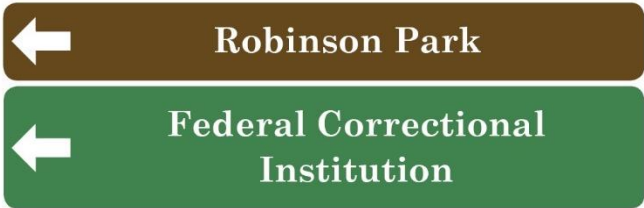
D1: Eastbound direction on Hwy 123 prior to 23/123 split



D2: Eastbound direction on North side of Main Street at 3rd Street/Hwy 123 intersection

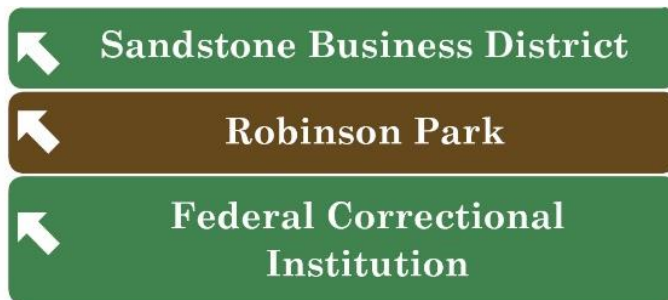


D3: Westbound direction on North side of Main Street at 3rd Street/Hwy 123 intersection



D4: Eastbound direction on Main Street at 4th Street intersection

(Note: an additional duplicate sign with opposite arrows can be placed on the westbound direction at this location if desired)

*D5: Southbound direction on Hwy 23 just after Lark Street intersection**D6: Westbound direction on Hwy 123 just after crossing the Kettle River Bridge**D7: Westbound direction on Hwy 123 just after Grant Avenue intersection**D8: Eastbound direction on Hwy 123 at Park Avenue intersection**D9: Northbound direction on Park Avenue at 6th Street intersection*

Directional Sign – Type B

The proposed vehicular directional/destination sign type B is a single-sided sign that is intended to direct vehicular and pedestrian traffic as well as to identify street names. The size measures approximately 30 inches width and height sizes will vary based on content and directions. Text height for upper case letters are 6 inches and lower case letters are 4-1/2 inches in height. Sign panels are made of sheet aluminum with required reflective material and are recommended to be attached to a 3" diameter ornamental post with a breakaway connection at grade. If allowed, a header plate on the top of the directional sign would tie the sign better into the overall wayfinding signage program.

Signs must have the proper clearance to the ground plane. In areas where the speed limit is below 40 mph, the signs should be offset 2 feet from the back of curb and in areas over 40 mph they should be offset 6 feet from the back of curb or edge of the traveled roadway.



Figure 9: Directional Sign Type B Graphic

Section 4: Kiosks

Sign Description

A kiosk is meant to provide guidance and information to pedestrians. The information can include information related to community events, maps, points of interest and even historical or cultural elements. The prime location for kiosks are along major pedestrian routes, such as trail systems at a stopping point or trailhead, within a park location and in plaza spaces in the downtown business district.

Kiosk Sign Design Guidelines

Kiosks can take on many design shapes. For the purpose of this plan only one design graphic is shown, but alternative designs can be created utilizing the same overall characteristics and materials to remain consistent with the overall design theme. Some kiosks are small stand-alone signs as shown in the graphic below, some are double-sided to contain maps on one side and community event space on the opposite side, and some are constructed of numerous panels that may reach over 6 feet in height to provide a strong visual focal point and artistic piece to the landscape that tell a story.

Locations for kiosks should be planned strategically in locations where they can easily be viewed by pedestrians and should have proper circulation around them for viewing.



Figure 10: Kiosk Sign Graphic

Section 5: City Sign Code

City Code Requirements

The following are portions of the City of Sandstone code requirements related to signs in this document. Refer to the City of Sandstone website for access to the full code requirements.

415.01. Purpose, scope and message substitution. The purpose and intent of this section is to maintain, enhance and improve the aesthetic environment of the city by preventing visual clutter that is harmful to the appearance of the community; improve the visual appearance of the city while providing for effective means of communication, consistent with constitutional guarantees and the city's goals of public safety and aesthetics; and to provide for the safety of the traveling public by limiting distractions, hazards and obstructions. This will be accomplished by regulation of the display, erection, use, and maintenance of signs. The use of signs is regulated according to land use zoning districts as defined in the zoning code. The placement and scale of signs are regulated primarily by type and length of street frontage, though lot size, investment, and surrounding conditions must also be considered. A sign is not permitted as a main or accessory use except in accordance with the provisions of this section. This section is not intended to, and does not restrict speech on the basis of its content, viewpoint or message. No part of this section shall be constructed to favor commercial speech over non-commercial speech. To the extent that any provision of this section is ambiguous, the provision shall be interpreted not to regulate on the basis of speech content and the interpretation resulting in the least restriction on the content of the sign's message shall prevail. (Amended, Ord. 2007-08)

Subd. 2. Scope. This section does not relate to building design. **This section does not regulate official traffic or government signs;** the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; gravestones; barber poles; commemorative plaques; the display of street numbers; or any display or construction not defined herein as a sign. **Thus, the primary intent of this section is to regulate signs intended to be viewed from any vehicular or pedestrian public right-of-way.** (Amended, Ord. 2007-08)

Subd. 44. Sign. Any letter, word or symbol, poster, picture, statuary, reading matter or representation in the nature of announcement, message, or visual communication, whether painted, posted, printed, affixed or constructed, which is displayed outdoors for informational or communicative purposes. (Amended, Ord. 2007-08)

Subd. 45. Sign, area of: (Amended, Ord. 2007-08)

- a) Projecting and freestanding. The area of a freestanding or projecting sign may have only one side of any double- or multiple-faced sign counted in calculating its area. The area of the sign is to be measured as follows if the sign is composed of one or more individual cabinets.

- 1) A rectilinear line of not more than eight sides is to be drawn around and enclosing the perimeter of each cabinet or module. The area will then be summed and totaled to determine total area. The perimeter of measurable area may not include embellishments such as pole covers, framing, decorative roofing, support structures, etc., provided that there is no written copy on such embellishments. (Amended, Ord. 2007-08)
- b) Wall sign. The area must be within a single, continuous perimeter composed of any rectilinear line geometric figure which encloses the extreme limits of the message. If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, the total sign area is to be calculated by measuring the area within the perimeter of each symbol or letter. The combined areas of the individual fixtures will be considered the total sign area. (Amended, Ord. 2007-08)

415.05. General provisions. Subdivision 1. General rule. It is unlawful for any person to erect, place, or maintain a sign in the city except in accordance with the provisions of this section.

Subd. 3. Permits required. Unless otherwise provided by this section, all signs require permits and payment of fees as described in subsection 415.13. A permit is not required for the maintenance of a sign or for a change of copy on painted, printed, or changeable copy signs.

Subd. 4. Signs not requiring permits. The following types of signs are exempt from permit requirements but must be in conformance with all other requirements of this section:

- d) Government signs. (Amended, Ord. 2007-08)

Subd. 5. Lighting. Unless otherwise prohibited by this section, all signs may be illuminated. (Amended, Ord, 2007-08)

Subd. 6. Sign contractor's license. It is unlawful to engage in the business of erecting, altering, relocating, constructing, or maintaining a sign that requires a permit pursuant to this section without a valid contractor's license and all required state and federal licenses. (Amended, Ord. 2007-08)

Subd. 7. Indemnification and insurance. Persons involved in the business of maintenance, installation, alteration, or relocation of signs near or upon any public right-of-way of property must agree to hold harmless and indemnify the city, its officers, agents, and employees, against any and all claims of negligence resulting from such work insofar as this section has not specifically directed the placement of a sign. Persons involved in the business of maintenance, installation, alteration, or relocation of signs shall maintain all required insurance and shall file with the state a satisfactory certificate of insurance to indemnify the state, county, or city against any form of liability. (Amended, Ord. 2007-08)

415.07. Regulation by zone. Subdivision 1. Signs permitted in all zoning districts. The following signs are allowed in all zoning districts: (Amended, Ord. 2007-08)

- a) All signs not requiring permits.

Subd. 2. Signs permitted in residential districts. Signs are allowed as follows in residential districts: (Amended, Ord. 2007-08)

- a) All signs as permitted in subdivision 1.
- b) One subdivision identification sign per street frontage, neighborhood, subdivision, or development, not to exceed 48 square feet in sign area in each location.
- c) One identification sign per entrance to apartment or condominium complex, not to exceed 36 square feet in sign area in each location. (Amended, Ord. 2007-08)
- d) For permitted nonresidential uses, including churches and synagogues, one freestanding sign, not to exceed 48 square feet in sign area, and one wall sign not to exceed 48 square feet in sign area.

Special regulations for residential districts are as follows: (Amended, Ord. 2007-08)

- e) An off-site direction sign may be located on a governmental sign. The sign must be nonilluminated and single faced with colors and lettering in conformity with the color and letter of the government sign. The government sign must occupy at least 50% of the sign space. An off-site directional sign located on a governmental sign must be approved annually by the city council. Other special regulations may be developed by the administrator and approved by the council. (Added, Ord. No. 2005-03; Amended, Ord. 2007-08)
- f) All allowed freestanding signs shall have a maximum height limit of six feet and shall have a setback of 15 feet from any public right-of-way.

Subd. 3. Signs permitted in the central business district. Signs are allowed as follows in the central business district: (Amended, Ord. 2007-08)

- a) All signs as permitted in subdivision 1. (Amended, Ord. 2007-08)
- b) One freestanding sign, or low profile sign per building having street frontage not to exceed one square foot in sign area for each lineal foot of total building street frontage. Such signs may not exceed a height of 25 feet and must be set back at least ten feet from property lines or in line with existing structures. (Amended, Ord. 2007-08)
- c) One wall sign or electric awning sign with sign area not to exceed 15% of aggregate area of building elevation on which the sign is installed. (Amended, Ord. 2007-08)

- d) One under-canopy sign for each separate occupancy or separate entrance not to exceed eight square feet in sign area. Under-canopy signs must have a minimum clearance of eight feet to grade.
- e) Incidental signs not to exceed four square feet of sign area per occupancy.
- f) One directional/information sign of no more than nine square feet of sign area. (Amended, Ord. 2007-08)
- g) Where an occupancy is on a corner lot, a minimum clear view zone is to be maintained in a triangulated area at the point of intersection to allow an unobstructed view of oncoming traffic.
- h) Freestanding signs shall maintain a minimum clearance of ten feet over any pedestrian use and 14 feet over any vehicular way.

Subd. 4. Signs permitted in business and industrial districts. Signs are allowed as follows in business and industrial districts: (Amended, Ord. 2007-08)

- a) All signs as permitted in subdivision 1. (Amended, Ord. 2007-08)
- b) One freestanding sign per building having street frontage not to exceed three square feet of sign area for each lineal foot of total building street frontage. Signs must not project beyond property lines nor exceed a height of 25 feet. Where street frontage exceeds 300 lineal feet, only one additional freestanding sign may be allowed per 300 foot increment. (Amended, Ord. 2007-08)
- c) One wall sign or electric awning sign. The sign area of a wall sign shall not exceed 30% of the aggregate square footage of the wall area upon which it is installed. An electric awning sign shall not exceed 30% of the aggregate square footage of the wall area upon which it is installed. (Amended, Ord. 2007-08)
- d) Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of ten feet over pedestrian areas, and 14 feet over vehicular ways.
- e) Roof signs may be allowed but only in instances where no other sign types can provide effective identification. Roof signs shall be constructed so as to conceal all structure and fastenings. The height of the roof sign shall not exceed 20% of the total height of the building to which it is attached. (Amended, Ord. 2007-08)
- f) One under-canopy sign for each separate occupancy or separate entrance not to exceed eight square feet in sign area. Under-canopy signs must have a minimum clearance of eight feet to grade.

- g) Incidental signs not to exceed four square feet in aggregate area per occupancy.
- h) One directional/information sign of no more than 12 square feet of sign area. (Amended, Ord. 2007-08, Ord. No. 2012-07)

Subd. 5. Signs permitted in the highway business district. Signs are allowed as follows in highway business district: (Amended, Ord. 2007-08)

- a) All signs as permitted in subsections 1 and 4. (Amended, Ord. 2007-08)
- b) All freestanding signs within 300 feet of a controlled freeway including entrances and exists may be installed to a maximum height of 35 or 25 feet above freeway grade, whichever is less. A conditional use permit is required. Such signs must be on-premise signs and be freestanding only. Where conditions warrant (such as visual impairment or other unusual conditions), maximum height may be increased with planning commission and city council approval. (Amended, Ord. 2007-08)
- c) The total amount of sign area permitted on a property shall be limited to one square foot of sign area for each linear foot of property right-of-way frontage, with a maximum of 120 square feet. (Amended, Ord. 2007-08)
- d) A sign may not be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/information signs.

Subd. 6. Signs permitted in the special industrial district. Signs are allowed as follows in the special industrial district: (Added, Ord. 2007-08)

- a) All signs as permitted in subsections 1 and 4. (Added, Ord. 2007-08)
- b) Billboards are permitted subject to the following requirements: (Added, Ord. 2007-08)
 - 1) The total amount of billboard sign area permitted on a property shall be limited to one square foot of sign area for each linear foot of property right-of-way frontage, with a maximum of 300 square feet. (Added, Ord. 2007-08)
 - 2) Each billboard structure shall consist of no more than two sign faces. (Added, Ord. 2007-08)
 - 3) The billboard's height shall not exceed 35 feet; however, where conditions warrant (such as visual impairment or other usual conditions), maximum height may be increased with a planning commission and city council approval. (Added, Ord. 2007-08)
 - 4) The billboard must be located at least 500 feet from all other billboards. (Added, Ord. 2007-08)

- 5) The billboard must be located no closer than 300 feet from any property that is in a residential district. (Added, Ord. 2007-08)
- 6) There shall be no more than one type of message per sign face. Side by side panels are prohibited. (Added, Ord. 2007-08)
- 7) Design standards established by the planning commission shall be followed. (Added, Ord. 2007-08)
- 8) A conditional use permit is required. (Added, Ord. 2007-08)
- c) All freestanding signs within 1,000 feet of a controlled freeway including entrances and exists may be installed to a maximum height of 75 feet or 25 feet above freeway grade, whichever is less. Such signs must be on-premise signs and must be freestanding only. Where conditions warrant (such as visual impairment or other unusual conditions), maximum height may be increased with planning commission and city council approval. (Added, Ord. 2007-08)
- d) The total amount of sign area permitted on a property (including any billboards) shall be limited to one square foot of sign area for each linear foot of property right-of-way frontage, with a maximum of 300 square feet. (Added, Ord. 2007-08)
- e) A sign may not be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/informational signs. (Added, Ord. 2007-08)

415.11. Construction, location and design specifications. (Amended, Ord. 2007-08)

Subd. 1. General requirements. All signs shall conform to the requirements of this section whether or not a sign permit is required. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial. All signs shall be properly secured, supported and braced and shall be kept in good repair so that public safety and traffic safety are not compromised. (Added, Ord. 2007-08)

Subd. 2. Maintenance. Exposed surfaces on the sign shall be kept clean and painted if paint is required. Defective parts shall be replaced. The area on the property around the sign on which it is erected shall be properly maintained and clear of brush, long grass, weeds, debris, rubbish and other obstacles. All burned-out light bulbs or damaged panels on a sign shall be immediately replaced. (Added, Ord. 2007-08)

Subd. 3. Sign copy. All sign copy shall be fastened securely to the sign face and maintained on a regular basis. Any missing sign copy shall be replaced immediately. Any sign copy that is outdated must be removed within 30 days of becoming outdated. Misspelled words and incorrect usage of words may be allowed on the sign copy if the owner can show a reason for

varying from the norm and it is approved by the planning commission and city council. (Added, Ord. 2007-08)

Subd. 4. Location. No sign shall be located as to obscure any existing sign. No sign shall be attached to or placed upon any building in such a manner as to obstruct any window or door or fire escape or be attached to any fire escape. The minimum clearance of any sign from unprotected electrical conductors shall not be less than 36 inches for conductors carrying not over 600 volts and 48 inches for conductors carrying more than 600 volts. (Added, Ord. 2007-08)

Subd. 5. Interference with traffic. A sign shall not be located within 50 feet of any street, traffic sign or signal, intersection, driveway or crosswalk. A sign may be located closer than 50 feet if it can be shown that the sign will not interfere with the ability of drivers and pedestrians to see the traffic sign or signal, intersection, driveway or crosswalk and the sign will not distract drivers nor cause any interference with such traffic sign or signal. (Added, Ord. 2007-08)

Subd. 6. Illuminated signs. Illuminated signs shall be subject to the electrical requirements of the State Electrical Code. (Added, Ord. 2007-08)

Subd. 7. Banners. Banners shall be strongly constructed and be securely attached to their supports. They shall be repaired or removed as soon as they are damaged or torn. (Added, Ord. 2007-08)

415.13. Administration and enforcement. Subdivision 1. Code administrator. The administrator is appointed by the city council and is authorized to process applications for permits and variances, hold public hearings as required, and enforce and carry out all provisions of this code. The administrator may promulgate regulations and procedures consistent with this function. The administrator may, upon presentation of proper credentials, to enter or inspect any building, structure, or premises in the city for the purpose of inspection of a sign and its structural and electrical connections to ensure compliance with all applicable codes and ordinances. Such inspections must be carried out during business hours unless an emergency exists.

Subd. 2. Application for permits. Application for a permit for the erection or relocation of a sign is made to the administrator upon a form provided by the administrator and must include the following information:

- a) Name and address of the owner of the sign.
- b) Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.
- c) The type of sign or sign structure as defined in this section.

- d) A site plan with measurements showing the proposed location of the sign along with the locations of all existing signs on the same premises.
- e) Specifications and drawings showing the materials, design, dimensions, structural supports, and electrical components of the proposed sign.
- f) The written consent of the owner of the property, if the applicant is not the property owner. (Added, Ord. 2007-08)
- g) The name of the person erecting the sign, if not the applicant. (Added, Ord. 2007-08)
- h) A statement as to whether any electronic lights on the sign will be flashing or not. (Added, Ord. 2007-08)
- i) A statement as to whether the sign will be single-faced, double-faced, or multi-faced. (Added, Ord. 2007-08)

Subd. 3. Permit fees. Applications for permits filed with the administrator must be accompanied by a payment of the initial permit fee for each sign as required by the city council.

Subd. 4. Issuance and denial. The administrator will issue a permit and permit sticker or tag for the erection, structural alteration, or relocation of a sign within five days of receipt of a valid application, provided that the sign complies with all applicable laws and regulations of the city. The permit shall be valid for a period of one year (or unlimited duration). In all applications, where a matter of interpretation arises, the more specific definition or higher standard shall prevail. When a permit is denied, the administrator must within five days, give a written notice to the applicant along with a brief statement of the reasons for denial, citing code sections and interpretation of possible nonconformity. The administrator may suspend or revoke an issued permit for any false statement or misrepresentation of fact in the application. (Amended, Ord. 2007-08)

Subd. 5. Permit conditions, refunds, and penalties. If a permit is denied, the permit fee will be refunded to the applicant. If no inspections have been made and no work authorized by the permit has been performed, the permit fee, except for \$15.00, may be refunded to the applicant upon request, provided that the permit and permit sticker or tag are returned to the administrator within ten days of issuance. If any sign is installed or placed on any property prior to receipt of a permit, the specified permit fee shall be doubled. However, payment of the doubled fee shall not relieve any person of any other requirements or penalties prescribed in this section.

Subd. 6. Inspection upon completion. A person installing, structurally altering, or relocating a sign for which a permit has been issued must notify the administrator upon completion of the work. The administrator may require a final inspection, including an electrical inspection and

inspection of footings on free-standing signs. The administrator may require at the time of issuance of a permit that written notification for an inspection be submitted prior to the installation of certain signs.

Subd. 7. Variances. When requesting a permit, the applicant may apply to the administrator for a variance from the requirements of this code. A variance may be granted by the council where the literal application of the code would create a practical difficulties for the sign user and all of the following criteria are met: (Amended, Ord. 2011-09)

- a) The applicant proposes to use the property in a reasonable manner not permitted by this code.
- b) The variance does not alter the essential character of the neighborhood.
- c) Unique circumstances apply to the property which do not apply to other properties in the same zone or vicinity and result from lot size or shape, topography or other circumstances over which the owner of the property has had no control. The unique circumstances do not result from the actions of the applicant.
- d) The granting of the variance is in harmony with the general purposes and intent of this code.
- e) The variance is consistent with the comprehensive plan.
- f) Economic conditions alone do not constitute practical difficulties.

In granting a variance, the council may attach additional conditions necessary to carry out the spirit and purpose of this section in the public interest. The conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

415.15. Conflict, severability, and effective date. Subdivision 1. Severability and conflict. This section and its parts are declared to be severable. If any section, subsection, clause, sentence, word, provision, or portion of this section is declared to be invalid or unconstitutional by a court of competent jurisdiction, that declaration shall not affect the validity of this section as a whole. All parts of this section not declared invalid or unconstitutional shall remain in full force and effect as if such portion so declared or adjudged unconstitutional or invalid was not originally part of this section, even if the surviving parts of this section result in greater restrictions after any unconstitutional or invalid provisions are stricken. The city council declares that it would have enacted the remaining parts of this section even if it had known that such portion thereof would be declared or adjudged unconstitutional or invalid. If any part of this section is found to be in conflict with any other code provision or with any part of this section, the most restrictive or highest standard shall prevail. If any part of this section is explicitly prohibited by federal or state statutes, that part shall not be enforced. (Amended, Ord. 2007-08).

New Brighton Business Outreach Newsletter

November 2021, Newsletter Issue: 1



Business Spotlight: Wilson Wolf



(2100 Old Hwy 8 NW, New Brighton)

Every quarter the city would like to highlight a different business in our community. If you're interested in highlighting your business in our newsletter please contact [Jill Cady](#) with a picture and short blurb about your company. This quarter we're spotlighting Wilson Wolf a medical device manufacturer located off Old HWY 8.

Wilson Wolf creates hope for cancer patients, one device at a time. They accomplish this by way of simplifying T-cell therapy through our G-Rex platform. Current Focus: One: To provide the field of immunotherapy with the best technology for cell production. Their G-Rex® product line is quickly being adopted by the field as the gold standard. Two: To provide those performing routine cell culture with a far superior alternative to traditional culture ware such as plates, flasks, and bags.

What's New in New Brighton?

Reimagining Silver Lake Road

The Silver Lake Road Mixed Use Planning Project is looking at the future of three key areas along the roadway in New Brighton.

The purpose of this project is to have the community provide guidance for the future zoning standards for the mixed use areas along Silver Lake Road. [Visit the project website](#) to register for email updates, participate in surveys and leave your comments on the interactive map!

[Click Here](#) to take a survey on how you want these neighborhoods to look like in the future and give us your feedback



Upcoming Meetings

November 9th, 2021

City Council Meeting
6:30 PM (in-person)

November 16th, 2021

Planning Commission Meeting
6:30 PM (in-person)

December 1st, 2021

Economic Development
Committee Meeting 7:30 AM
(In-person)



Old Highway 8 Reconstruction Update

Construction of Old Highway 8 is well underway. Phase one of the project, 7th to 10th street, was completed this August and phase two is due to be completed on November 8th.

New Housing Development

North Shore Development Partners LLC and Kaas Wilson Architects are excited to present New Brighton with its first, Class A, market rate apartment building at 2299 Palmer Drive. The proposal on the former, now vacant, U.S. Bank site located in the northeast quadrant of the I-694 & Silver Lake Blvd adds a first-class multifamily rental building comprising of 132 units, enclosed parking, and offers several highly desirable amenities for residents.

The subject site sits on Palmer Drive and Silver Lake Road within the Mixed-Use Regional Node and adjacent to Crossroads of New Brighton. The site was originally developed in 1974 and is currently home to a 69-stall surface parking lot and a functionally obsolete, vacant U.S. Bank building. Thoughtfully designed to revitalize and diversify New Brighton's housing stock, this proposed development not only meets, but progresses the housing goals of New Brighton by removing a vacant building and adding an attractive new building that will bring approximately 200 renters to the community. To further contribute to the City's goals, 14 units in the building will be offered to residents with 60% of the area median income.

Funding Opportunities

- [MN Small Business Relief Grants](#)

Economic Development Committee

[Paul Zisla](#)

[Bob Benke](#)

[Clint Kulpers](#)

[Harry Carter](#)

[Max Nundahl](#)

[Anthony Pledger](#)

[Bret Fynewever](#)

[Jacqui Sauter](#)

Are you thinking about expanding? Moving? Hiring? The City is in contact with people every day who are looking to sell property, rent space, or relocate their family to the City, and we may be in a position to help you make a connection that could otherwise be missed. We'd love to have the opportunity to participate in your success, and will happily forward prospects your way – just let us know your needs so we can work on your behalf.

If your business is interested in being partnered with one of the following commissioners to help your business reach its goals please [click here](#) sign up for our new business liaison program



Memo

To: Economic Development Commission

From: Ben Gozola, Assistant Director of Community Assets & Development

Date: 10/28/21

Re: Zoning Code Update

Staff will be taking whatever time is left in the meeting on 11/3/21 to update the EDC on the progress made to date on the Zoning Code update project which is currently underway. While the document as a whole is always a work in progress, as of November 2021, staff and the Zoning Code Steering Committee have completed initial work on roughly five of the eight chapters we envision being in the final new code by the end of 2022. The following is information that was provided to the steering committee leading into our reviews of these first five chapters, and explains the process that committee is going through. **It is provided to the EDC now only for informational purposes so you better understand the review process being used.**

GENERAL THINGS TO KEEP IN MIND:

- **This document is a work in progress.** Things can and will change from draft to draft. We will do our best to ensure you are aware of changes in subsequent drafts.
- **This document is far from perfect.** At this point in time, there will be spelling and spacing errors to go along with the content we're asking you to discuss. Please identify the small stuff, but don't let it overtake your attention. Once the content is set, we will go back to tackle the details.
- **No question is bad, and all feedback is appreciated.** Our intent is to make this document as easy-to-understand and user-friendly as possible. If something does not make sense to you, it likely doesn't make sense to others as well. Speak up and let your voice be heard!

MODULE #1 Q&A (FOR THE STEERING COMMITTEE):

➤ So what am I reviewing?

This first draft will be the biggest draft you will receive throughout this project. While very much a work in progress, we are providing you with five (5) of the eight (8) chapters we anticipating in the final code.

➤ Five Chapters already!?! How is that possible?

The pandemic did allow time for drafting during slow times, and the Chapters we are focusing on to begin with are fairly straight forward:

- **Chapter 1 – General Provisions.** This chapter is very short and largely focuses on the legal language we're required to have in a zoning code. Other than the provisions outlining how we will transition from our existing code to this new document, most of this chapter will be of little interest to most committee members.
- **Chapter 2 – Application Reviews and Procedures.** This Chapter will be our primary focus on the 14th, and we'll only review the subsequent chapters if we have time. If you do not have time to review the entirety of the draft, we recommend you focus on this chapter.
- **Chapter 6 – Nonconformities.** This Chapter largely puts statutory requirements for legal nonconformities into practice, and eliminates our long-standing procedures which no longer make sense given changes to state law over the last 40 years.
- **Chapter 7 – Enforcement.** Writes into code the City's current enforcement procedures. Still a work in progress, but feedback at this early time may help us to wrap up this chapter early in the review process.
- **Chapter 8 – Rules & Definitions.** More than any other chapter, this one will be updated continually throughout the project.

➤ Will we get to ALL of this next week?

Probably not. We will likely get through Chapters 1, 2, and 8. Chapters 6 and 7 are included in case we have time, and to get some up front feedback on both should anyone wish to comment.

➤ What should my focus be?

We would suggest you keep the following questions in mind:

- Does the organization make sense?
- Does the wording clearly convey the regulation or process being explained?
- Are there places where tables or illustrations might help to convey understanding?
- Is there something missing you believe should be present?
- Do I feel there's a way to improve a section for clarity?

➤ **Is all of this language new?**


No., but a lot of this language is new simply because our current code fails to go into detail on certain things that need to be spelled out in zoning (i.e. what process is used when a citizen requests an amendment to the comprehensive plan?).

➤ **How do I know if the language I'm reading is new or has just been moved over from the current code?**

Whenever possible, we have just moved language from the current code into this new draft. As you review the document, the following color-coding will guide you:

- **GREEN** language – existing language has been moved into this draft word for word
- **ORANGE** language – existing language has been moved into this code, but has been edited for clarity
- **BLACK** language – new language. Language in Black is many times based on existing language, but we've made enough changes to the wording that we are treating it as new.
- **BLUE** language – signifies language that will include a hyperlink to elsewhere in the zoning code, or an outside webpage. Such links are intended to make navigating and understanding the code easier for the reader.
- **RED** language – text that must be reviewed or text that will not be retained as it just provides some explanatory information. For example, when you see GREEN language, you will typically see a notation in RED indicating where that language is from in our existing code.

STEERING COMMITTEE'S TO-DO LIST: (NOT APPLICABLE TO THE EDC)

- (1) Read through the draft Chapters prior to the meeting. If your time is limited, we would suggest that you review the Chapters in the following order: 2, 8, 1, 6, and 7.
- (2) While everything is important, once in a while you will come across this symbol  which indicates language we will definitely be reviewing with the steering committee next week.
- (3) Make notes about items that you would like to discuss. Please note that you can identify the location of language both by page number (located in the bottom corners) or by line number (shown to the left of each line).
- (4) If/when you have ANY questions, just reach out to me (Ben Gozola) and I'd be happy to get you an answer prior to the meeting. Email: ben.gozola@newbrightonmn.gov Phone: 651-638-2059

Thank you all, and we'll see you next week!

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CHAPTER 1: GENERAL PROVISIONS

1.1 Title

The Ordinance shall be known as the "City of New Brighton Zoning Ordinance" except as referred to herein, where it shall be known as "this ordinance." [1-020]

1.2 Authority

This ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.363.

1.3 Ordinance Purpose

(A) This ordinance is adopted for the following purposes:

Consider better wording

(1) To implement the policies of the City's Comprehensive Plan;

(2) To provide for optimum land use; [1-010(1)]

(3) To protect the public health, safety, and general welfare of the community and its people through the establishment of regulations governing development and use;
~~Promote the health, safety, order, convenience, and general welfare~~ [1-010(2)]

(4) <add inclusion goal>

Add inclusion goal

(5) To protect property values by striving to ensure neighboring uses within the City are compatible ~~Preserve property values;~~ [1-010(3)]

(6) To provide for administration and enforcement of this ordinance;

(7) To provide for amendments;

Amend this language

(8) To prescribe penalties for violation of this ordinance; and

(9) To define powers and duties of the City staff, the Board of Adjustment and Appeals, the Planning Commission, and the City Council in relation to the Zoning Ordinance.

(B) In their interpretation and application, the provisions of this ordinance shall be held as the minimum requirements for the promotion of public health, safety, and welfare.



1.4 Effective Date

This ordinance shall be effective on and after ~~<publication date>~~. The adoption of this ordinance shall not be construed to confer any protected legal status on uses in existence prior to the effective date that did not conform to previous ordinance provisions. Uses that were illegal under previous ordinance provisions shall not be converted to a legal non-conforming use by reason of adoption of this ordinance.

1.5 Applicability

This ordinance is applicable to all land located within the City both now and as may be incorporated in the future. The use of land and buildings or structures, and the construction, reconstruction, alteration, expansion, or relocation of buildings or structures shall conform to the provisions of this ordinance.

1.6 Relation to the Comprehensive Plan

It is the policy of the City of New Brighton that the Comprehensive Plan is the City's guiding document for the regulation of land use and development. The enforcement, amendment, and administration of this ordinance is to be accomplished with due consideration of the recommendations contained in the Comprehensive Plan as developed and amended from time to time by the Planning Commission and City Council.

[The Comp Plan is viewable on the City of New Brighton's web site](#)

1.7 Relationship to Other Laws and Agreements

(A) Conflict with Other Public Laws, Chapters, Regulations, or Permits

- (1) This ordinance is intended to complement other municipal, state, and federal regulations that affect land use. This ordinance is not intended to revoke or repeal any other public law, ordinance, regulation, or permit.
- (2) Where the provisions of this ordinance impose greater restrictions than those of any statute, other chapter, or regulation; the provisions of this ordinance shall apply.
- (3) Where the provisions of any statute, other chapter or regulation impose greater restrictions than this ordinance, the provisions of that statute, other chapter or regulation shall apply.



55 (B) Conflict with Private Agreements

56 (1) The existence of any easement, covenant, or other private agreement with respect
57 to property affected by this ordinance shall not affect the duty of any interested
58 person to comply with this ordinance.

59 (2) The City shall have no obligation to waive or modify the requirements of this
60 ordinance to conform to private agreements, nor shall it be obligated to enforce
61 private agreements.



62 (C) Conflict Between Standards in this Ordinance [1-050]

63 (1) Controlling Standards

64 In the event of conflict between one or more of the standards in this ordinance,
65 priority shall be established based on the following descending hierarchy level:

66 (a) Overlay Zoning District Requirements

67 (b) Base Zoning District Requirements

68 (c) Section 8.2, Rules of Measurement; and

69 (d) Chapter 4: Finishing Standards

70 *(Example: if an overlay district standard conflicts with a base district standard,*
71 *the overlay district standard shall apply and take precedence).*

72 (2) Conflicts at the Same Level

73 In cases where two or more standards conflict within the same hierarchy category
74 identified in Section 1.7(C)(1) above, the more restrictive standard shall not
75 necessarily control. For example, if two overlay zoning district requirements in
76 this ordinance conflict, this subsection shall apply. The determination as to which
77 control applies shall be made by DCAD. The following standards shall govern
78 DCAD and the Board of Adjustment and Appeals in issuing use interpretations:

79 (i) Greater consistency with the goals and objectives contained within the
80 adopted Comprehensive Plan;

81 (ii) More supportive of the purposes of this ordinance as described in Section 1.3,
82 Purpose;

Section 1.3: Purpose



- (iii) Increased compatibility with adjacent development and surrounding community character;
- (iv) Enhanced environmental quality and natural resource protection;
- (v) Greater protection and preservation of historic and cultural resources; and
- (vi) A superior level of building form, design, or architecture.

1.8 Transitional Regulations



(A) Purpose

The purpose of transitional regulations is to resolve the status of properties with pending applications or recent approvals, and properties with outstanding violations, at the time of the adoption of this ordinance.

(B) Violations Continue

Any violation of previous versions of this ordinance existing as of the effective date of this ordinance shall continue to be a violation under this ordinance and shall be subject to the penalties and enforcement set forth in Chapter 7: Enforcement; unless the use, development, construction, or other activity complies with the provisions of this ordinance.

[Chapter 7:
Enforcement](#)

(C) Uses, Structures, and Lots Rendered Nonconforming

Where any use, building, structure, or lot that legally existed on the effective date of this ordinance does not meet all standards set forth in this ordinance, such building, structure, lot or parcel shall be subject to the requirements of Chapter 6: Nonconformities.

[Chapter 6:
Nonconformities](#)

(D) Existing Legal Nonconformities

Legal nonconforming lots of record and uses that existed on the effective date of this ordinance shall be controlled by Chapter 6: Nonconformities.

(E) Existing Special Use Permits transition to Conditional Use Permits

All valid Special Use Permits that existed on the effective date of this ordinance shall transition to valid Conditional Use Permits upon the effective date of this ordinance.



110 **(F) Processing of Applications Commenced or Approved Under Previous Ordinances**

111 **(1) Pending Application**

112 **(a)** Any complete application that has been submitted or accepted for review, but
113 upon which no final action has been taken by the appropriate decision making
114 body prior to the effective date of this ordinance, shall be reviewed in
115 accordance with the provisions of ordinances in effect on the date the
116 application was deemed complete by the City.

117 **(b)** An applicant with a pending application may waive the review available
118 under the prior ordinance through a written letter to the Department of
119 Community Assets and Development, and instead request review under the
120 provisions of this ordinance.

121 **(2) Approved Projects**

122 **(a)** Approved land use and other related actions by the City of New Brighton
123 authorized under the prior ordinance, including Building Permits that are valid
124 on the effective date of this ordinance, shall remain valid until their expiration
125 date.

126 **(b)** Projects with valid approvals or permits may be carried out in accordance
127 with the zoning regulations in effect at the time of approval, provided that the
128 permit or approval is valid and has not lapsed. Furthermore, no provision of
129 this Ordinance shall require any change in the plans, construction, or
130 designated use of any structure for which a building permit has been issued
131 prior to the effective date of this ordinance, unless the building permit has
132 expired.

133 **(c)** Any re-application for an expired project approval shall meet the standards in
134 effect at the time of reapplication

135 **(d)** Building permits authorized in accordance with the ordinance existing prior to
136 the effective date of this ordinance shall still be valid, but shall not be
137 renewed if the permit expires. All future permits shall only be issued if in
138 compliance with the requirements of this ordinance.

Section 1.4:
Effective
Date



139

1.9 Severability

- 140 (A) It is expressly declared that this Ordinance and each section, subsection, sentence, and
141 phrase would have been adopted regardless of whether one or more other portions of the
142 Ordinance is declared invalid or unconstitutional.
- 143 (B) If any section, subsection, sentence, or phrase of this Ordinance is held to be invalid or
144 unconstitutional by a court of competent jurisdiction for any reason, the remaining
145 portions of this Ordinance shall not be affected. [1-040]
- 146 (C) If any court of competent jurisdiction invalidates the application of any provision of this
147 Ordinance, then such judgment shall not affect the application of that provision to any
148 other building, structure, or use not specifically included in that judgment.
- 149 (D) If any court of competent jurisdiction judges invalid any condition attached to the
150 approval of an application for development, then such judgment shall not affect any
151 other conditions or requirements attached to the same approval that are not specifically
152 included in that judgment.
- 153 (E) No judgment of any court of competent jurisdiction shall be considered final until all
154 appeals have been exhausted.
155



156 **CHAPTER 2: APPLICATION REVIEWS AND**
157 **PROCEDURES**

158 **2.1 Purpose**

159 The purpose of this chapter is to identify all decision-making bodies responsible for the
160 review of applications, the common review requirements for all applications, and the
161 specific requirements and review procedures for various application types.

162 **2.2 Summary of Decision Making and Review Bodies**

163 **(A) Summary Table of Decision-Making and Review Bodies**

164 (1) Table 2-1 summarizes the general review and decision-making responsibilities of
165 the bodies that have roles in the procedures set forth in this Ordinance. Other
166 duties and responsibilities of each review body are set forth in subsequent
167 subsections of this ordinance or elsewhere within the City of New Brighton City
168 Code.

169 (2) The City may request other boards, commissions, government agencies, and non-
170 government agencies to review some applications as deemed appropriate prior to
171 any final ruling on such applications.
172

[Table 2-1](#)

[New Brighton
City Code](#)



173

TABLE 2-1: SUMMARY OF THE ROLES OF DECISION-MAKING BODIES					
H = Hearing (Public Hearing Required)		D = Decision (Responsible for Final Decision)			
M = Meeting (Public Meeting Required)		A = Appeal (Authority to Hear/Decide Appeals)			
		R = Recommendation (Responsible for Review and a Recommendation)			
		* = Recommendation if applicable to the specific application			
Procedure	Subsection	City Council	Planning Commission	DCAD Staff	Zoning Board of Adjustment
Comp Plan Amendment	2.4(A)	D	H / R	R	—
Zoning Map or Text Change	2.4(B)	D	H / R	R	—
Variance	2.4(C)	A	—	R	H / D
Conditional Use Permit	2.4(D)	D	H / R	R	—
Interim Use Permit	2.4(E)	D	H / R	R	—
Administrative Appeal	2.4(F)	A	—	R	H / D
Site Plan Review	2.4(G)	D	R	R	—
Building Permits	2.4(H)	A	—	D	—
Certificate of Occupancy	2.4(I)	A	—	D	—
Grading Permit	2.4(J)	A	—	D	—
Sign Permit	2.4(K)	A	—	D	—
Temporary Use Permit	2.4(L)	A	—	D	—
Vacations	2.4(M)	H / D	—	R	—
PUD or PRD	2.4(N)	D	H / R	R	—
Subdivisions	City Code CH 26	D	H / R	R	—
<i>At the discretion of the Department of Community Assets & Development, other City Commissions (i.e. the Economic Development Commission or the Public Safety Commission) may also be asked to make recommendations on individual applications as part of the review process</i>					

174

175



176 **(B) City Council**

177 In addition to any other authority granted to the City Council by the City Code or state
178 law, the City Council shall have the following powers and duties related specifically to
179 this ordinance:

180 **(1)** To enact amendments to the Comprehensive Plan, the text of this ordinance, and
181 the Zoning Map.

182 **(2)** To hear, review, and make decisions on applications submitted to the City as
183 identified on Table 2-1.

184 **(C) Planning Commission**

185 **(1) Establishment, Membership, Rules and Procedures**

186 The establishment, membership, rules, and procedures for the Planning
187 Commission are established in Chapter 2, Article 4, of the City Code.

188 **(2) Powers and Duties**

189 In addition to any other authority granted to the Planning Commission by the New
190 Brighton Code, the Planning Commission shall have the following additional
191 powers and duties related to this ordinance:

192 **(a) Comprehensive Plan Amendments, Zoning Map Amendments, and**
193 **Zoning Text Amendments**

194 **(i)** To propose amendments to the Comprehensive Plan, the text of this
195 ordinance, the Official Zoning Map (rezoning of property), or other
196 sections of the New Brighton Code; and

197 **(ii)** To hear, review, and make recommendations to the City Council on
198 applications for amendments to the Comprehensive Plan, the text of this
199 ordinance, or zoning map amendments.

200 **(b) Land Use Applications**

201 To hear, review, and make recommendations on the following Land Use
202 Applications before the City:

203 **(i)** Comprehensive Plan Amendment;

204 **(ii)** Zoning Map Amendment;

205 **(iii)** Zoning Text Amendment;

206 **(iv)** Variances;

*City Code
Chapter 2,
Article 4,
Division 6:
Planning
Commission*



- 207 (v) Conditional Use Permits;
208 (vi) Interim Use Permits;
209 (vii) Site Plan Reviews
210 (viii) Planned Unit Development; and
211 (ix) Subdivisions.

212 (c) **Other**

213 To exercise such other powers and perform such other duties as provided by
214 law.

215 (D) **Board of Adjustments and Appeals**

216 (1) **Establishment**

217 The Board of Adjustments and Appeals is hereby established.

218 (2) **Membership**

219 The Planning Commission shall act as a Board of Adjustments and Appeals.



220 (3) **Rules**

221 (a) The Board of Adjustment and Appeals may adopt rules for the conduct of
222 business, and may exercise all of the powers conferred on such boards by
223 state law.

224 (b) Staff services for the Board shall be furnished by City Staff as directed by the
225 City Manager.

226 (4) **Procedures**

227 Unless a special meeting of the Board of Adjustment and Appeals is scheduled,
228 proceedings of the Board of Adjustment and Appeals by the Planning
229 Commission shall be undertaken as a component of a scheduled Planning
230 Commission meeting. It shall not be necessary for the Planning Commission to
231 adjourn and reconvene as the Board of Adjustment and Appeals to undertake such
232 proceedings



233 **(5) Powers and Duties**

234 The Board of Adjustment and Appeals shall have the following powers and duties
235 related to this ordinance:

236 **(a)** To consider applications for variances; and

237 **(b)** To hear appeals of administrative discretionary decisions made by any
238 administrative official in carrying out or enforcing any provision of this
239 ordinance.

240 **(E) Department of Community Assets and Development (DCAD)**

Add DCAD
acronym

241 **(1) General Authorization**

242 The Department of Community Assets and Development, under the supervision of
243 the City Manager, shall administer the provisions of this ordinance as provided in
244 this section.

245 **(2) Powers and Duties**

246 In addition to the jurisdiction, authority, and duties that may be conferred upon
247 the Department of Community Assets and Development by other provisions of the
248 New Brighton Code, the Department of Community Assets and Development
249 shall have the following jurisdiction, powers, and duties under this ordinance:

250 **(a) Interpretations**

251 Render interpretations of all provisions of this ordinance, including but not
252 limited to, interpretations of the text of this ordinance, interpretation of the
253 zoning map, and interpretation of the comprehensive plan.

254 **(b) Enforcement**

255 Enforce the provisions of this ordinance.

256 **(c) Administer Ordinance**

257 Review, approve, conditionally approve, or deny applications for Building
258 Permits and other administratively reviewed permits or applications as may be
259 required by this ordinance.

260 **(d) Application Tracking and Recommendations**

261 Review, monitor, and provide recommendations on applications requiring
262 approval by the City Council or other governmental bodies as directed by the
263 City Manger.





(e) Provide Expertise and Technical Assistance

Provide expertise and technical assistance to the City Council and the City's commissions, boards, and other bodies.

(f) Maintain the Zoning Map

Update the City's official zoning map as it may be amended from time to time.

(g) Recommendations on Procedures

Review and provide comments or make recommendations to the appropriate decision-making and review body on the various procedures, requirements or appeals established by this ordinance.

(h) Recommendations on planning issues

Provide recommendations on planning issues, propose amendments and additions to zoning and planning ordinances, and recommend changes to the Comprehensive Plan.

2.3 Common Review Procedures & Requirements



(A) Applicability

The requirements of Section 2.3 shall apply to all applications subject to review under this ordinance unless otherwise stated.

(B) Authority to File Applications

(1) Unless otherwise specified in this ordinance, applications may be initiated by:

(a) The owner of the property that is the subject of the application; or

(b) The owner's authorized agent; or

(c) The City.

(2) When an authorized agent files an application under this ordinance on behalf of a property owner, the agent shall provide a signed authorization from the fee title property owner stating that the property owner agrees to be bound by all decisions, agreements, and related conditions agreed to by such agent.



291 (3) Application by multiple party ownership, at the sole discretion of the City, is
292 acceptable when legally sufficient written consent from all persons and entities
293 with ownership interest is provided at the time of application.

294 (C) **Application Submission Schedule**

295 The schedule for the submission of applications in relation to scheduled meetings of the
296 decision-making bodies shall be maintained by the City Clerk and be made available to
297 the public.

298 (D) **Application Contents**

299 (1) **Organization and Copies**

300 The organization of applications and the number of copies of required information
301 to be submitted shall be determined by the Department of Community Assets and
302 Development.

303 (2) **General Submittal Requirements**

304 All applications shall include:

305 (a) A completed City of New Brighton application form;

306 (b) Verification of authority to file applications per the requirements of section
307 2.3(B);

308 (c) Supporting title information establishing ownership interests in the property
309 (e.g. a title commitment and/or signature of fee title property owner);

310 (d) All submittal requirements outlined in this ordinance for the specific
311 application type;

312 (e) Electronic copies of all written narratives and plan sets required by the
313 Department of Community Assets and Development as part of the specific
314 application.

315 (f) If requested by the Department of Community Assets and Development,
316 Applicants shall submit such technical studies as may be necessary to enable
317 the City to evaluate the application. Such studies may include, but not be
318 limited to, traffic studies, engineering studies, environmental impact
319 assessments, and economic impact reports. The costs of such studies shall be
320 borne by the applicant with the persons or firms preparing the study approved
321 by the City.

In general, add section
names after references
throuout document



322 **(3) Submission of Fees**

323 Applications shall be accompanied by a fee as established by the City of New
324 Brighton pursuant to the most recently adopted Fee Schedule.

*Current Fee
Schedule*

325 **(E) Application Acceptance**

326 **(1) Complete Application Required**

327 The review and consideration of an application submitted under this section shall
328 only occur if such application includes all items that are required in support of the
329 application, and the application is deemed complete by the Department of
330 Community Assets and Development.

*MN Statute 15.99
subdivision (3)(a)*

331 **(2) Waiver of Application Requirements**

332 Except for the required application form and the associated fee, the Department of
333 Community Assets and Development may waive individual submittal
334 requirements and deem an application complete for review if it is determined that
335 such information will serve no purpose during the review process. However, it is
336 the responsibility of the applicant to supply all information required by this
337 ordinance, and a waiver issued by the Department of Community Assets and
338 Development shall not eliminate the need to provide such information at a later
339 time if it is ultimately deemed necessary to adequately review the application.
340 During the review process, failure of an applicant to supply information in a
341 timely manner may result in denial of the application due to the City's inability to
342 comply with state mandated time deadlines.



343 **(F) Simultaneous Processing of Applications**

344 Whenever two or more forms of review and approval are required under this ordinance
345 (e.g., a proposed rezoning and subdivision application), the applications for those
346 approvals may, at the discretion of the Department of Community Assets and
347 Development, be processed simultaneously, so long as all applicable requirements are
348 satisfied for all applications.



349 **(G) Pre-application Conferences**

350 (1) All prospective applicants are encouraged to speak with someone from the
351 Department of Community Assets and Development prior to submitting an
352 application in order to review the proposal and to determine the specific materials
353 to be submitted with the future application.

354 (2) Discussions that occur during a pre-application conference are not binding on the
355 City and do not constitute official assurances, representations, or approvals by the
356 City or its officials on any aspects of the plan or application discussed.

357 **(H) Fees**

358 **(1) Determination of Fees**

359 Fees required to accompany applications submitted under this ordinance shall be
360 in accordance with pursuant to the most recently adopted Fee Schedule.

361 **(2) Fees to be Paid**

362 (a) No application, except as may be determined by the Department of
363 Community Assets and Development, shall be accepted until all applicable
364 application fees have been paid.

365 (b) Upon the termination of an application by approval, denial, withdrawal, or
366 any other means, all consultation expenses incurred due to the application
367 shall be immediately payable in full.

368 (c) No permit or approval shall be issued and no construction or development
369 shall commence until the total application fee and additional expenses for
370 reviewing the application are paid in full.

371 **(3) Refund of Application Fee**

372 Application fees are not administratively refundable except when the Department
373 of Community Assets and Development determines that an application was
374 withdrawn prior to any consideration or review of the application.

*Current New
Brighton Fee
Schedule*



(4) Escrow or Performance Agreement

- (a)** Application fees may also require payment of an escrow in favor of the City. The required escrow amount shall be in accordance with the approved fee schedule adopted by the City Council.
- (b)** As an alternative to an escrow, with the City's permission, the applicant may enter into a performance agreement acceptable to the City.

(5) Consultant Fee(s)

In order to defray the additional cost of processing applications submitted under this ordinance, all applicants shall pay the total cost of any applicable outside consultant time spent exclusively to review and/or produce materials related to the applicant's request.

- (a)** "Materials" shall include, but not be limited to, maps, graphs, charts, drawings, etc., and all printing and reproduction of same.
- (b)** "Consultant time" shall include any time spent by an outside consultant to research, analyze, or produce materials for the application review
- (c)** The hourly rate for consulting time shall be in accordance with the approved contract or agreement the City has for the needed consulting services.

(I) Public Notification

Applications requiring public notification shall be noticed in compliance with the following provisions.

(1) Content

Notices for public hearings, whether by publication or mailed notice, shall contain at a minimum:

- (a)** A bold title referring to the content of the notice.
- (b)** Identification of the address or location of the property or properties subject to the application.
- (c)** Date, Time, and Place of the Public Hearing.
- (d)** Nature and Scope of the Application.
- (e)** Where to View the Application.



404 **(f)** Where the Public May be Heard.

405 **(g)** Provision for Written Comments. The notice should describe how written
406 comments will be received prior to the public hearing.

407 **(2) Timing of the Notice**

408 Unless otherwise expressly provided or required by law, all statutorily or code
409 required notices shall be postmarked or published at least ten (10) calendar days
410 prior to the hearing or meeting at which the application will be considered.

411 **(3) Responsibilities**

412 **(a) Published notice**

413 When the provisions of this ordinance require that notice be published, the
414 Department of Community Assets and Development shall be responsible for
415 preparing the content of the notice and publishing the notice in the City's
416 official newspaper. The content and form of the published notice shall be
417 consistent with the requirements of Section 2.3(I)(1) and state law.

418 **(b) Written (mailed) notice.**

419 When the provisions of this ordinance require that written or mailed notice be
420 provided, the Department of Community Assets and Development shall be
421 responsible for preparing and mailing the written notice per the requirements
422 outlined in Table 2-2.



TABLE 2-2: WRITTEN NOTIFICATION REQUIREMENTS

Application Type:	Written Notice Provided to:
Comprehensive Plan Amendment	<ul style="list-style-type: none"> For amendments which involve five acres of land or less, written notice shall be provided to all property owners within 350 feet For amendments which involve more than five acres of land, notice need only be published within the City's official newspaper
Zoning Map Amendment	All property owners within 350 feet
Variance	All property owners within 350 feet
Conditional Use Permit	All property owners within 350 feet
Interim Use Permit (new and renewal)	All property owners within 350 feet
Appeal of Administrative Decision	All property owners within 350 feet
CUP/IUP Revocation	Permittee/Landowner Only
Planned Unit Developments	All property owners within 600 feet
If the application type not listed above	All property owners within 350 feet

(4) Notice Procedures

- (a) The Department of Community Assets and Development may use property tax records to determine the names and addresses of affected property owners. A copy of the notice and a list of the owners and addresses to which the notice was sent must be attested to by the Department of Community Assets and Development and is considered to be part of the records of the proceedings.
- (b) Minor defects in any notice shall not impair the notice or invalidate proceedings pursuant to the notice if a good faith attempt has been made to comply with applicable notice requirements. Minor defects in notice are errors that do not affect the substance of the notice (e.g., errors in a legal description, typographical or grammatical errors, errors of actual acreage or dimensions, etc). Failure of a party to receive written notice shall not invalidate subsequent action. In all cases, however, the notification requirements and information specifying the time, date, and place of a hearing shall be strictly construed.
- (c) When the records of the City document the publication, mailing, and posting of notices as required by this subsection, it shall be presumed that notice of a public hearing was given as required by this subsection.



442 **(J) Continuation of Public Hearings**

443 A public hearing for which proper notice was given may be continued during the course
444 of such hearing to a later date without again complying with the written notice
445 requirements of this chapter, provided that the continuance date is announced at the
446 meeting.

447 **(K) Withdrawal of an Application**

448 A request for withdrawal of an application shall be submitted in writing to the
449 Department of Community Assets and Development by the applicant or the applicant's
450 authorized representative.

451 **(L) Required Action Deadline**

452 **(1)** All applications for land use approvals shall be approved or denied within
453 timeframes required by applicable laws, regulations, and the provisions of this
454 ordinance in effect on the date the application was submitted.

455 **(2)** For applications that require recommendation by the Planning Commission or
456 other recommending body, the Department of Community Assets and
457 Development may forward such applications to the City Council or Board of
458 Adjustment and Appeals without a recommendation when it is deemed necessary
459 to ensure compliance with state mandated deadlines for application review.

MN Rules 4410

460 **(M) Environmental Review**

461 **(1)** No development project shall be approved prior to review by the Department of
462 Community Assets and Development to determine the necessity for completion of
463 an Environmental Assessment worksheet (EAW) or Environmental Impact
464 Statement (EIS). Procedures for EAWs and EISs are set forth in the Minnesota
465 Environmental Quality Review Board (EQB) regulations for the Environmental
466 Review Program authorized by Minnesota Statute 116.D04 and 116D.04S and
467 specified in Minnesota Rules Parts 4410.0200 to 44410.7800.

468 **(2)** Environmental reviews (EAWs and EISs) shall be conducted as early as practical
469 in the processing of a development project. No decision on granting of a permit
470 or other approval required may be issued until the EAW/EIS process is
471 completed.



(N) Reconsideration of Land Use Approval Applications

No application for land use approval which has been denied by the City Council, in whole or in part, shall be reconsidered for a period of six (6) months from the date of City Council action on the application, except where there is substantial new evidence or proof of a change in conditions with respect to such application. Before any such reconsideration, the City may require the submission of the appropriate application fee and the application may be considered as a new application.

2.4 Specific Review Procedures & Requirements

Comprehensive Plan Amendment



(A) Comprehensive Plan Amendments

(1) Purpose and Scope

This section sets out the procedure to follow when considering a change to the Comprehensive Plan.



- 496 **(2) Initiation of Proceedings**
- 497 Proceedings for the amendment of the Comprehensive Plan shall be initiated by
- 498 one of the following:
- 499 **(a)** An owner of property or an authorized representative of an owner pursuant to
- 500 Section 2.3(B), Authority to File Applications;
- 501 **(b)** Recommendation of the Planning Commission; or
- 502 **(c)** Action of the City Council.
- 503 **(3) Application**
- 504 **(a)** All applications to amend the Comprehensive Plan shall be in accordance
- 505 with Section 2.3, Common Review Procedures & Requirements.
- 506 **(b)** In addition to the common review requirements, applications for
- 507 Comprehensive Plan amendments shall also include the following:
- 508 **(i)** The name of the applicant;
- 509 **(ii)** A narrative explaining the requested change and the reasons why the
- 510 Comprehensive Plan should be amended per the request;
- 511 **(iii)** The legal description of all real property proposed for change;
- 512 **(iv)** The existing and proposed land use and zoning designations for all
- 513 properties proposed to change (if applicable);
- 514 **(v)** A map of the properties to be modified to a different land use category,
- 515 showing the addresses and land uses for adjacent properties (if
- 516 applicable);
- 517 **(vi)** The proposed text and/or maps to be added, amended, or deleted from the
- 518 Comprehensive Plan along with documentation as to the location of the
- 519 text changes in the Comprehensive Plan (if applicable).
- 520 **(4) Review**
- 521 **(a) Planning Commission**
- 522 **(i)** Before any amendment is adopted, the Planning Commission shall hold at
- 523 least one public hearing after proper notice has been issued in accordance
- 524 with Section 2.3(I).
- 525 **(ii)** Following the hearing, the Planning Commission shall adopt findings and
- 526 recommendations on the proposed amendment as soon as practical.

Section 2.3:
Common
Review
Requirements

Section 2.3(I):
Public
Notification



(b) City Council

- (i) The City Council may receive comments on the amendment if they deem such necessary prior to taking action on the proposed change.
- (ii) After consideration of recommendations from the Department of Community Assets and Development, recommendations of the Planning Commission, and the comments received at the public hearing, the City Council may adopt the amendment or any part thereof in such form as it deems advisable.
- (iii) In accordance with statutory requirements, approval of a comprehensive plan amendment shall require a **super-majority** vote of all Council members eligible to vote.

Where applicable, use "super majority" rather than 4/5

(5) Approval Criteria

Recommendations and decisions on Comprehensive Plan amendments should take into consideration the following criteria:

- (a) Whether the proposed amendment corrects an error or addresses something resulting from some changing condition, trend, or fact arising since the adoption of the Comprehensive Plan;
- (b) Whether the proposed amendment is consistent with the guiding principles of the Comprehensive Plan;
- (c) The extent to which the proposed amendment addresses a demonstrated community need;
- (d) Whether the proposed amendment will protect the health, safety, morals, and general welfare of the public;
- (e) The impacts on the natural and built environments, including air, water, noise, stormwater management, wildlife habitat, water quality, vegetation, drainage, streets, and other engineering design or environmental factors;
- (f) Whether the proposed amendment is compatible with existing and proposed uses surrounding the subject property; whether the proposed design and land uses are appropriate for the land; and whether the proposed amendment will maintain or improve compatibility among uses and ensure efficient development within the City;



- 558 (g) Whether the proposed amendment will result in a logical, orderly and
559 predictable development pattern; and
- 560 (h) Such other considerations as the Planning Commission and City Council
561 deem reasonable and proper.

Zoning Text or Map Amendment



562 (B) Zoning Ordinance Text and Zoning Map Amendments

563 (1) Purpose and Scope

564 This section sets out the procedures to be followed in reviewing and
565 considering a text change to this ordinance or an amendment to the zoning map
566 with the exception of a map amendment to a planned unit development, which
567 shall be subject to the procedures in Section 2.4(N), Planned Unit
568 Development.



(2) Initiation of Proceedings

Proceedings for the amendment of the text of this ordinance or the zoning map shall be initiated by one of the following:

- (a) An owner of property or an authorized representative of an owner pursuant to Section 2.3(B), Authority to File Applications;
- (b) Recommendation of the Department of Community Assets and Development, the City Manager, or City Attorney.
- (c) Action of the Planning Commission; or
- (d) Action of the City Council.

(3) Application

- (a) All applications to amend the text of this ordinance or the zoning map shall be in accordance with Section 2.3, Common Review Procedures & Requirements.
- (b) In addition to the common review requirements, applications for changes to the text of this ordinance or the Zoning Map shall also include the following:
 - (i) The name of the applicant;
 - (ii) A narrative explaining the requested modification and the reasons why the changes are supported by the Comprehensive Plan;
 - (iii) The legal description of all real property proposed for change (if applicable);
 - (iv) The existing and proposed land use and zoning designations for all properties proposed for change (if applicable);
 - (v) A map of the properties to be modified to a different zoning designation, showing the addresses and zoning designations for the subject properties and the adjacent properties (if applicable);
 - (vi) The location of the proposed text to be added, amended, or deleted in this ordinance (if applicable).

*Section 2.3:
Common Review
Requirements*



*Section
2.3(I): Public
Notification*

- 596 **(4) Review**
- 597 **(a) Planning Commission**
- 598 (i) Before any amendment is adopted, the Planning Commission shall hold at
- 599 least one public hearing after proper notice has been issued in accordance
- 600 with Section 2.3(I).
- 601 (ii) Following the hearing, the Planning Commission shall adopt findings and
- 602 recommendations on the proposed amendment as soon as practical.
- 603 (iii) The Department of Community Assets & Development may forward an
- 604 application to the City Council without a recommendation from the
- 605 Planning Commission if it is deemed necessary to ensure compliance with
- 606 state mandated deadlines for application review.
- 607 **(b) City Council**
- 608 (i) The City Council may receive comments on the amendment if they deem
- 609 such necessary prior to taking action on the proposed change.
- 610 (ii) After consideration of recommendations from the Department of
- 611 Community Assets and Development, recommendations of the Planning
- 612 Commission, and the comments received at the public hearing, the City
- 613 Council may adopt the amendment or any part thereof in such form as it
- 614 deems advisable
- 615 (iii) Approval of an amendment shall require a majority vote of all members
- 616 of the City Council.
- 617 **(5) Approval Criteria**
- 618 Recommendations and decisions on zoning amendments shall include
- 619 consideration of the following criteria:
- 620 **(a)** Whether the proposed amendment corrects an error in the original text or
- 621 map; or
- 622 **(b)** Whether the proposed amendment addresses needs arising from a changing
- 623 condition, trend, or fact affecting the subject property and surrounding area;
- 624 or
- 625 **(c)** Whether the proposed amendment is consistent with achieving the goals and
- 626 objectives outlined in the comprehensive plan; or



- 627 (d) Whether the proposed amendment addresses concerns or problems recognized
 628 by the Department of Community Assets & Development, the Planning
 629 Commission, or the City Council.

Variances



630 (C) **Variances (Ch 8, Art 2)**

631 (1) **Purpose and Scope**

632 The City Council shall have the power to grant variances from the literal
 633 provisions of the City's Zoning Code as authorized by Minnesota Statutes,
 634 Section 462.357, Subd. 6, as may be amended. The variance process is
 635 intended to provide limited relief from the strict requirements of the Zoning
 636 Code in cases where strict application of a particular requirement will create
 637 practical difficulties due to circumstances unique to the individual property
 638 under consideration. It is not intended that variances be granted to allow a use
 639 not permitted by the underlying zoning district, nor to merely remove
 640 inconveniences or financial burdens that the requirements of the Zoning Code
 641 may impose on property owners in general. Variances are intended to address
 642 extraordinary, exceptional, or unique situations that were not caused by the
 643 applicant's act or omission. (8-210)



644 (2) **Initiation of Proceedings**

645 Variances shall be initiated by an owner of property or an authorized
646 representative of an owner pursuant to Section 2.3(B), Authority to File
647 Applications.

648 (3) **Application (8-220)**

Section 2.3:
Common
Review
Requirements

649 (a) All applications for a Variance shall be in accordance with Section 2.3,
650 Common Review Procedures & Requirements.

651 (b) In addition to the common review requirements, applications for a Variance
652 shall also include the following:

653 (i) A written narrative demonstrating that the criteria for a Variance as set
654 out in subsection (4)(a) below have been met.

655 (ii) An up-to-date survey of the property showing all information necessary to
656 allow the City to determine conformance with all zoning provisions, and
657 to calculate the specific variance(s) being requested. Information shall
658 include but not be limited to:

- 659 1. Property and structure dimensions;
- 660 2. Setback dimensions/measurements; and
- 661 3. Parking and access locations and dimensions;

662 (iii) Electronic copies of all documents required by the specific application;

663 (iv) Any other information deemed necessary by the City in order to review
664 the application.

665 (4) **Review (8-230)**

666 (a) **Variance Criteria**

MN Statute
462.357 (6)(2)
variances

667 Approval of a Variance requires that the City find that all of the following
668 criteria are satisfied, as they may be modified from time to time by statute or
669 interpretative court decisions:

670 (i) The request is in harmony with the general purposes and intent of this
671 ordinance.

672 (ii) The Variance is consistent with the City's comprehensive plan.



(iii) The applicant can establish there are “practical difficulties” in complying with the zoning ordinance based on the following:

1. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.
2. The plight of the landowner is due to circumstances unique to the property not created by the landowner.
3. A variance, if granted, will not alter the essential character of the locality.

(b) Practical Difficulties and Variance Guidelines

- (i) Economic considerations alone shall not constitute a sufficient basis for granting a Variance if reasonable use for the property exists under the terms of the ordinance.
- (ii) Practical difficulties include, but are not limited to, inadequate access to direct sunlight for solar energy systems.
- (iii) Variances shall be granted for earth sheltered construction, as defined by State Statute, when in harmony with the ordinance.
- (iv) A variance to permit a use that is not otherwise allowed by this ordinance is prohibited.
- (v) Variances may be granted to permit the temporary use of a one-family dwelling as a two-family dwelling. (make this a temporary use)

Mn Statute 462.357,
subd (6)(2)

(c) Planning Commission (include only if Council becomes BoA)

- (i) Before any variance is considered by the City Council acting as the Board of Adjustments and Appeals, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).
- (ii) Following the hearing, the Planning Commission will be asked to discuss the facts of the case and adopt findings and recommendations on the proposed variance for consideration by the Board of Adjustments and Appeals.
- (iii) The Department of Community Assets and Development may forward an application to the Board of Adjustment and Appeals without a recommendation from the Planning Commission only if it is deemed necessary to ensure compliance with state mandated deadlines for application review.

Section 2.3(I):
Public Notification



- 707 **(d) Board of Adjustment and Appeals**
- 708 (i) The Board of Adjustment and Appeals shall consider the applicant's
- 709 submittals, the Planning Commission's recommendation, City staff's
- 710 recommendation, and the comments received at the public hearing against
- 711 the variance review criteria outlined in Section 2.4(C)(4)(a), and take
- 712 action on the request(s) as soon as practicable.
- 713 (ii) Approval or denial of a Variance shall require a majority vote of the
- 714 Board of Adjustment and Appeals.
- 715 1. In approving a variance, the Board of Adjustment and Appeals may
- 716 impose conditions on the approval as deemed appropriate to ensure
- 717 compliance with the approval and to protect adjacent properties. Any
- 718 conditions must be directly related to and must bear a rough
- 719 proportionality to the impact created by the variance.
- 720 2. Denial of any request shall be accompanied by findings of fact as to
- 721 how the request did not meet one or more of the review criteria.
- 722 **(5) Appeal of Variance Decision (include if PC is the BoA)**
- 723 Decisions of the Board of Adjustment and Appeals are final unless the applicant
- 724 or an affected party, including any member of the City Council, files a written
- 725 appeal outlining the basis for the appeal within ten (10) calendar days of the
- 726 decision. Variance appeals shall be reviewed by the City Council as outlined in
- 727 Section 2.4(H)(3)(c) subject to the review criteria in Section 2.4(H)(4).
- 728 **(6) Effect of a Variance (8-240)**
- 729 (a) The issuance of a Variance shall authorize only the particular variation that is
- 730 approved by the Board of Adjustment and Appeals.
- 731 (b) A Variance, including any conditions, shall run with the land and shall not be
- 732 affected by a change in ownership.
- 733 **(7) Subsequent Development (8-250)**
- 734 Development authorized by the Variance shall not be carried out until the
- 735 applicant has secured all other approvals required by this ordinance or any other
- 736 applicable chapters or regulations. The granting of a Variance does not constitute,
- 737 imply, or guarantee the granting of any other such required approval (e.g.: a
- 738 building permit)



739

(8) Time Limit (8-260)

740

(a) Unless otherwise specified in the variance, if a building permit has not been applied for within one year of the date of the variance approval, the variance shall become invalid. Permitted timeframes do not change with successive
ow.

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(b) Upon written request, extensions of one year may, but need not, be granted by the City Council if the applicant can show good cause.

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(9) Amendment (8-270)

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(a) A variance may be amended, extended, or modified only in accordance with the procedures and standards established for originally securing the variance.

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(b) A request for a change in the conditions of approval of a variance shall be considered an amendment and subject to the full review procedure set forth in this Article.

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(c) An additional application fee may be required before consideration of the amendment request.

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754



Conditional Use Permits⁷⁵⁵



756 (D) Conditional Use Permits (Ch 8, Art 2)

757 (1) Purpose and Scope

758 The Conditional Use Permit process is intended to provide the City with an
759 opportunity to review a use in order to establish reasonable conditions necessary
760 to ensure compatibility between the proposed use and surrounding properties.
761 Approval of a conditional use at a location within a zoning classification does not
762 mean the same conditional use can be conducted on any other parcel with the
763 same specific zoning classification. Every application for a CUP will be
764 individually reviewed on its own merits, and the facts surrounding the subject
765 property will determine the appropriateness of the proposed use. (8-110)

766 (2) Initiation of Proceedings

767 A request for a Conditional Use Permit shall be initiated by an owner of property
768 or an authorized representative of an owner pursuant to Section 2.3(B), Authority
769 to File Applications.



(3) Application

(a) All applications for a Conditional Use Permit shall be in accordance with Section 2.3, Common Review Requirements.

*Section 2.3:
Common Review
Requirements*

(b) In addition to general review requirements, applications for a Conditional Use Permit shall also include the following:

(i) A written narrative which includes:

1. A description of the proposed conditional use, how it will function on the property, hours of operation (if applicable), and any other information necessary to fully describe the request; and
2. An explanation of how the proposed conditional use will meet each of the criteria set forth in subsection (4)(a) below, as well as any additional criteria that may apply for the specific use as listed in Chapter 5.

*Chapter 5: Use
Standards*

(ii) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the conditional use is proposed;

(iii) Development plans for the proposed use showing all information deemed necessary by the Department of Community Assets and Development to ensure that the City can determine whether the proposed use will conform to all City Code standards. Such information may include, but shall not be limited to, the following:

1. Site plan drawn to scale showing parcel and existing topography;
2. Location of all existing and proposed buildings and the size of each (including square footage);
3. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
4. Natural features such as woodlands, wetlands, shorelines, etc;
5. Landscaping and screening plans, including species and size of trees and shrubs proposed;
6. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
7. Type of business or activity and proposed number of employees (if applicable);
8. Proposed floor plan and elevations of any building with use indicated;



- 804 9. Proposed outdoor storage spaces (if applicable);
- 805 10. Signage plan.
- 806 (iv) If deemed necessary by the Department of Community Assets and
- 807 Development, a survey may be required to be submitted with the
- 808 application in addition to or in lieu of a site plan.
- 809 (v) Color profile elevation drawings of new structures to illustrate the
- 810 proposed visual appearance of new construction.
- 811 (vi) Any other information that may be reasonably required by the City to
- 812 evaluate the application.

Remove "morals"

813 (4) Review

814 (a) Conditional Use Permit Criteria (8-130)

815 Approval of a Conditional Use Permit application requires that the City find

816 that conditions (if needed) can be established to ensure that all of the

817 following criteria will always be met:

- 818 (i) The conditional use will not be detrimental to the health, safety, morals,
- 819 or welfare of persons residing or working near the use;
- 820 (ii) The conditional use will not be injurious to the use and enjoyment of
- 821 other properties in the immediate vicinity for the purposes already
- 822 permitted, nor substantially diminish and impair property values within
- 823 the neighborhood;
- 824 (iii) The conditional use will not impede the normal and orderly development
- 825 and improvement of surrounding property for uses permitted in the
- 826 district;
- 827 (iv) The conditional use will not pose an undue burden on public utilities or
- 828 roads, and adequate sanitary facilities are provided;
- 829 (v) The conditional use can provide adequate parking and loading spaces, and
- 830 all storage on the site can be done in conformance with City code
- 831 requirements;
- 832 (vi) The conditional use will not unnecessarily impact natural features such as
- 833 woodlands, wetlands, and shorelines; and all erosion will be properly
- 834 controlled;
- 835 (vii) The conditional use will adhere to any applicable additional criteria
- 836 outlined in Chapter 5 for the proposed use.



(b) Planning Commission

- (i) Before any conditional use permit is acted upon, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).
- (ii) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general conditional use permit review criteria and any specific criteria outlined for the specific use in Chapter 5.
 - 1. Recommendations for approval may include such conditions as deemed necessary to ensure compliance with each of the Conditional Use Permit review criteria, and shall be supported by findings of fact as to why the permit request should be approved.
 - 2. Denial recommendations shall be supported by findings of fact as to why the permit request was denied.

*Section 2.3(I):
Public Notification*

(c) City Council

- (i) The City Council shall consider recommendations from the Department of Community Assets and Development, recommendations from the Planning Commission, and the comments received at the public hearing to evaluate the request against the general and specific review criteria applicable to the use, and take action on the request(s).
- (ii) Decisions on a Conditional Use Permit shall require a majority vote of the City Council.
 - 1. In approving a Conditional Use Permit, the City Council shall support the decision with findings of fact as to why the permit request is being approved.
 - 2. Denial of any request shall be accompanied by findings of fact as to why the requested permit cannot be approved.

(5) Reasonable Conditions

In approving a CUP, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Conditional Use Permit review criteria.



868 **(6) Effect of a Conditional Use Permit Approval**

869 **(a)** The issuance of a Conditional Use Permit shall authorize only the
870 improvements approved by the City Council.

871 **(b)** A Conditional Use Permit, including any conditions, shall run with the land
872 and shall not be affected by a change in ownership.

873 **(7) Subsequent Development**

874 Development authorized by the Conditional Use Permit shall not be carried out
875 until the applicant has secured all other approvals required by this ordinance or
876 any other applicable ordinances or regulations. The granting of a Conditional Use
877 Permit does not constitute, imply, or guarantee the granting of any other such
878 required approval (i.e. a building permit).

879 **(8) Time Limit**

880 **(a)** Unless a multi-year deadline is specifically included as part of a Conditional
881 Use Permit approval, the operation of the use and/or issuance of building
882 permits for permitted structures shall begin within one (1) year of the date of
883 the Conditional Use Permit approval. Failure to do so will invalidate the
884 Conditional Use Permit. Permitted timeframes do not change with successive
885 owners.

886 **(b)** If the operation of the use and/or issuance of building permits has not
887 commenced within one (1) year of the date of approval, the applicant may
888 petition for an extension of time in which to commence the work that has
889 been granted by the Conditional Use Permit. Such extension shall be
890 requested in writing and be filed with the City at least thirty (30) days before
891 the expiration of the one (1) year period. The request for extension shall state
892 facts supporting good cause for extension of the Conditional Use Permit.
893 Such petition shall be presented to the City Council for a decision.

894 **(c)** If a use operating pursuant to an approved Conditional Use Permit is
895 discontinued for a period of at least one (1) year, any further use of the
896 property shall conform to the requirements of this ordinance. A discontinued
897 conditional use shall not begin operations again without first obtaining
898 approval of a new conditional use permit.



(9) Revocation

In the event that any of the conditions set forth in the permit are violated, the City Council shall have the authority to revoke the Conditional Use Permit. **Before the revocation is considered, the City Council shall hold at least one (1) public hearing after proper written notice has been issued in accordance with Section 2.3(I). Following the hearing and subsequent discussion,** the City Council may revoke the CUP by adopting findings of fact showing there has not been substantial compliance with the required conditions.

(10) Amendments

(a) A Conditional Use Permit may be amended or modified only in accordance with the procedures and standards established when originally securing the Conditional Use Permit.

(b) A request for a change in the conditions of approval of a Conditional Use Permit shall be considered an amendment, and be subject to the full review procedure set forth in this subsection.

(c) An additional application fee may be required before the consideration of the amendment request.



Interim⁹¹⁷ Use Permits



918 (E) Interim Use Permits

919 (1) Purpose and Scope [8-140(1)]

920 The purpose and intent of allowing interim uses is:

- 921 (a) To allow a use for a brief period of time until a permanent location is obtained
- 922 or while the permanent location is under construction.
- 923 (b) To allow a use that is presently acceptable, but that with anticipated
- 924 development or redevelopment, will not be acceptable in the future or will be
- 925 replaced by a permitted or conditional use allowed within the respective
- 926 district.
- 927 (c) To allow a use which is reflective of anticipated long-range change to an area
- 928 and which is in compliance with the comprehensive plan provided that said
- 929 use maintains harmony and compatibility with surrounding uses and is in
- 930 keeping with the architectural character and design standards of existing uses
- 931 and development.



(2) Initiation of Proceedings

A request for an Interim Use Permit shall be initiated by an owner of property or an authorized representative of an owner pursuant to Section 2.3(B), Authority to File Applications.

(3) Application [8-145]

(a) All applications for an Interim Use Permit shall be in accordance with Section 2.3, Common Review Requirements.

Section 2.3: Common Review Requirements

(b) In addition to general review requirements, applications for an Interim Use Permit shall also include the following:

- (i) A letter from the applicant explaining the proposed interim use, why its needed, and stating the date or event that will terminate the use or trigger required changes;
- (ii) A location map showing the general location of the proposed use within the community and the principal land uses surrounding the parcel on which the interim use is proposed;
- (iii) Development plans for the proposed interim use showing all information deemed necessary by the Department of Community Assets & Development to ensure that it can be determined whether the proposed development will meet all applicable development standards. Such information may include but shall not be limited to the following:
 1. Site plan drawn to scale showing parcel and existing topography;
 2. Location of all buildings and the size of each, including square footage;
 3. Curb cuts, driveways, access roads, parking spaces, off-street loading areas, and sidewalks;
 4. Natural features such as woodlands, wetlands, shorelines, etc;
 5. Landscaping and screening plans, including species and size of trees and shrubs proposed;
 6. Proposed finished grading and drainage plan sufficient to drain and dispose of all surface water accumulated;
 7. Type of business or activity and proposed number of employees;
 8. Proposed floor plan and elevations of any building with use indicated;
 9. Proposed outdoor storage spaces (if applicable); and
 10. Signage plan.

Sec 4.7 Parking



- 966 (iv) If deemed necessary by the Department of Community Assets and
967 Development, a survey may be required to be submitted with the
968 application in addition to or in lieu of a site plan.
- 969 (v) A signed consent agreement, provided by the City of New Brighton,
970 agreeing:
- 971 1. That the applicant, owner, operator, tenant and/or user has no
972 entitlement to future re-approval of the Interim Use Permit;
- 973 2. That the interim use will not impose additional costs on the public if it
974 is necessary for the public to fully or partially take the property in the
975 future; and
- 976 3. That the applicant, owner, operator, tenant and/or user will abide by
977 conditions of approval that the City Council attaches to the Interim
978 Use Permit.
- 979 (vi) Any other information that may be reasonably required by the City to
980 evaluate the application.
- 981 (4) Review **[8-150]**
- 982 (a) Interim Use Permit Criteria
- 983 Approval of an Interim Use Permit application requires that the City find that
984 conditions (if needed) can be established to ensure all of the following criteria
985 will always be met:
- 986 (i) The use is allowed as an interim use in the respective zoning district and
987 conforms to standard zoning regulations unless exempted by the specific
988 interim use type;
- 989 (ii) The use will not adversely affect nearby properties through nuisance,
990 noise, traffic, dust, odor, or unsightliness; and will not otherwise
991 adversely affect the health, safety, and welfare of the community;
- 992 (iii) The use will not adversely impact implementation of the Comprehensive
993 Plan;
- 994 (iv) The date, event, or change in circumstances that will terminate the use is
995 identified with certainty;
- 996 (v) The applicant has signed a consent agreement stating that the applicant,
997 owner, operator, tenant and/or user has no entitlement to future re-
998 approval of the interim use permit as well as agreeing that the interim use
999 will not impose additional costs on the public if it is necessary for the
1000 public to fully or partially take the property in the future;



- (vi) The applicant agrees to all conditions that the City Council deems appropriate to allow the interim use including, but not limited to, the requirement of appropriate financial surety to cover the cost of removing the interim use and any interim structures upon the expiration of the interim use permit;
- (vii) There are no delinquent property taxes, special assessments, or City utility charges due upon the subject parcel;
- (viii) The interim use will adhere to any applicable additional criteria for the use required in the applicable zoning district; and
- (ix) The term of the interim use does not exceed two years unless an end date for the use is attached to a specific triggering event

(b) Planning Commission

- (i) Before any Interim Use Permit is considered by the City Council, the Planning Commission shall hold at least one public hearing after proper notice has been issued in accordance with Section 2.3(I).
- (ii) Following the hearing and subsequent discussion on the merits of the proposal, the Planning Commission shall adopt findings and recommendations on the general Interim Use Permit review criteria and any specific criteria outlined for the specific use in Chapter 5.
 - 1. Recommendations for approval may include such conditions as are deemed necessary to ensure compliance with each of the Interim Use Permit review criteria, and shall be supported by findings of fact as to why the permit request should be approved.
 - 2. Denial recommendations shall be supported by findings of fact as to why the permit request was denied.
- (iii) Applications may be forwarded to the City Council without a recommendation from the Planning Commission if it is deemed necessary to ensure compliance with state-mandated deadlines for application review.

*Section 2.3(I): Public
Notification*



- Page 41



(8) Termination [8-170]

An interim use permit shall be terminated, and the interim use removed for any of the following reasons, whichever occurs first:

- (a) The date, event, or circumstances stated in the permit;
- (b) Upon violation of conditions under which the permit was issued;
- (c) Upon a change in the City's zoning regulations which renders the use nonconforming; or
- (d) The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

(9) Revocation [8-175]

The City Council may revoke an interim use permit upon finding that any of the conditions set forth in the permit are violated or if there are any other violations of federal, state, or local laws or regulations relating to the interim use permit. The City shall notify the holder of the interim use permit of the violation(s) in writing and provide a reasonable amount of time for the holder to correct the violation(s). If the violation(s) are not corrected within the time specified in the notice, the City Council may revoke the interim use permit. **Before the revocation is considered, the City Council shall hold a public hearing after proper written notice has been issued in accordance with Section 2.3(I).** Following the hearing and subsequent discussion, the City Council may revoke the interim use permit by adopting a resolution with findings of fact that include the basis for the revocation.

Section 2.3(I): Public Notification

(10) Amendments [8-180]

All requested amendments to an existing interim use permit shall be processed in the same manner as a new application.

(11) Renewal [8-185]

The following process may be used to renew an active interim use permit that is set to expire. Terminated interim use permits cannot be renewed.

- (a) **Application.** Application requirements for renewal of an existing interim use permit shall be the same as for a new application.



- 1090 (b) **Review.** Upon receiving a complete application for an interim use permit
1091 renewal, the Department of Community Assets & Development shall send
1092 notice of the requested renewal to all property owners within 350 feet of the
1093 parcel(s) containing the interim use. If any objections are raised within 10
1094 days of the mailed notice, the application shall be processed in the manner of
1095 a new application. If no objections are raised, the Department of Community
1096 Assets & Development shall prepare a resolution of approval outlining the
1097 conditions and stipulations of the renewal for consideration by the City
1098 Council. The City Council at its discretion may approve or deny the request
1099 with findings. Denial of a renewal request does not constitute termination of
1100 the existing interim use permit.



1101

Appeal of Administrative Decisions



1102 (F) **Appeal of Administrative Decisions**

1103 (1) **Purpose and Scope**

1104 This subsection sets out the procedure to follow when a person claims to have
1105 been aggrieved or affected by an administrative decision made under this
1106 ordinance.



(2) Initiation of Proceedings

Appeals shall be initiated by the person aggrieved or affected by any order, decision, determination, or interpretation made by the Department of Community Assets and Development or other administrative official of the City charged with the administration or enforcement of this ordinance.

(3) Procedure

(a) Submission of Appeal (Application)

- (i)** An Appeal pursuant to this subsection shall be initiated by filing a written appeal of the administrative decision or determination on an official form provided by City Hall.
- (ii)** All applications for an appeal shall be in accordance with Section 2.3, Common Review Requirements.
- (iii)** All appeals shall be submitted within one of the following timeframes to be valid:
 1. Within ten (10) business days of the date the appellant was notified of the order, decision, determination, or interpretation they intend to appeal.
 2. If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; then within **thirty (30) calendar days** of the initiation of activity which either alerted or could have alerted the appellant to the matter they wish to appeal.
 3. If the appellant was not notified of the order, decision, determination, or interpretation they intend to appeal; and no household members were present in the community during the initiation of activity which could have alerted the appellant to the matter they wish to appeal (i.e. due to business trips or relocation during the winter months), then the appellant will have ten (10) business days to appeal from the date a household member returned to the property.

Calendar vs. Business Days...what is most appropriate?

Add provisions on the Chain of handling the application; avoid staff subject to the appeal



- 1137 **(b) Review by the Board of Adjustment and Appeals**
- 1138 (i) Upon receiving the written appeal of the administrative decision or
- 1139 determination, the City Clerk shall place the matter on the next available
- 1140 agenda of the Board of Adjustment and Appeals, and shall notice a public
- 1141 hearing for the review in accordance with Section 2.3(I).
- 1142 (ii) A report prepared by the Department of Community Assets and
- 1143 Development accompanied by all relevant papers, documents, and other
- 1144 materials relating to the order, decision, determination, or interpretation
- 1145 shall be provided to the Board of Adjustment and Appeals prior to the
- 1146 meeting. These materials shall be a part of the record of the appeal.
- 1147 (iii) The City Attorney may also submit materials in connection with any
- 1148 appeal considered by the Board of Adjustment and Appeals.
- 1149 (iv) Following reports by the Department of Community Assets and
- 1150 Development and appellant(s), the Board of Adjustment and Appeals
- 1151 shall hold the scheduled public hearing.
- 1152 (v) Following the hearing and subsequent discussion on the appeal, the Board
- 1153 of Adjustment and Appeals shall adopt findings of fact and make a
- 1154 decision on the appeal.
- 1155 (vi) Decisions of the Board of Adjustment and Appeals are final unless an
- 1156 affected party files a second written appeal to the City Council outlining
- 1157 the basis for the appeal within five (5) business days of the decision.
- 1158 **(c) Review by the City Council**
- 1159 (i) Upon receiving a second written appeal of the decision rendered by the
- 1160 Board of Adjustment and Appeals, the City Clerk shall place the matter
- 1161 on the next available agenda of the City Council scheduled at least seven
- 1162 (7) days after the date of the appeal.
- 1163 (ii) Materials constituting the record of appeal from the Board of Adjustment
- 1164 and Appeals review shall be provided to the City Council for examination
- 1165 prior to the meeting.
- 1166 (iii) Following review of the appeal, the City Council shall review and decide
- 1167 on the appeal in accordance with this chapter and state law.



(d) Records

- (i)** The City Clerk shall keep a record of Board and Council proceedings which shall include minutes of meetings, findings, and the action taken on an appeal or variance, including the Board and Council's final order and any conditions established in connection therewith.
- (ii)** The City Clerk shall transmit the final decision to the appellant or Applicant by mail.

(4) Review Criteria

An order, decision, determination, or interpretation shall not be reversed or modified unless there is competent, material, and substantial evidence in the record that the order, decision, determination, or interpretation fails to comply with either the procedural requirements, substantive requirements, or intent of this ordinance or state law.

(5) Conditions

The Board of Adjustment and Appeals or City Council may impose conditions upon their decision to ensure that the requirements and purposes of this ordinance are followed.

(6) Effect of Decision

Determinations made by the Board of Adjustment and Appeals or City Council shall inform the Department of Community Assets and Development and other administrative officials on the exact meaning of zoning language or the process being questioned, and such direction shall be implemented thereafter until/unless the zoning language in question or procedure is amended by the City Council.



Site Plan Review



1193 (G) Site Plan Review (updates Chapter 8, Article 1, 8-010)

1194 (1) Purpose and Scope

1195 The City Council declares it necessary and appropriate to require site plan
1196 approval of development in certain zoning districts to preserve and promote
1197 attractive, well-planned, stable urban conditions. Site plan approval must be
1198 obtained before a building permit is issued in order to ensure the following:

1199 (a) A proposed project's compatibility with the area environment and with other
1200 existing land uses and buildings in the surrounding area.

1201 (b) The quantity, quality, utility, size, and type of a proposed project's required
1202 open space and proposed landscaping improvements.

1203 (c) The ability of a proposed project's traffic circulation system to provide for the
1204 convenient and safe internal and external movement of vehicles and
1205 pedestrians.

1206 (d) The quantity, quality, utility, size, and type of a proposed project's required
1207 community facilities.



1208 (e) The location and adequacy of a proposed project's provision for drainage and
1209 utilities.

1210 (f) Security, fire protection, and life/safety issues.

1211 **(2) Applicability**

1212 (a) Unless exempted pursuant to Section 2.4(G)(3) below, Site Plan review shall
1213 be required for all residential and nonresidential development (including
1214 changes to required parking areas, proposed changes to outside commercial
1215 sales or storage areas, etc) prior to the issuance of a Building Permit or other
1216 approval.

1217 (b) At the discretion of the Department of Community Assets and Development,
1218 Site plan reviews may be completed concurrently with and as a component of
1219 other valid land use applications outlined in Section 2.4.

1220 **(3) Exemptions**

1221 (a) The following shall be exempted from site plan review:

1222 (i) Detached residential uses (i.e. single family homes) and their accessory
1223 buildings and structures.

1224 (ii) The internal construction or change in floor area of a development that
1225 does not increase gross floor area, increase the intensity of use, or affect
1226 parking requirements on a site that meets all development and site design
1227 standards of this ordinance.

1228 (iii) Any building exempted by state statute.

1229 (iv) Temporary uses.

1230 (b) **Revisions.** The Department of Community Assets and Development is
1231 authorized to review and approve, approve with conditions, or deny revisions
1232 to previously approved Site Plans in accordance with the procedures and
1233 standards outlined in Section 2.4(G)(10).

1234 **(4) Initiation of Proceedings**

1235 An application for Site Plan review may be initiated by the property owner or
1236 other person with authority to file an application pursuant to Section 2.3(B),
1237 Authority to File Applications.

Update spelling



1238 **(5) Procedure**

1239 **(a) Application**

- 1240 (i) All applications for Site Plan review shall be in accordance with Section
1241 2.3, Common Review Requirements.
- 1242 (ii) In addition to the common application requirements noted above,
1243 applications for site plan review shall also include at least the following to
1244 be considered complete (except as exempted by the Department of
1245 Community Assets and Development). All documents shall be prepared
1246 by a registered land surveyor, registered professional engineer, or other
1247 qualified professional as determined by the Department of Community
1248 Assets and Development.
- 1249 1. Name of the project;
- 1250 2. Name, address and telephone number of applicant, engineer,
1251 architect, surveyor and owner of record;
- 1252 3. Legal description;
- 1253 4. Date proposed, north arrow, engineering scale, number sheets and
1254 name drawer;
- 1255 5. Vicinity map showing relationship of the development to surrounding
1256 streets, rights-of- way and the like;
- 1257 6. Description of intended use of site, buildings, structures, including
1258 type of occupancy and occupancy load;
- 1259 7. Tabulation box, indicating the following:
- 1260 a. Size of parcel in acres and square feet;
- 1261 b. Gross floor area of each building;
- 1262 c. Percent of site covered by impervious surface;
- 1263 d. Projected number of employees;
- 1264 f. Number of seats if intended use is a restaurant or place of
1265 assembly;
- 1266 g. Number of parking spaces required;
- 1267 h. Number of parking spaces provided, including handicapped;
- 1268 i. Dimension of parking spaces and aisles;
- 1269 j. Area of public open space (if applicable).

CHAPTER 2: APPLICATION REVIEWS AND PROCEDURES

Section 2.4 Specific Review Procedures & Requirements

(G) Site Plan Review (updates Chapter 8, Article 1, 8-010)



- (iii) Property line dimensions, location of all existing and proposed structures with distance from boundaries, distance between structures, building dimensions and floor elevations within proposed site plan boundary shown and to a distance of 150 feet beyond;
- (iv) Topographic data shown in two foot contours within the property and up to 200 feet beyond the property boundary. All areas with a slope greater than 25% must be clearly indicated.
- (v) Grading, drainage and erosion control plan prepared by a registered professional engineer, providing all information outlined in **Section 4-10(D)**.
- (vi) Utility plans prepared by a registered professional engineer consisting of the following:
1. Location, size and grades of all existing sanitary sewer, water main, hydrants and storm sewer on site or adjacent to for proposed connection;
 2. Location of all existing gas mains, electric and phone cables, light poles, power boxes and the like;
 3. Location, size, grades and materials for all proposed public sanitary sewer, water main, hydrants and storm sewer;
 4. Supplemental calculations for trunk sanitary sewer and water main, if required by the Community Development Department;
 5. Supplemental storm sewer computation sheet verifying capacities and volumes for all pipe segments, if required by the Community Development Department; and
 6. Existing and proposed drainage and utility easements.
- (vii) Vehicular circulation plan showing the location and dimensions for all driveways, parking spaces, parking lot aisles, service roads, loading areas, fire lanes, etc. Unless exempted by the Department of Community Assets & Development, a turning movement exhibit showing emergency vehicles can navigate the site when fully parked shall be submitted.
- (viii) Landscape plan prepared by a qualified professional providing all information outlined in **Section 4.1(D)**;
- (ix) Location, access and screening detail of large trash handling and recycling collection areas in compliance with the requirements of **Section 5.3(D)(34)**;

[Section 4.10\(D\):
Grading, Drainage,
Stormwater
Management, &
Erosion Control](#)



- 1305 (x) Building elevations (colored renderings) which detail the materials being
1306 used;
1307 (xi) Location and screening detail of roof top equipment (if required);
1308 (xii) Location and detail of all proposed signage;
1309 (xiii) Lighting location, style and mounting and light distribution plan;
1310 (xiv) Project narrative; and
1311 (xv) Any other information that may be reasonably required by the City to
1312 evaluate the application including but not limited to floor plans, building
1313 elevations, rendered drawings, and materials samples.

1314 **(b) Site Plan Review Criteria**

1315 Recommendations and decisions on a Site Plan shall be based on
1316 consideration of the following criteria:

- 1317 (i) Whether the proposed development is consistent with all the requirements
1318 of this ordinance and the City Code;
1319 (ii) Whether the proposed development is in compliance with the applicable
1320 zoning district and overlay districts;
1321 (iii) Whether the proposed development is in compliance with other City
1322 approved planning documents; and
1323 (iv) Whether the proposed development meets all the requirements or
1324 conditions of any applicable development approvals

1325 **(c) Planning Commission Review**

1326 Before any Site Plan is considered by the City Council, the Planning
1327 Commission shall review the proposal and adopt findings as to whether the
1328 plans meet all zoning requirements, and identify any changes that are
1329 necessary to eliminate future review procedures. Applications may be
1330 forwarded to the City Council without a recommendation from the Planning
1331 Commission if it is deemed necessary to ensure compliance with state-
1332 mandated deadlines for application review.

1333 **(d) City Council Review**

- 1334 (i) The City Council shall consider recommendations from the Department
1335 of Community Assets and Development and recommendations from the
1336 Planning Commission, and make a final determination as to whether the
1337 plans as presented are ready for approval.



(ii) Decisions on a Conditional Use Permit shall require a majority vote of the City Council.

1. In approving a Site Plan, the City Council shall support the decision with findings of fact as to why the plan is being approved.
2. Denial of a site plan shall be accompanied by findings of fact as to why the requested plan cannot be approved.

(6) Reasonable Conditions

In approving a site plan, the City may adopt and impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure compliance with code requirements.

(7) Effect of Decision.

(a) The approval of a site plan by the City does not in any way guarantee future approval of other applications that may be required by the regulations of the City (e.g. a Building Permit, Certificate of Occupancy, etc).

(b) The approval of a site plan only verifies compliance with City regulations in effect at the time of site plan review.

(c) A Site Plan approved by the City, including any conditions, shall run with the land and shall not be affected by a change in ownership.

(8) Subsequent Development

Development authorized by site plan approval shall not be carried out until the applicant has secured all other approvals required by this ordinance or any other applicable ordinances or regulations.

(9) Time Limit

Site plan approvals do not expire; however, subsequent amendments to code may render specific portions of an approved site plan invalid if a proposed improvement is unrealized on the date a code change goes into effect. In such circumstances, only features made illegal by changes in code may no longer be implemented.



1366 **(10) Amendments**

1367 **(a)** New construction of any building or site changes deemed significant by the
1368 Department of Community Assets and Development shall be required to
1369 obtain site plan authorization following the procedures of Section 2.4(G)(5).

1370 **(b)** Minor amendments to the placement of buildings, arrangement of parking, or
1371 other aspects of a previously approved Site Plan may be authorized
1372 administratively by the Department of Community Assets and Development.

1373 **(i)** Upon receiving a complete application to amend a previously approved
1374 site plan, the Department of Community Assets and Development shall
1375 review the plans to determine their conformance to all current ordinance
1376 requirements. The Department of Community Assets and Development
1377 may be assisted in conducting site plan reviews by representatives from
1378 other City departments or divisions.

1379 **(ii)** Applications determined to conform with the approval criteria outlined in
1380 Section 2.4(G)(5)(b) shall be approved by the Department of Community
1381 Assets and Development with any conditions deemed necessary. A notice
1382 of site plan approval shall be provided to the applicant that includes all
1383 conditions, comments, and recommendations.

1384 **(iii)** Applications not conforming with the approval criteria outlined in Section
1385 2.4(G)(5)(b) shall be denied by the Department of Community Assets and
1386 Development. A notice of site plan denial shall be provided to the
1387 applicant that includes all identified reasons for denial. Applicants may
1388 either update their plans to address comments of the Department of
1389 Community Assets and Development, or they may appeal the decision by
1390 filing for a new site plan approval.
1391



1392

Building Permits



1393

(H) Building Permits [replaces 8-030]

1394

(1) Purpose

1395

1396

1397

This section establishes when obtaining a building permit is required, how it will be reviewed, what surveys may be required to track construction, and how unauthorized work will be handled.



1398

(2) In General

1399

1400

1401

1402

(a) No person, firm, or corporation shall erect, alter, construct, enlarge, expand, repair, move, improve, convert, demolish, equip, use, occupy, or maintain any building, structure, or portion thereof, within the City of New Brighton until proper permits have been issued by the City and partnering agencies.

1403

1404

1405

(b) No building permit or other permit pertaining to the use of land or buildings shall be issued unless such building is designed and arranged to conform to the provisions of this ordinance.

1406

1407

(c) Building permits shall not be required for those structures and improvements specifically exempted by the adopted building code as may be amended.

*MN Rule chapter 1300
"Administration of the
State Building Code"
Exemptions*



DCAD Policy
on Survey
Requirement
Thresholds

1408 (3) Surveys

1409 (a) Any application for building permit may need to be accompanied by a
1410 certified site survey (excluding interior remodels, re-roofs, re-siding and
1411 general maintenance) if deemed necessary by the Department of Community
1412 Assets and Development. Because the survey, if required, will be used to
1413 determine an application's conformance with City Code, it shall be the
1414 responsibility of the applicant to ensure information provided on the survey
1415 corresponds to submitted building plans (including existing and proposed
1416 topography). An issued building permit shall authorize only land alterations
1417 identified on the survey. Surveys shall include all information as deemed
1418 necessary by the Department of Community Assets and Development to
1419 provide for the enforcement of this ordinance.

1420 (b) Any application for building permit may be required to supply the City with
1421 an as-built foundation survey if deemed necessary by the Department of
1422 Community Assets and Development. If a foundation survey is required, the
1423 building permit holder shall obtain verification from a surveyor that the as-
1424 built foundation was located as proposed or still meets code requirements for
1425 placement. Failure to obtain surveyed verification of the foundation's
1426 compliance with code will result in the builder continuing with construction at
1427 their own risk. Expenditures incurred beyond the construction of the
foundation will not be considered in determining the actions required to bring
the building back into conformance if not built to approved plans.

Wrong word;
change to
"grading"

1431 (c) Any application for building permit may be required to supply the City with
1432 an as-built foundation survey if deemed necessary by the Department of
1433 Community Assets and Development. An as-built grading survey, if required,
1434 shall certify the final topography of the site and verify the drainage patterns
1435 existing upon completion of work. The City reserves the right to withhold the
1436 Certificate of Occupancy for a building until final grading addresses all
problems that may be detrimental to adjacent properties.

1437 (4) Review

1438 The Department of Community Assets and Development shall review all building
1439 permit applications for conformance to ordinance requirements.



(5) Unauthorized Work

Work done without the authorization of a permit and/or found to be out of conformance with approved plans shall be immediately halted and subject to the remedies and penalties described in Section 7.6 of this ordinance. Structures being built out of conformance shall be brought into conformance.

Certificates of Occupancy



(I) Certificates of Occupancy

(1) Purpose

This section establishes the requirement for City approval prior to the use or occupation of new buildings or structures, or prior to a change in use within an existing structure. Issuance of a certificate of occupancy signifies that the building or structure complies with all code requirements.

(2) Required

- (a)** No building or structure hereafter erected or moved, or that portion of an existing structure or building erected or moved, shall be occupied or used in whole or in part for any purpose whatsoever until a certificate of occupancy has been issued by the City stating that the building or structure complies with all provisions of this ordinance.



1458 **(b)** No change in use of an existing building or structure shall take effect until a
1459 certificate of occupancy has been issued by the City stating that the updated
1460 building or structure complies with all provisions of this ordinance.

1461 **(3) Application**

1462 A certificate of occupancy shall be applied for coincident with an application for a
1463 building permit or prior to a proposed change in use.

1464 **(4) Issuance**

1465 A certificate of occupancy will be issued within ten (10) days of City Staff
1466 completing a final inspection and making findings that the building or structure
1467 conforms to all code requirements.
1468



Grading Permits



(J) Grading Permits

(1) Purpose

This section establishes when a grading permit is required, how it will be reviewed, information required with the application, and how unauthorized work will be handled. Requiring a Grading Permit enables the City to protect the public by ensuring resulting drainage works as intended, potential erosion issues are addressed, and to guard against unnecessary extra maintenance of sewers and ditches and/or the dredging of lakes and ponds. A Grading Permit promotes the public welfare by guiding, regulating, and controlling the design, construction, use, and maintenance of any development or other activity that disturbs or breaks the topsoil or results in the movement of earth on land in the City of New Brighton.

(2) In General

A Grading Permit shall be required when triggered by the provisions of the Shoreland Overlay District, or as may be required by other sections of this ordinance.

[< Grading regs reference here >](#)





(b) Grading Permit Review Process

- (i)** The Department of Community Assets and Development shall review all Grading Permit applications.
- (ii)** Applications determined to conform with the approval criteria outlined in Section 2.4(I)(5)(a) shall be approved by Department of Community Assets and Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.
- (iii)** Applications not conforming with the approval criteria outlined in Section 2.4(I)(5)(a) shall be denied by Department of Community Assets and Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(6) Reasonable Conditions

In approving a Grading Permit, the Department of Community Assets and Development may impose such reasonable conditions and requirements as it deems necessary and appropriate to ensure continued compliance with the Grading Permit review criteria and other city ordinances.

(7) Effect of Grading Permit Approval

The issuance of a Grading Permit shall authorize only the changes approved by the Department of Community Assets and Development as depicted by the application materials.

(8) Time Limit

- (a)** Failure to complete the authorized grading within six (6) months of the date of approval will invalidate the permit.
- (b)** Upon written request, one extension of six (6) months may, but need not, be granted by the Department of Community Assets and Development if the applicant can show good cause.

(9) Amendments

All requested amendments to an existing Grading Permit shall be processed in the same manner as a new application.



1544 (10) **Unauthorized Work**

1545 Work done without the authorization of a permit and/or found to be out of
1546 conformance with approved plans shall be immediately halted and subject to the
1547 remedies and penalties described in Section 7.6 of this ordinance. Driveways or
1548 parking lots being built out of conformance shall be brought into conformance.

1549 (11) **Appeal**

1550 The applicant for a Grading Permit may appeal the decision of the Department of
1551 Community Assets and Development to the Board of Adjustment and Appeals per
1552 Section 2.4(F).

Sign Permits



1553 (K) **Sign Permits**

1554 (1) **Purpose and Scope**

1555 This subsection sets out the procedures to follow when requesting a sign permit.

1556 (2) **Initiation of Proceedings**

1557 A request for a Sign Permit shall be initiated by application of the property owner
1558 or other person having authority to file an application pursuant to Section 2.3(B),
1559 Authority to File Applications.



(3) In General

A sign permit shall be required for specific sign types as identified in **Section 4.5 Signs**.

Section 4.5: Signs

(4) Application

(a) All applications for a Sign Permit shall be in accordance with Section 2.3, Common Review Requirements.

(b) In addition to general review requirements, applications for a Sign Permit shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets and Development):

Section 2.3: Common Review Requirements

- (i)** Names and addresses of the applicant, owners of the sign and lot.
- (ii)** The address(es) at which the sign(s) are to be erected.
- (iii)** Indication of the street on which each sign is to front.
- (iv)** Type and size of sign.
- (v)** A site plan (or survey if required by the Department of Community Assets and Development) which is to-scale showing the location of lot lines, building structures, parking areas, the location of existing and proposed signs, and any other physical features on the site.
- (vi)** Plans showing sign locations, specifications, and method of construction and attachment to the buildings or placement method on the ground.
- (vii)** Copy of stress sheets and calculations showing that the structure is designed for dead load and wind pressure in any direction in the amount required by this and all other laws and ordinances of the City, if required.
- (viii)** Written consent of the owner or lessee of any site on which the sign is to be erected.
- (ix)** Any electrical permit required and issued for the sign.
- (x)** A detailed description of any electronic or electrical components that are proposed to be added to the sign.
- (xi)** Other information to demonstrate compliance with this and all other ordinances of the City.



- 1589 **(5) Review**
- 1590 **(a) Sign Review Criteria**
- 1591 Approval of a Sign Permit application shall be based on the following criteria:
- 1592 **(i)** Whether the proposed sign is consistent with all the requirements of this
- 1593 ordinance and any other City Code requirements;
- 1594 **(ii)** Whether the proposed sign meets all the requirements or conditions of
- 1595 any applicable development approvals or agreements.
- 1596 **(b) Sign Review Process**
- 1597 **(i)** The Department of Community Assets and Development will review all
- 1598 sign permit requests.
- 1599 **(ii)** Applications determined to conform with the approval criteria outlined in
- 1600 Section 2.4(K)(5)(a) shall be approved by the Department of Community
- 1601 Assets and Development with any conditions deemed necessary. A copy
- 1602 of the approved permit shall be provided to the applicant which includes
- 1603 all conditions and comments.
- 1604 **(iii)** Applications not conforming with the approval criteria outlined in Section
- 1605 2.4(K)(5)(a) shall be denied by the Department of Community Assets and
- 1606 Development. A notice of denial shall be provided to the applicant which
- 1607 includes all identified reasons for denial.
- 1608 **(6) Reasonable Conditions**
- 1609 In approving a sign permit, the Department of Community Assets and
- 1610 Development may impose such reasonable conditions and requirements as
- 1611 deemed necessary and appropriate to ensure continued compliance with the sign
- 1612 permit review criteria.
- 1613 **(7) Effect of a Sign Permit Approval**
- 1614 **(a)** The issuance of a Sign Permit shall authorize only the installation or
- 1615 replacement of signage approved by the Department of Community Assets
- 1616 and Development.
- 1617 **(b)** A Sign Permit, including any conditions, shall run with the land and shall not
- 1618 be affected by a change in ownership.



(8) Time Limit

(a) Failure to install the approved signage within six months of the date of approval will invalidate the permit.

(b) Upon written request, one extension of six months may be granted by the Department of Community Assets and Development if the applicant can show good cause.

(9) Amendments

All requested amendments to an existing sign permit shall be processed in the same manner as a new application.

(10) Appeal

The applicant for a Sign Permit may appeal the decision of the Department of Community Assets and Development to the Board of Adjustment and Appeals per Section 2.4(F).



Temporary Use Permits



1634 (L) Temporary Use Permits [8-064]

1635 (1) Purpose and Scope

1636 The provisions of this Code cannot reasonably include all possible temporary uses
1637 which may be appropriate in various areas of the City, and the need for which
1638 may change very quickly due to unforeseen circumstances such as natural
1639 disasters or pandemics. This section allows for the establishment of certain
1640 temporary uses for a limited duration. Temporary uses shall not involve the
1641 construction or alteration of any permanent building or structure.

1642 (2) Establishment of Temporary Uses

1643 Temporary uses in the City of New Brighton shall be identified and established by
1644 the City Council via resolution on a yearly basis. When establishing specific
1645 temporary uses allowed within the City, Council may identify the use as being
1646 allowed outright provided certain conditions are met, or they may require an
1647 administrative temporary use permit be acquired through the Department of
1648 Community Assets and Development before the temporary use is established.

Change to
"Public Health
Emergencies"



(3) Overlap with Other Code Provisions

(a) Conditionally Permitted Uses

Uses authorized for approval as a temporary use by Council may overlap with uses identified as Conditionally Permitted within the zoning ordinance. In such cases, a landowner may choose to pursue a temporary use permit to authorize the use for a limited timeframe as may be allowed by Council, or may pursue a Conditional Use Permit to secure permanent approval of the use.

(b) Prohibited Uses

In response to unforeseen circumstances, it may be necessary from time to time for the City Council to identify an otherwise prohibited use as an activity allowable via temporary use permit. In such cases, the use shall only be allowed as a temporary use while authorized by City Council via the most current resolution establishing temporary uses. Once removed from the list of allowed temporary uses, a prohibited use will once again be considered prohibited.

(4) Initiation of Proceedings

A request for a Temporary Use Permit shall be initiated by application of the property owner or other person having authority to file an application pursuant to Section 2.3(B), Authority to File Applications.

(5) Application

(a) All applications for a Temporary Use Permit shall be in accordance with Section 2.3, Common Review Requirements.

(b) In addition to general review requirements, applications for a Temporary Use Permit shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets and Development):

(i) A complete application form.

(ii) The required fee established for temporary use permits.

*Section 2.3:
Common Review
Requirements*



- 1678 (iii) A written narrative which includes a description of the proposed
1679 temporary use, how it will function on the property, hours and dates of
1680 operation, and any other information necessary to fully describe the
1681 request; and an explanation of how the proposed temporary use will meet
1682 any special criteria established by Council for the proposed use.
- 1683 (iv) A site plan of the property showing all information necessary to
1684 accurately depict how the proposed use will function on the site.
1685 Information required on the site plan shall include but not be limited to:
- 1686 1. The location of all existing and proposed structures;
1687 2. Driveways and parking areas;
1688 3. Proposed storage areas;
1689 4. Proposed additional parking spaces or number of spaces to be lost to
1690 the temporary use (as may be applicable).
- 1691 (v) Any other information that may be reasonably required by the Department
1692 of Community Assets and Development to evaluate the application.
- 1693 (6) Review
- 1694 (a) Temporary Use Permit Review Criteria
- 1695 Approval of a Temporary Use Permit shall only be granted once the
1696 Department of Community Assets and Development has determined the use
1697 shall:
- 1698 (i) Not be detrimental to the public health (per best practices), safety, or
1699 general welfare;
- 1700 (ii) Be compatible with the principal use on the site, and not interfere with the
1701 normal operations of the property's permanent use(s);
- 1702 (iii) Not have substantial adverse effects or noise impacts on nearby
1703 residential neighborhoods;
- 1704 (iv) Not include permanent alterations to the site;
- 1705 (v) Not maintain temporary signs associated with the use or structure after the
1706 activity ends;
- 1707 (vi) Not violate the applicable conditions of approval that apply to the site or
1708 as may be established by the City Council for the specific use type;



- (vii) Contain sufficient land area to allow the temporary use, structure, or special event to occur; as well as adequate land to accommodate the parking and traffic movement associated with the temporary use.

(b) Temporary Use Permit Review Process

- (i) The Department of Community Assets and Development will review all Temporary Use Permit applications.
- (ii) Applications determined to conform with the approval criteria outlined in Section 2.4(L)(6)(a) shall be approved by the Department of Community Assets and Development with any conditions deemed necessary. A copy of the approved permit shall be provided to the applicant which includes all conditions and comments.
- (iii) Applications not conforming with the approval criteria outlined in Section 2.4(L)(6)(a) shall be denied by the Department of Community Assets and Development. A notice of denial shall be provided to the applicant which includes all identified reasons for denial.

(7) Reasonable Conditions

In approving a Temporary Use Permit, the Department of Community Assets & Development may impose such reasonable conditions and requirements as deemed necessary and appropriate to ensure continued compliance with requirements for the use.

(8) Effect of a Temporary Use Permit Approval

- (a) The issuance of a Temporary Use Permit shall authorize only the specific temporary use approved by the Department of Community Assets & Development over the timeframe specified within the permit or resolution authorizing the temporary use.
- (b) Approval of a Temporary Use Permit shall not require future approval of another temporary use permit or Conditional Use Permit for the same use at a later time.
- (c) An authorized Temporary Use Permit for a use that would otherwise be prohibited shall become void upon expiration of the permit, or removal of the use from the authorized temporary uses resolution.



1740 **(9) Time Limit**

1741 The time limit for each temporary use shall be as outlined in the Council
1742 resolution establishing allowed temporary uses, or for a timeframe specified by
1743 the Department of Community Assets & Development as a condition of permit
1744 approval.

1745 **(10) Amendments and Withdrawals**

1746 All requested amendments to a Temporary Use Permit shall be processed in the
1747 same manner as a new application.

1748 **(11) Revocation**

1749 The City Council may revoke a Temporary Use Permit if any of the conditions are
1750 being violated or there are any other violations of state, federal, or local laws or
1751 regulations. The City shall notify the holder of the Temporary Use Permit of the
1752 violation in writing and provide a reasonable amount of time to the holder to
1753 correct the violation. If the violation is not corrected within the time specified in
1754 the notice, the City Council may revoke the Temporary Use Permit after
1755 providing the holder with an opportunity to address the City Council.

1756 **(12) Appeals**

1757 The applicant for a Temporary Use Permit may appeal the decision of the
1758 Department of Community Assets and Development to the Board of Adjustment
1759 and Appeals per Section 2.4(F).

1760



Vacations

Change to
"Vactions of
Interests"



(M) Vacations

Change to
"Vactions of
Interests"

(1) Purpose and Scope

This subsection sets out the procedures to follow when requesting the vacation of any easement, alley, or right-of-way dedicated to the public.

(2) Initiation of Proceedings

A request to vacate public interest in an area of land may be initiated by:

- (a) A petition of a majority of the owners of land abutting on the street, alley, public grounds, public way, or part thereof to be vacated; or
- (b) Adoption of a resolution supported by at least four-fifths of all members of the City Council.



	1772	(3) Application
Section 2.3: Common Review Requirements	1773	(a) All applications for a vacation shall be in accordance with Section 2.3, Common Review Requirements.
	1774	
	1775	(b) In addition to general review requirements, applications for a vacation shall also include at least the following to be considered complete (except as exempted by the Department of Community Assets and Development):
	1776	
	1777	
	1778	(i) A written narrative which describes why the vacation is being requested, and why the public has no further interest in the subject area;
	1779	
	1780	(ii) Legal description(s) prepared by a certified surveyor of the area(s) to be vacated, along with a visual depiction of the area requested for vacation.
	1781	
	1782	(iii) A valid petition showing that a majority of land owners abutting the area to be vacated support the requested vacation.
	1783	
	1784	(c) Any other information that may be reasonably required by the Department of Community Assets and Development to evaluate the application.
	1785	
	1786	(4) Review
	1787	(a) Vacation Review Criteria
	1788	Approval of a vacation shall only be granted once the City has determined the area in question serves no present or future public interest of any kind, and the vacation appears to be in the interest of the public.
	1789	
	1790	
	1791	(b) Vacation Process
Section 2.3(I): Public Notification	1792	(i) Upon receipt of a vacation application, the Department of Community Assets and Development shall review the submittal for completeness, and if complete, prepare a resolution for Council consideration to set a public hearing date for Council to consider the vacation.
	1793	
	1794	
	1795	(ii) Once the public hearing date is set, the Department of Community Assets and Development shall initiate public notices as follows:
	1796	
	1797	
	1798	1. Posted notice shall occur a minimum of fourteen calendar days prior to the public hearing.
	1799	
	1800	2. Published notice shall occur two times: the first notice shall occur a minimum of fourteen calendar days prior to the public hearing, and the second notice should occur prior to the public hearing.
	1801	
	1802	



3. Written notice to each affected property owner shall be sent at least ten (10) days before the public hearing. Affected property owners shall include all property owners that abut the area proposed for vacation, and shall include all property owners in the plat which created the area proposed for vacation. Written notice must contain a copy of the petition or resolution initiating the vacation as well as the time, place, and date for the hearing.
4. If the area to be vacated abuts or terminates on, or is adjacent to any public water, the city must also send written notice of the petition or vacation resolution to the Commissioner of Natural Resources, by certified mail, a minimum of 60 calendar days before the public hearing. In addition, the City Council or its designee must meet with the Commissioner of Natural Resources or their designee at least 15 days before the public hearing. The Commissioner will evaluate the proposed vacation according to state law, and will advise the council as to that evaluation.
- (iii) The Department of Community Assets and Development shall review the vacation application, and make a recommendation of approval or denial for City Council consideration.
- (iv) Before a vacation is considered, the City Council shall hold the scheduled public hearing after proper notice has been issued in accordance with Section 2.3(I) and the special vacation notice requirements of Section 2.4(M)(4)(b)(ii).
- (v) Following the hearing and subsequent discussion on the merits of the proposal, the City Council shall take action on the request(s).

(5) Reasonable Conditions

As a condition of approval, the City may specify the extent to which a proposed vacation affects existing utility easements (including the right to maintain and continue utility easements), or can require dedication of new easements deemed necessary to protect a City interest.

(6) Effect of a Vacation (get language from City Attorney)

(a) Xxx

(N) Planned Unit Developments and Planned Residential Developments



1837 **CHAPTER 6: NONCONFORMITIES**

1838 **6.1 Purpose and Intent**

1839 It is the purpose and intent of this Section to:

- 1840 (A) Allow nonconforming structures, uses, site characteristics and lots to continue to exist
1841 and be put to reasonable and productive use;
- 1842 (B) Encourage nonconformities to be brought into compliance whenever reasonable to do
1843 so;
- 1844 (C) Establish the requirements under which nonconformities may be operated and
1845 maintained;
- 1846 (D) Diminish the impacts of nonconformities on adjacent properties by limiting the
1847 expansion of nonconformities; and
- 1848 (E) To comply with Minnesota Statutes Section 462.357, Subdivision 1(e), as may be
1849 amended from time to time.

1850 **6.2 Authority to Continue**

1851 (A) **Legally Non-Conforming Use**

1852 Legally conforming uses existing as of the effective date of this Ordinance (or in
1853 existence at the time of any subsequent update) that become non-conforming due to
1854 adoption or amendment of this Ordinance shall be considered “legally non-conforming”
1855 as follows:

- 1856 (1) A use which is no longer permitted due to a change in zoning shall be considered
1857 a legally non-conforming use subject to all conditions for such use as may be
1858 outlined in this ordinance.
- 1859 (2) Legal nonconforming uses shall not be expanded to a greater intensity, nor shall
1860 they cover a greater extent of the land or occupy a greater extent of the structure
1861 hosting the legal nonconforming use.



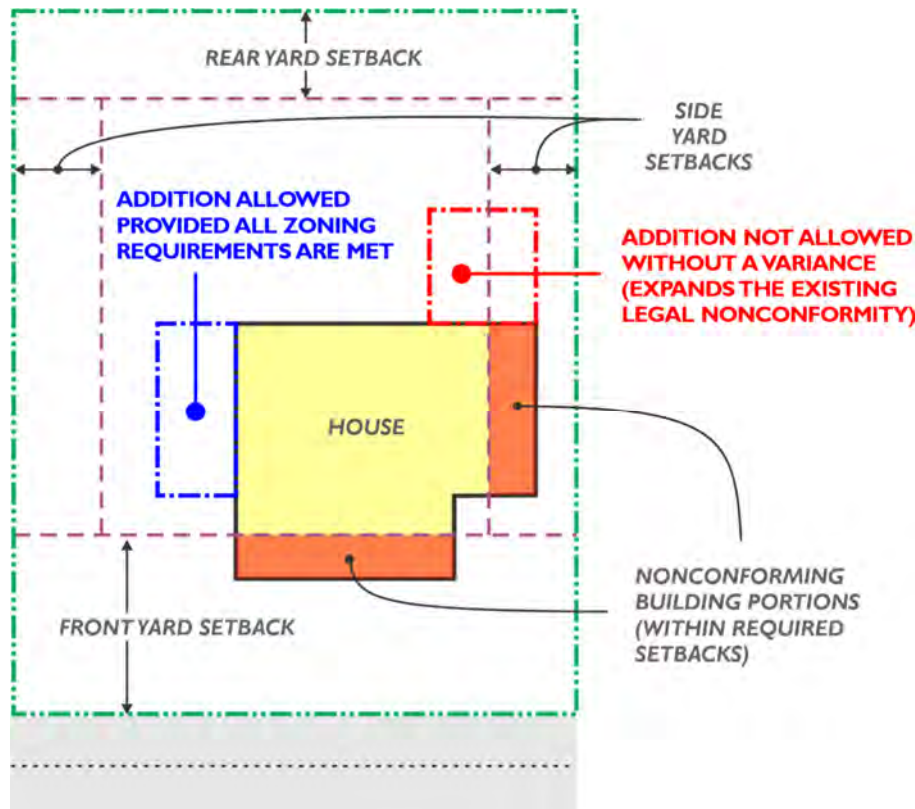
(B) Legally Non-Conforming Structure

Legally conforming structures existing as of the effective date of this Ordinance (or in existence at the time of any subsequent update) that become non-conforming due to adoption or amendment of this Ordinance shall be considered “legally non-conforming” as follows:

- (1) The portion of a structure which becomes non-conforming to a required setback or height standard shall be viewed as legally non-conforming structure.
- (2) Legal nonconforming structure shall not be expanded within the areas of nonconformity.
- (3) A structure that is partially conforming (i.e. a portion of the structure meets all zoning requirements while the remainder of the structure is legal nonconforming as it falls within a setback) may be expanded if the addition conforms to all applicable zoning requirements.



Figure 6-1: Legal Nonconforming Building Expansion Types



**1889 (C) Continuance Stipulations**

1890 Legal nonconforming uses and structure may be continued—including through repair,
1891 replacement, restoration, maintenance, or improvement—unless:

1892 (1) The nonconformity or occupancy has been discontinued (see Section 6.3).

1893 (2) The overall structure which includes a nonconformity is destroyed by fire or other
1894 peril to the extent of greater than 50 percent of its estimated market value, as
1895 indicated in the records of the county assessor at the time of damage; and no
1896 building permit has been applied for within 180 days of when the property
1897 suffered the damage.

1898 (a) Upon written request, extensions to the deadline for building permit
1899 application may be granted by the City Council if the applicant can show
1900 good cause, and provided each extension does not extend the deadline beyond
1901 365 days from when the property suffered the damage.

1902 (b) In the case of a missed deadline under 6.2(C)(2):

1903 (i) The City may impose reasonable conditions upon any subsequent zoning
1904 or building permit in order to mitigate any newly created impact on
1905 adjacent properties.

1906 (ii) The start of discontinuance shall commence on the day the deadline
1907 expires.

1908 (3) The structure which includes a nonconformity has less than 50 percent of a
1909 required setback from a designated water body, and is destroyed by fire or other
1910 peril to greater than 50 percent of its estimated market value as indicated in the
1911 records of the county assessor at the time of damage. In such a case, the City may
1912 require the structure's setback from the designated water body be increased to a
1913 practical and reasonable amount in order to mitigate impacts to adjacent
1914 properties or the water body.

1915 (4) Notwithstanding subsections (2) and (3) above, any nonconformity located in the
1916 floodplain overlay district that is destroyed by fire or other peril to the extent of
1917 greater than fifty (50) percent of its market value, as determined by the Building
1918 Official, shall be regulated to the extent necessary to maintain eligibility in the
1919 National Flood Insurance Program, and in no case shall the use be continued or
1920 re-established in a manner that results in potential flood damage or obstructs flood
1921 flows in the floodway.



(5) Nothing in this ordinance shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the Building Inspector.

(6) No non-conforming structure or use shall be relocated on-site or moved to another lot unless such movement shall bring the non-conformance into compliance with the requirements of this ordinance.

(7) Normal maintenance of a building or other structure containing or related to a lawful non-conforming use is permitted, including necessary non-structural repairs and incidental alterations which do not physically extend the building or structure containing the non-conforming use, nor allow intensification of the nonconforming use.

(8) Normal maintenance, necessary non-structural repairs, and incidental alteration of a lawful non-conforming sign includes repair or maintenance of existing lettering done without changing the form or design of the lawful non-conforming sign.

6.3 Discontinuance

(A) Restablishment Not Allowed

A nonconforming use shall not be reestablished after discontinuance of the use for a period of one year or more.

(B) Effect of Renovations and Repairs on Discontinuance

(1) Efforts to renovate or repair a nonconforming use or structure as allowed in Section 6.3 are not considered discontinuance provided all of the following conditions are met:

(a) All appropriate permits and/or development approvals are obtained;

(b) The renovation or repair is completed within one year from commencement of repair or renovation; and

(c) The nonconforming use is re-established within one month from the time the renovation or repairs are completed.

(2) Upon written request, extensions of up to one (1) year may, but need not be granted by the City Council to complete renovations and repairs or re-establish a legal nonconforming use if the applicant can show good cause.



1951 (3) Failure to complete repairs or renovations within one year, or to reestablish the
1952 legally nonconforming use within one month following repairs or renovation,
1953 shall constitute discontinuance, and the nonconforming use shall not be re-
1954 established.

1955 **6.4 Change in Use**

1956 (A) A lawful non-conforming use of a structure or parcel of land may be changed to lessen
1957 the non-conformity of use. Once a non-conforming structure or parcel of land has been
1958 changed, it shall not thereafter be so altered to increase the now-lessened non-
1959 conformity.

1960 (B) When any lawful non-conforming use of any structure or land in any district has been
1961 changed to a conforming use, it shall not thereafter be changed to any non-conforming
1962 use.

1963 **6.5 Building Permits and Ordinance Amendments**

1964 (A) **Issued Building Permits**

1965 Provided the following conditions are met, any proposed structure for which a building
1966 permit has been lawfully granted may be completed in accordance with approved plans
1967 in the event that an ordinance amendment renders the pending structure non-
1968 conforming:

1969 (1) Construction is started within sixty (60) days of the effective date of the
1970 applicable ordinance which renders the new structure non-conforming;

1971 (2) Activity to complete construction is not abandoned for a period of more than one
1972 hundred twenty (120) days; and

1973 (3) Construction is completed within two (2) years of the building permit issuance.

1974 (B) **Resulting Status**

1975 Uses or structure rendered nonconforming due to ordinance changes which occur during
1976 construction shall thereafter be considered legally non-conforming as outlined in this
1977 Ordinance.



6.6 Existing Nonconforming Lots

(A) Required Merger of Common Ownership Lots

(1) Except as may otherwise be provided for in this ordinance, when a group of two (2) or more contiguous lots or parcels of land are owned or controlled by the same person, the following shall apply:

(a) If all lots are conforming to lot width, area, and frontage requirements, all lots may remain as separate parcels.

(b) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; but each lot contains a legally nonconforming residential dwelling or is a buildable lot of record; then all lots may remain as separate parcels.

(c) If one or more of the contiguous lots or parcels of land do not conform to either lot width, area, or frontage requirements; and the vacant parcels in contiguous ownership are not buildable lots of record; then the following shall apply:

(i) Such nonconforming lots shall not be sold or developed as a separate parcel of land; and

(ii) Such nonconforming lots shall be combined with adjacent lots or parcels under the same ownership or control so that the combination of lots will lessen the existing nonconformity, or will equal one (1) or more lots each meeting the full lot requirements of this ordinance

(iii) The combination of lots shall be done in accordance with the requirements of City Code Chapter 26, Subdivision.

*City Code Chapter
26: Subdivision*

(B) Vacant or Redeveloped Lots

With the exclusion of parcels within the Floodplain Overlay District established in Section 3.7(C) of this ordinance; vacant legal nonconforming lots of record may be developed provided the following conditions are satisfied:

*Lot of Record
definition*



2006 **CHAPTER 7: ENFORCEMENT**

2007 **7.1 Purpose**

2008 This article establishes procedures through which the City seeks to ensure compliance with the
2009 provisions of this ordinance and obtain corrections for ordinance violations. It also sets forth
2010 the remedies and penalties that apply to violations of this ordinance. The provisions of this
2011 chapter are intended to encourage the voluntary correction of violations whenever possible.

2012 **7.2 Compliance Required**

2013 **(A) In General**

2014 Compliance with all the procedures, standards, and other provisions of this ordinance
2015 shall be required by all persons owning, developing, managing, using, or occupying land
2016 or structures in the City.

2017 **(B) Approvals Required**

2018 All persons shall obtain all necessary building permits and/or development approvals
2019 required by this ordinance prior to development.

2020 **7.3 Violations**

2021 **(A) Failure to Comply with This Ordinance or Term or Any Condition of Approval**
2022 **Constitutes a Violation**

2023 Any failure to comply with a standard, requirement, prohibition, or limitation imposed
2024 by this ordinance; or the terms or conditions of any permit or other development
2025 approval or authorization granted in accordance with this ordinance; shall constitute a
2026 violation of this ordinance. Examples of violations include but shall not be limited to
2027 the following:

2028 **(A)** Development of land without first obtaining all appropriate permits or
2029 development approvals, and complying with all applicable terms and conditions.

2030 **(B)** Occupying or using land or a structure without first obtaining all appropriate
2031 permits or development approvals, and complying with all applicable terms and
2032 conditions.

CHAPTER 7: ENFORCEMENT

Section 7.3 Violations

(B) Development Shall Adhere to Approved Plans



2033 (C) Engaging in any development or other activity of any nature in a way that is
2034 inconsistent with a permit or development approval, or other form of authorization
2035 granted for such activity by the City.

2036 (D) Violating, by act or omission, any term, condition, or qualification placed by the
2037 City upon a required permit, certificate, or other form of authorization granted by
2038 the City to allow the development or other activity upon land.

2039 (E) To alter, maintain, or use any building or structure or to use any land in violation
2040 of any provision of this Ordinance.

2041 (F) To install, create, erect, alter, or maintain any sign without first obtaining the
2042 appropriate permits or development approvals, and complying with their terms
2043 and conditions.

2044 (G) Create, expand, replace, or change any nonconformity, except in accordance with
2045 this Ordinance.

2046 (H) Reduce or diminish the requirements of use, development, or dimensional
2047 standards below the minimum required by this Ordinance.

2048 (I) Through any act or omission, fail to comply with any other provisions,
2049 procedures, or standards, as required by this Ordinance.

2050 (J) To continue any of the above-stated violations.

(B) Development Shall Adhere to Approved Plans

2052 (A) Permits or development approvals issued by a decision-making body or City
2053 official authorize only the use, density or intensity, location, design, and/or
2054 development set forth on the plans reviewed in issuing such permits or
2055 development approvals.

2056 (B) Development that differs from that which was approved by a decision-making
2057 body in a permit or development approval is a violation of this ordinance.
2058



2059 **7.4 Responsible Persons**

2060 The owner, tenant, or occupant of any land or structure, or an architect, engineer, builder,
2061 contractor, agent, or any other person who participates in, assists, directs, creates, or maintains
2062 a situation that constitutes a violation of this ordinance may be held responsible for the
2063 violation and be subject to the remedies and penalties set forth in this chapter.

2064 **7.5 Enforcement Generally**

2065 **(A) Responsibility for Enforcement**

2066 The Department of Community Assets & Development shall be responsible for
2067 enforcing the provisions of this ordinance.

2068 **(B) General Inspection**

2069 **(1)** An authorized member of the Department of Community Assets & Development
2070 may enter upon land or inspect any structure to ensure compliance with the
2071 provisions of this Ordinance provided permission has been granted by one of the
2072 following:

2073 **(a)** An owner of the property in question;

2074 **(b)** A licensee of the business being inspected;

2075 **(c)** A resident of a dwelling on the property being inspected; or

2076 **(d)** Any other person in control of the premises.

2077 **(2)** If the owner, licensee, resident, or other person in control of a premises objects to
2078 the inspection of or entrance to the property, the City may petition a court of
2079 competent jurisdiction for a search warrant to authorize entrance to the property.

2080



(3) Every owner, licensee, resident, or other person in control of a premises within the City shall permit, at reasonable times, inspections of or entrance to the property by the Department of Community Assets & Development to determine whether the provisions of this ordinance are being complied with and to enforce this ordinance. Unreasonable refusal to permit the inspection of or entrance to the property shall be grounds for termination of any and all permits, licenses, or City service to the property. Mailed notice shall be given to the owner, licensee, resident or other person in control of the property, stating the grounds for the termination, the scheduled date of termination, and the right to appeal in accordance with Section 2.4(F), Appeal of Administrative Decisions.

(4) Nothing in this section shall be construed to limit the authority of the City to enter private property in urgent emergency situations where there is an imminent danger in order to protect public health, safety and welfare.

(C) Complaints Regarding Violations

Any person may notify the Department of Community Assets & Development of a suspected violation of this ordinance. In registering a complaint, the complaining party shall state, in writing, the cause and/or basis of the alleged violation. The identity of individuals registering complaints shall remain confidential as required by MN State Statute Section 13.44.

(D) Investigation of Complaints

Upon learning there is a potential violation of this ordinance, the Department of Community Assets & Development may conduct a general inspection to determine whether a violation of this ordinance exists.

(E) Notice of Violations

(a) On finding that a violation of this Ordinance exists, the Department of Community Assets & Development or other City Official shall provide written notification of the violation to the owner of the property on which the violation exists and the person causing or maintaining the violation. The notification shall be delivered by personal service or through standard mail accompanied by an affidavit of service. The notice of violation shall:

(1) Describe the location and nature of the violation;

(2) State the actions necessary to abate the violation;



- 2113 (3) Order that the violation be corrected within a specified reasonable time period
2114 not to exceed 30 days after receipt of the notice of violation;
- 2115 (4) State what course of action is intended if the violation is not corrected with
2116 the specified time limit; and advise the alleged violator(s) of their right to
2117 appeal the notice of violation to the Board of Adjustment and Appeals in
2118 accordance with Section 2.4(F).
- 2119 (b) On receiving a written request for extension of the time limit for correction
2120 specified in the notice of violation, the Department of Community Assets &
2121 Development may, for good cause shown, administratively grant a single
2122 extension of the time for up to 30 days.
- 2123 (c) If the owner of the property cannot be located or determined, the Department of
2124 Community Assets & Development shall post a copy of the notice of violation on
2125 the building, structure, sign, or site that is the subject of the violation. In such a
2126 case, the time limit for correction of the violation shall be deemed to begin five
2127 days after the notice is posted.
- 2128 **(F) Application of Penalties**
- 2129 (a) On determining that the violator has failed to correct the violation by the time
2130 limit set forth in the notice of violation, or any granted extension thereof, or has
2131 failed to timely appeal the notice of violation, the Department of Community
2132 Assets & Development shall take appropriate action, as provided in Section 7.6, to
2133 correct and abate the violation and to ensure compliance with this ordinance.
- 2134 (b) Each day a violation continues is a separate offense.
- 2135 **(G) Emergency Enforcement without Notice**
- 2136 On determining that delay in correcting the violation would pose a danger to the public
2137 health, safety, or welfare, the Department of Community Assets & Development may
2138 seek immediate enforcement without prior written notice by invoking any of the
2139 remedies or penalties listed in Section 7.6.



7.6 Remedies and Penalties

- (A) If the responsible person to whom the notice of violation was directed fails to comply with the applicable provisions of this ordinance, that person is guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than three hundred dollars (\$300.00) for each offense or imprisoned for not more than ninety (90) days or both.
- (B) The City may also enforce any provision of this ordinance by mandamus, injunction, or any other appropriate remedy in any court of competent jurisdiction.
- (C) A person who knowingly makes or submits a false statement or document in connection with an application or procedure required by this ordinance is guilty of a misdemeanor.
- (D) A person who violates, fails to comply with or assists, directs or permits the violation of a performance standard required by this ordinance must reimburse the City or its agent for the actual costs of the tests, measurements or other procedures necessary to demonstrate that violation.



2154 **CHAPTER 8: RULES & DEFINITIONS**

2155 **8.1 General Rules for Interpretation**

2156 The language set forth in the text of this ordinance shall be interpreted in accordance with the
2157 following rules of construction:

Section 1.3:
Ordinance
Purpose

2158 **(A) Meanings and Intent**

2159 All provisions, terms, phrases, and expressions contained in this ordinance shall be
2160 interpreted in accordance with the general purposes set forth in Section 1.3, Ordinance
2161 Purpose, and the specific purpose statements set forth throughout this ordinance. When
2162 a specific section of these regulations gives a different meaning than the general
2163 definition provided in this article, the specific section's meaning and application of the
2164 term shall control.

2165 **(B) Headings, Illustrations, and Text**

2166 In the event of a conflict or inconsistency between the text of this ordinance and any
2167 heading, caption, figure, illustration, table, or map, the text shall control. Graphics and
2168 other illustrations are provided for informational purposes only and should not be relied
2169 upon as a complete and accurate description of all applicable regulations or
2170 requirements.

2171 **(C) Lists and Examples**

2172 Unless otherwise specifically indicated, lists of items or examples that use terms such as
2173 "for example," "including," and "such as," or similar language are intended to provide
2174 examples and are not exhaustive lists of all possibilities.

2175 **(D) Computation of Time**

2176 The time in which an act is to be done shall be computed by excluding the first day and
2177 including the last day. If a deadline or required date of action falls on a Saturday,
2178 Sunday, or holiday observed by the City, the deadline or required date of action shall be
2179 the next day that is not a Saturday, Sunday, or holiday observed by the City. References
2180 to days are calendar days unless otherwise stated.



2181 **(E) References to Other Regulations/Publications**

2182 Whenever reference is made to a resolution, ordinance, statute, regulation, or document,
2183 it shall be construed as a reference to the most recent edition of such regulation,
2184 resolution, ordinance, statute, regulation, or document, unless otherwise specifically
2185 stated.

2186 **(F) Delegation of Authority**

2187 Any act authorized by this ordinance to be carried out by a specific official or
2188 department of the City may be carried out by a professional-level designee of such
2189 official or department.

2190 **(G) Technical and Non-Technical Terms**

2191 Words and phrases shall be construed according to the common and approved usage of
2192 the language, but technical words and phrases that may have acquired a peculiar and
2193 appropriate meaning in law shall be construed and understood according to such
2194 meaning.

2195 **(H) Public Officials and Agencies**

2196 All public officials, bodies, and agencies to which references are made are those of the
2197 City of New Brighton, unless otherwise indicated.

2198 **(I) Mandatory and Discretionary Terms**

2199 **(c)** The words “shall,” “must,” and “will” are mandatory in nature, establishing an
2200 obligation or duty to comply with the particular provision.

2201 **(d)** The words “may” and “should” are permissive in nature.

2202 **(J) Conjunctions**

2203 Unless the context clearly suggests the contrary, conjunctions shall be interpreted as
2204 follows:

2205 **(1)** “And” indicates that all connected items, conditions, provisions or events apply.

2206 **(2)** “Or” indicates that one or more of the connected items, conditions, provisions, or
2207 events apply.



2208 (K) Tenses, Plurals, and Gender

2209 (1) Words used in the present tense include the future tense.

2210 (2) Words used in the singular number include the plural number and the plural
2211 number includes the singular number, unless the context of the particular usage
2212 clearly indicates otherwise.

2213 (3) Words used in the masculine gender include the feminine gender, and vice versa.

2214 (L) Terms Not Defined

2215 If a term used in this Ordinance is not defined in Section 8.4, the Department of
2216 Community Assets & Development shall have the authority to provide a definition
2217 based upon the definitions used in accepted sources including but not limited to A
2218 Planners Dictionary (APA PAS Report 521/522), or any standard dictionary.

2219 8.2 Rules of Measurement

2220 (A) Measurements, Generally

2221 (1) Purpose

2222 The purpose of this section is to clarify the rules of measurement and exemptions
2223 that apply to all principal and accessory uses allowed in this ordinance. These
2224 standards may be modified by other applicable sections of this ordinance.

2225 (2) Distance Measurements, Generally

2226 (1) Unless otherwise expressly stated, distances specified in this ordinance are to
2227 be measured as the length of an imaginary straight line joining identified
2228 points on a horizontal plane.

2229 (2) Measurements involving a structure are made to the closest support element
2230 of the structure.

2231 (3) Structures or portions of structures that are entirely underground are not
2232 included in measuring required distances.

*A Planners
Dictionary
(American
Planning
Association PAS
Report 521/522)*

Dictionary.com



(B) Lots and Yards

(1) Lot Types (see Figure 8-1)

(a) Corner Lot

A lot bordered on at least two (2) adjacent sides by adjoining streets.

(b) Cul-de-Sac Lot

A lot located on the head or turnaround of a cul-de-sac with side lot lines on a tangent to the arc of the right-of-way.

(c) Double Frontage Lot

A lot, other than a corner lot, with frontage on more than one street.

(d) Flag Lot

A lot that does not abut or front a street where access is obtained by a narrow private right-of-way.

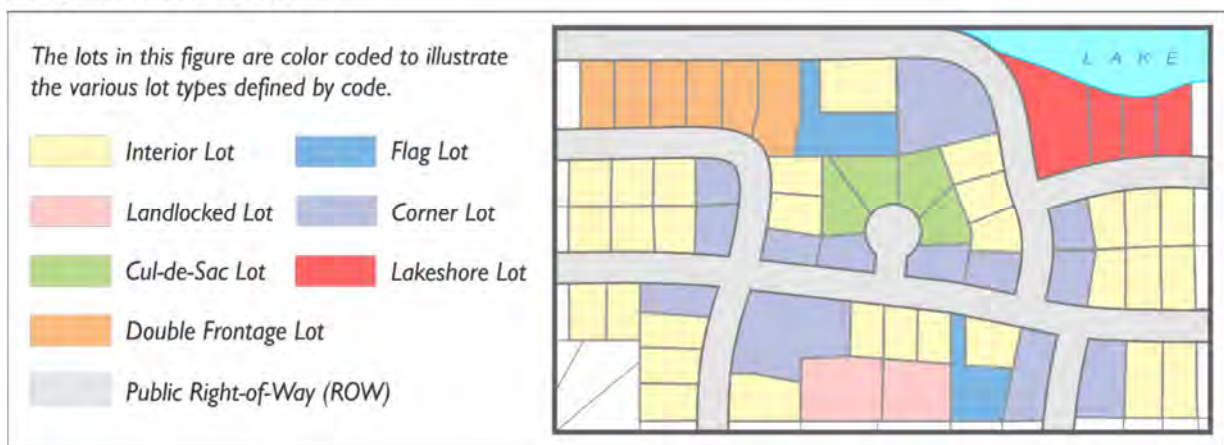
(e) Interior Lot

A lot other than a corner lot with only one frontage on a street other than an alley.

(f) Landlocked Lot

A lot bordered by public or private properties on all sides having no frontage on a right-of-way.

Figure 8-1: Lot Types





2262 (g) **Lakeshore Lot**

2263 A lot bordered on one side by lakeshore, and the opposite side by a right-of-
2264 way. Lakeshore lots may also be corner lots.

2265 (2) **Lot Lines and Yards (see Figure 8-2)**

2266 (a) **Front Lot Line**

2267 The boundary of a lot that abuts a street, road or lane. In the case of a corner
2268 lot, it shall be the boundary with the shortest dimension on the street, lane, or
2269 road. In the case of a lakeshore lot, it shall be the boundary abutting the
2270 ordinary high water mark. (REVIEW BEST WAY FORWARD FOR OUR
2271 LAKE LOTS...CURRENT CODE SEEMS RIDICULOUS IN THAT
2272 EVERY LAKE LOT COULD BE DIFFERENT DEPENDING ON WHAT
2273 WAS DETERMINED WHEN THE BUILDING PERMIT WAS ISSUED)

2274 (b) **Side Lot Line**

2275 The side lot lines are the lot lines connecting the front and rear lot lines
2276 regardless of their orientation, or whether they abut a right-of-way or another
2277 lot line.

2278 (c) **Corner Side Lot Line**

2279 The corner side lot line is a side lot line that abuts a street or other right-of-
2280 way.

2281 (d) **Rear Lot Line**

2282 The boundary of a lot opposite of the front lot line or the Ordinary High
2283 Water Level.

2284 (e) **Front Yard**

2285 A yard extending between side lot lines across the front of a lot between the
2286 front lot line and the front building line.

2287 (f) **Side Yard**

2288 A yard extending from the front building line to rear building line. In the case
2289 of double frontage lots, the side yard extends from the front building line to
2290 the opposing building line associated with the other yard.

(g) Corner Side Yard

A side yard extending between the front and rear lot lines parallel to an abutting street or right-of-way.

(h) Rear Yard

A yard extending across the rear of the lot between the rear lot line and the rear building line. In the case of double frontage lots, there is no rear yard, and the requirements for the front yard shall apply to the front and rear.

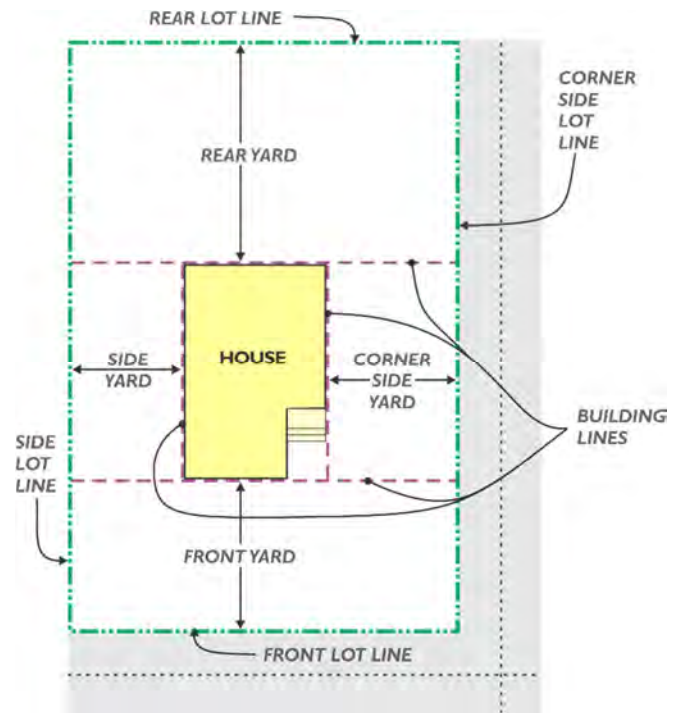
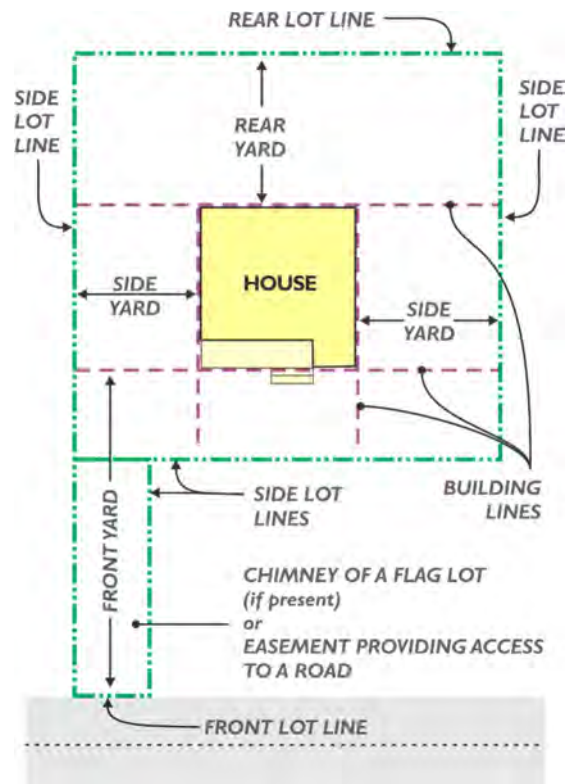
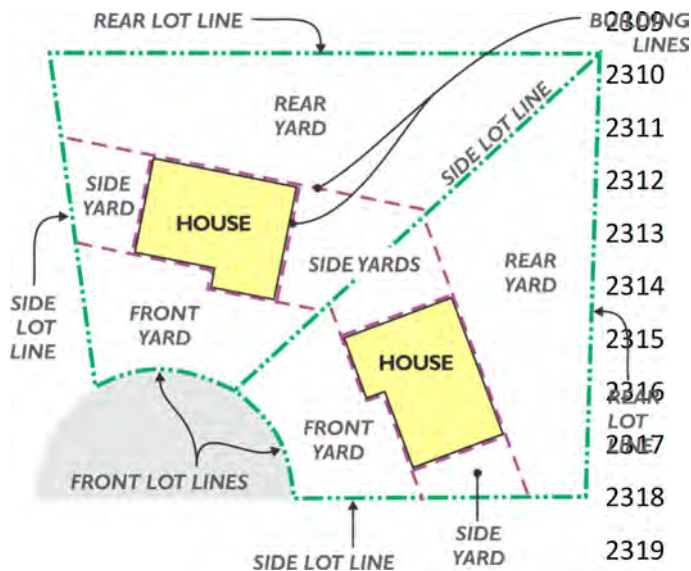
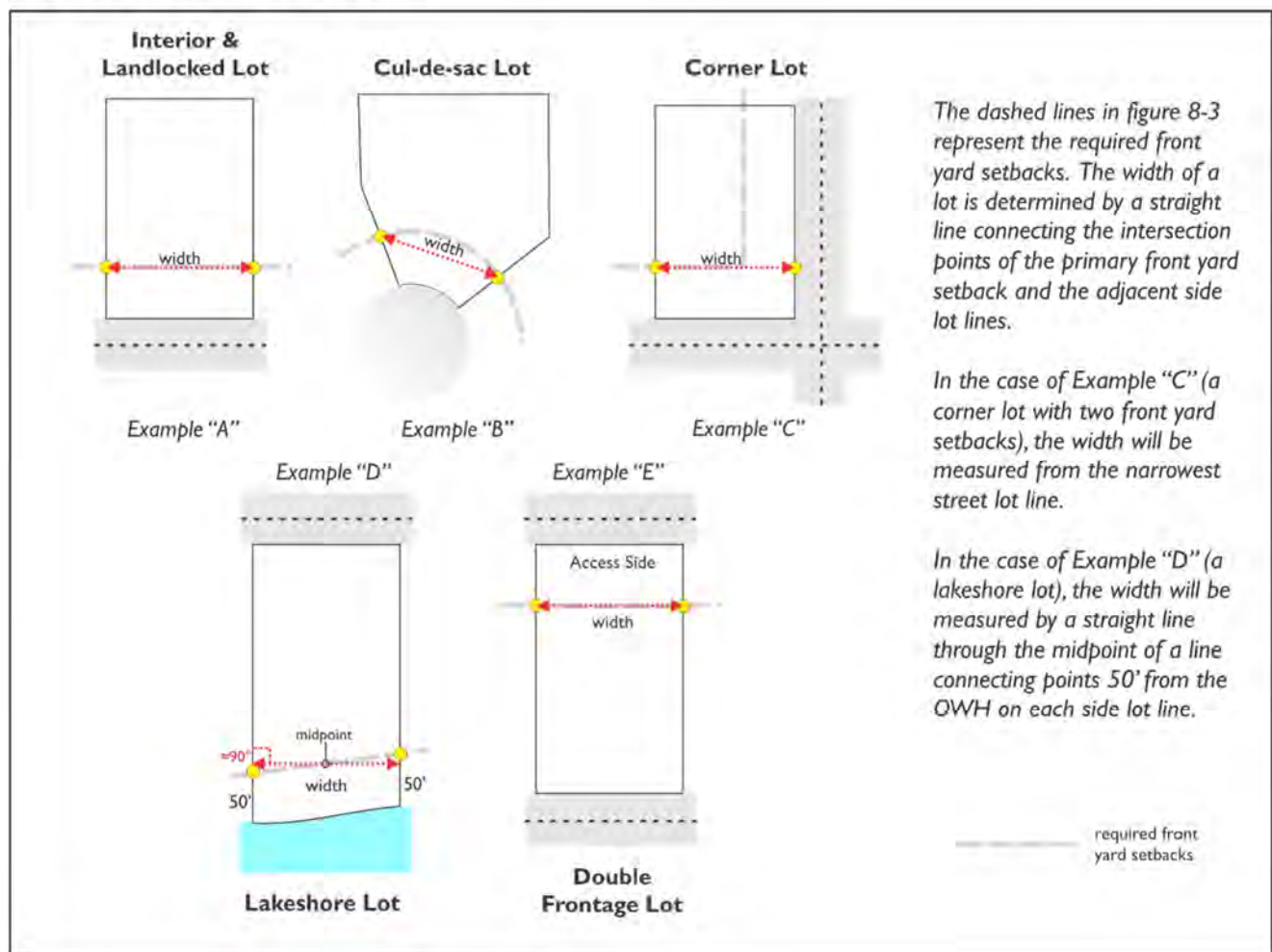


Figure 8-2: Lot Lines & Yard Depictions



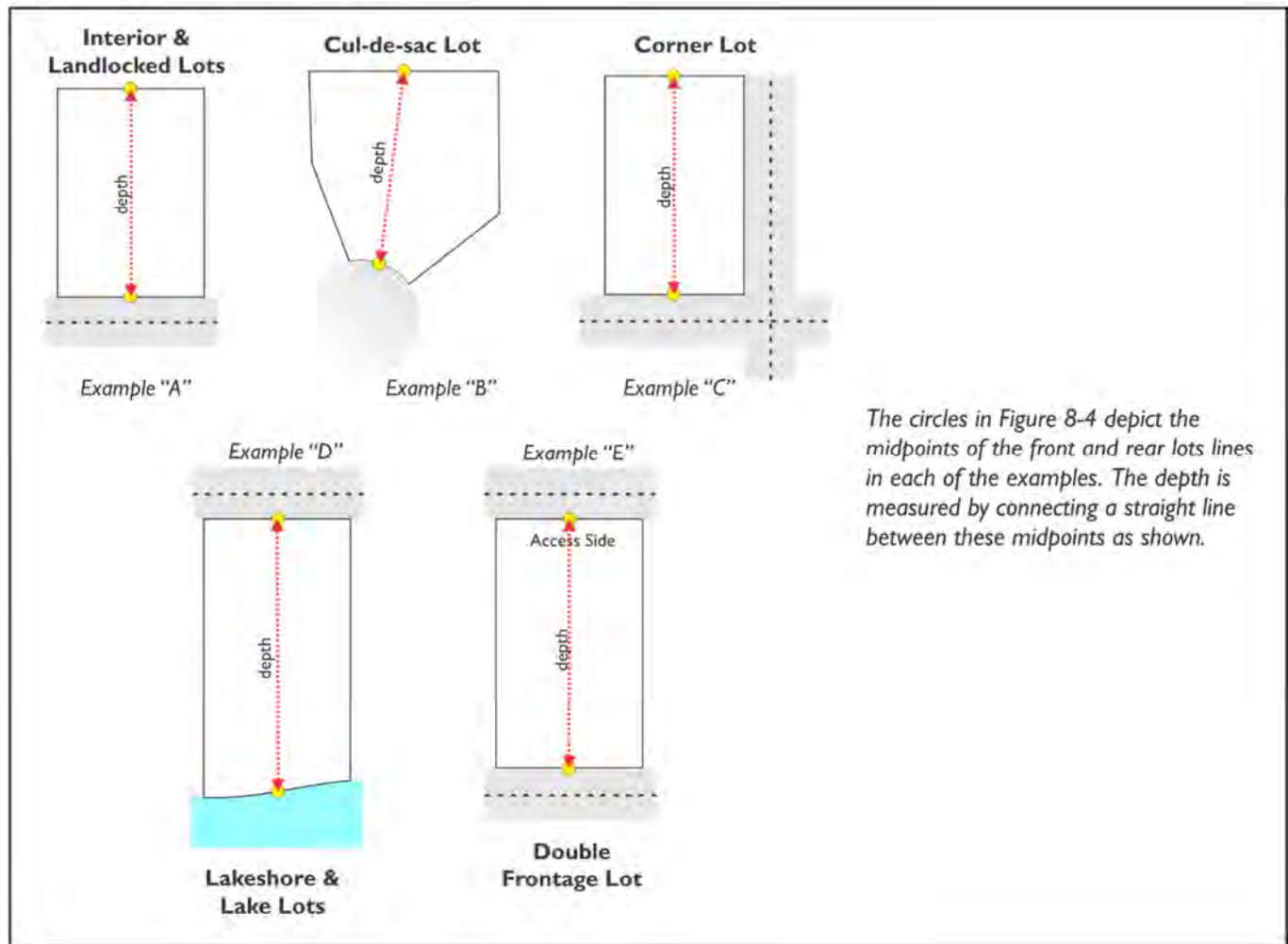
- 2323 **(3) Definitions/Measurement**
- 2324 **(a) Lot Width** (see Figure 8-3)
- 2325 (i) Lot width shall be determined by a straight line connecting endpoints
- 2326 determined by the intersection of the side lot lines and the minimum front
- 2327 yard setback.
- 2328 (ii) The width of a corner lot shall be calculated from the side with the least
- 2329 frontage on a right-of-way.
- 2330

Figure 8-3: Measuring Width


(b) Lot Depth (see Figure 8-4)

Lot depth shall be determined by a straight line connecting the midpoint of the front lot line to the midpoint of the rear lot line (see Figure 8-4 for examples).

Figure 8-4: Measuring Depth



(c) Lot Area (see Figure 8-6)

The amount of land area, measured horizontally, included within the lines of a lot. Lands located within any private easements shall be included within the lot area. Public rights-of-way and areas below the ordinary high-water (OHW) mark of a lake are not to be included in calculating lot area, except where specifically allowed by this ordinance. The terms “lot size” and “lot area” shall be interchangeable.



Section
3.3(D)(2)
Specialized
Yard
Standards

- 2357 **(d) Building Line** (see Figure 8-2)
- 2358 A line formed by the outward most face or support structure for a building
- 2359 which is used to establish the yards around a building or structure.
- 2360 **(e) Setback Line**
- 2361 The minimum distance prescribed by this ordinance between any property
- 2362 line and the closest point of the foundation or any supporting post or pillar of
- 2363 a building or structure. Portions of a building, (e.g., an overhang, eave, entry
- 2364 stairs, bay windows, foundation planters, etc.) may encroach into a required
- 2365 yard as outlined in Table 3-5, Allowable Yard Encroachments.
- 2366 **(f) Yard**
- 2367 A required open area unoccupied and unobstructed by any building or by any
- 2368 structure or portion of a structure except as allowed by this ordinance.
- 2369 **(g) Lot or Street Frontage**
- 2370 (i) In the case of a building lot abutting upon only one street, the frontage
- 2371 line is the line parallel to and common with the right-of-way.
- 2372 (ii) In the case of a corner lot, that part of the building lot having the
- 2373 narrowest frontage on any street shall be considered the frontage line.
- 2374 (iii) For the purpose of determining yard requirements on corner lots and
- 2375 double frontage lots, all lot lines adjacent to streets shall be considered
- 2376 frontage, and yards shall be provided as required in this ordinance.
- 2377 **(h) Right-of-Way (ROW)**
- 2378 Land dedicated, deeded, used, or intended to be used for a street, road, alley,
- 2379 pedestrian way, crosswalk, bikeway, utilities, drainage facility, or other public
- 2380 uses.
- 2381



(4) Height

(a) Definitions/Measurement

(i) Building Height

The vertical distance ~~above grade~~ between the lowest ground level of the building and the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or to the average height of the highest gable of a pitched or hipped roof.

1. For a slab-on-grade building, a building with a full basement, or a walkup; the “lowest ground level of the building” shall be the lowest grade level adjacent to the building.
2. For a walkout building, the “lowest ground level of the building” may be considered as the top of the finished ground floor elevation if the grade adjacent to the walkout side of the home maintains an elevation within 12 inches of the finished ground elevation.

(ii) Building Story

That portion of the building included between the surface of any floor and the surface of the next floor above it or if there is no floor above it, the space between the floor and the ceiling next above it.

(iii) Fence and Wall Height

1. Fence height shall be measured as the vertical distance between the finished grade at the base of the fence to the top edge of the fence material.
2. The height of fencing atop a wall shall be measured from the base of the wall (see figure 8-5).

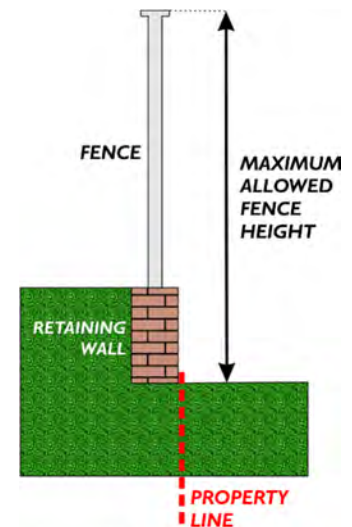


Figure 8-5:
Fence on Top of Wall Height

2408 (5) **Bulk and Coverage; Definitions & Measurements**

2409 (a) **Building Coverage**

2410 Building coverage is a measure of intensity of a use of land that represents the
 2411 portion of a site that is covered by building footprint, as well as attached
 2412 porches, decks, and balconies. Building coverage does not include driveways,
 2413 streets, sidewalks, and any other areas covered by an impervious surface
 2414 material, including areas of outdoor storage (see Figure 8-6).

2415 (b) **Floor Area**

2416 The sum of gross horizontal area of the several floors of a building measured
 2417 from the exterior walls, including basements and attached accessory
 2418 buildings.

2419

Figure 8-6: Coverage & Area Measurements

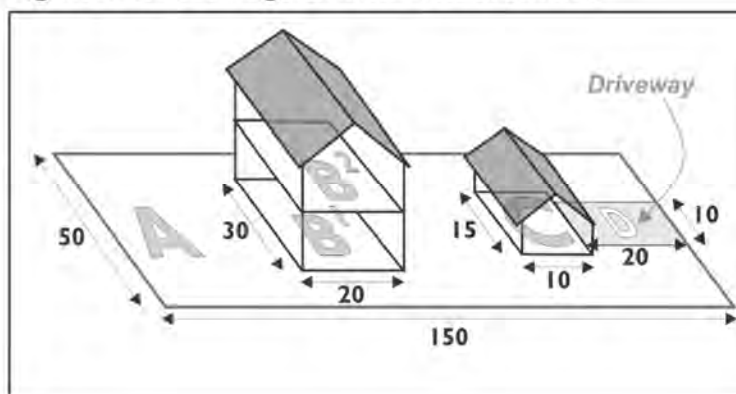
Figure 8-6 illustrates various area measurements:

Lot Area = Area of "A" ($150 \times 50 = 7500$)

Building Coverage = Area of B' + C
 $[(30 \times 20) + (15 \times 10)] = 750$

Impervious Surface Coverage =
Area of B' + C + D
 $[(30 \times 20) + (15 \times 10) + (20 \times 10)] = 950$

Gross Floor Area = Area of B' + B' + C
 $[(30 \times 20) + (30 \times 20) + (15 \times 10)] = 1350$



2420

2421 (c) **Impervious Surface Coverage**

2422 Impervious surface coverage shall be calculated as the total horizontal surface
 2423 area of all impervious surfaces on a given lot (see Figure 8-6).

2424 (d) **Floor Area Ratio**

2425 The total floor area of all buildings or structures on a lot divided by the lot
 2426 area (see Figure 8-6).

2427

2428

2429



8.3 Glossary of Abbreviations

APC	Air Pollution Code
ADA	American Disability Act
ASTM	American Society of Testing and Materials
BMP	Best Management Practice
CC	City Council
CUP	Conditional Use Permit
DNR	Department of Natural Resources
EAW	Environmental Assessment Worksheet
EIS	Environmental Impact Statement
EQB	Environmental Quality Board
FAA	Federal Aviation Administration
FCC	Federal Communications Commission
FEMA	Federal Emergency Management Agency
HSG	Hydrologic Soil Groups
ID	Identification
IUP	Interim Use Permit
MCS	Micro-generation Certification Scheme
MCWD	Minnehaha Creek Watershed District
MEP	Maximum Extent Practicable
MPCA	Minnesota Pollution Control Agency
MS4	Municipal Separate Storm Sewer System
MN	Minnesota
NABCEP	North American Board of Certified Energy Professional
NPDES	National Pollution Discharge Elimination System
OHW/OHWL	Ordinary High Water/Ordinary High Water Level
PC	Planning Commission
RLUIPA	Religious Land Use and Institutionalized Persons Act
ROW	Right of Way



2460	SQFT	Square Feet
2461	SWECS	Wind Energy Conversion System, Small
2462	SWPPP	Storm Water Pollution Prevention Program
2463	USDA	United States Department of Agriculture
2464	TR	Technical Release
2465	WECS	Wind Energy Conversion System
2466		



8.4 Definitions

ACCESSIBILITY IMPROVEMENTS. Any special property improvements such as sidewalks, ramps, lifts, etc, that may be needed to ensure accessibility for people with disabilities.

ACCESSORY BUILDING – MAJOR. A building which is accessory to a principal structure and is required to be constructed with a building permit per MN Rule 1300.0120.

ACCESSORY BUILDING – MINOR. A building which is accessory to a principal structure and exempt from a building permit per MN Rule 1300.0120.

~~Accessory Building. A subordinate building, excluding a private garage, the use of which is incidental to that of the main building or to the use of the premises. (removed – replaced with~~
major and minor distinctions to draw differences between accessory buildings needing a
building permit and those which do not require a building permit).

ACCESSORY USE OR STRUCTURE. A use or structure subordinate to the principal use on the same premises and customarily incidental thereto.

AIR CONDITIONING UNIT.

AIRPORT. Any premises which are used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other structures or rights-of-way.

ALLEY. A public or private right-of-way not greater than twenty-four (24) feet in width which affords a secondary means of access to abutting property.

~~**AMUSEMENT CENTER.** A business/principal use devoted primarily to the operation of electronic amusement devices or games and open for public use and participation. (Ord. No. 499, 9-15-82; Code of 2001) (removed – antiquated term)~~

~~**ANTENNAE.** That portion of equipment located on the exterior or outside of a structure used for transmitting or receiving radio or television waves (removed – expanded definitions proposed)~~

ANTENNA, PRIVATE AMATEUR RADIO. Equipment, including antennae, antennae support structures, and other related material, necessary to conduct Ham and Short Wave Radio reception and transmissions, only for use by those persons properly licensed by the Federal Communications Commission for such reception and transmissions, and who are in full compliance with all licensing requirements.



2499 **ANTENNA, PRIVATE RECEIVING.** Television and other electronic reception antennae
2500 for private use.

2501 **ANTENNA, TELECOMMUNICATION.** A device used for the transmission and/or
2502 reception of wireless communications, usually arranged on an antenna support structure or
2503 building, and consisting of a wire, a set of wires, or electromagnetically reflective or
2504 conductive rods, elements, arrays, or surfaces, inclusive of the following: Private Amateur
2505 Radio Antenna(s), Private Receiving Antenna(s), Commercial Transmission And Reception
2506 Antenna(s), and Wireless Telecommunications Service Antenna(s).

2507 **ANTENNA, WIRELESS TELECOMMUNICATIONS SERVICE.** Shall mean any
2508 equipment necessary to provide or support all types of wireless electronic communications,
2509 including, but not necessarily limited to, wireless “cellular” telephone, radio, and internet
2510 transmission and reception communications between mobile communications providers and
2511 users, including public safety communications.

2512 **ANTENNA SUPPORT STRUCTURE.** Any pole, telescoping mast, tower, tripod, or other
2513 structure which supports an antenna. Such structure may be freestanding or attached to a
2514 building or other device that conforms to this ordinance.

2515 **AUTOMOBILE REPAIR, MAJOR.** General repair, rebuilding or reconditioning of
2516 engines, motor vehicles or trailers, including body work, frame work, and painting.

2517 **AUTOMOBILE REPAIR, MINOR.** Minor repair, incidental body and fender work,
2518 painting and upholstering service, replacement of parts, and engine service to passenger
2519 vehicles and trucks not exceeding 3/4 ton capacity.

2520 **BASE ELEVATION.**

2521 **BASE FLOOD**

2522 **BASE FLOOD ELEVATION**

2523 ~~**BASEMENT.** That portion of a building between floor and ceiling that is partly below and~~
2524 ~~partly above grade but so located that the vertical distance from grade to the floor below is less~~
2525 ~~than the vertical distance from grade to ceiling~~

2526 **BASEMENT.** Any area of a structure, including crawl spaces, having its floor or base subgrade
2527 (below ground level) on all four sides, regardless of the depth of excavation below ground level.

2528 **BEDROOM.** Any room other than a living room, dining room, kitchen, or bath. *(check this as*
2529 *work proceeds...good definition to keep? This would seem to preclude 1 bedroom + den units)*



- 2530 **BEST MANAGEMENT PRACTICES (BMPs).**
- 2531 **BIO-STABILIZATION.**
- 2532 **BLOCK.**
- 2533 **BLUFF.**
- 2534 **BLUFF, TOP OF.**
- 2535 **BLUFF, TOE OF.**
- 2536 **BLUFF IMPACT ZONE.**
- 2537 **BOATHOUSE.**
- 2538 **BOUNDARY LINES.** Any line indicating the bounds or limits of any tract or parcel of land.
2539 Also, a line separating the various use districts as shown on the City's zoning map.
- 2540 **BUILDABLE AREA.**
- 2541 **BUILDABLE LOT.**
- 2542 **BUILDING.** Any structure for the shelter, support or enclosure of persons, animals, chattel, or
2543 property of any kind affixed to the land.
- 2544 **BUILDING, STORAGE.** A building, other than a private garage, used for the storage of items
2545 which are customarily incidental to the principal permitted use of the property.
- 2546 **BUILDING PERMIT.**
- 2547 **CAREGIVER.**
- 2548 **COLLEGE.** An institution of higher education which confers degrees in the advanced branches
2549 of knowledge including the professions.
- 2550 **COMMISSIONER.** The Commissioner of the Department of Natural Resources.
- 2551 **COMMON OPEN SPACE.** All private land which is placed, by covenant or deed restrictions,
2552 in permanent custody of the owner or owners of any project which contains such space and is
2553 to be left substantially open for the private use and enjoyment of the residents of the project
2554 abutting or adjacent thereto.



- 2555 **CONDITIONAL USE.** A specific type of structure or land use listed in the official control
2556 that may be allowed but only after an in-depth review procedure and with appropriate conditions
2557 or restrictions as provided in the official zoning controls or building codes and upon a finding
2558 that certain conditions as detailed in the zoning ordinance exist, that the structure and/or land
2559 use conforms to the comprehensive plan, and that the structure and/or land use is compatible
2560 with the existing neighborhood.
- 2561 **CONSTRUCTION ACTIVITY.** Activities subject to NPDES Construction Permits. These
2562 include construction projects resulting in land disturbance of one acre or more. Such activities
2563 include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- 2564 **CONSTRUCTION USES AND STRUCTURES.**
- 2565 **CRITICAL FACILITIES.**
- 2566 **DECK.**
- 2567 **DEVELOPMENT.**
- 2568 **DOG KENNEL.** Any premises where ~~more than three~~ four or more dogs over six months of
2569 age are kept.
- 2570 **DRIVEWAY.**
- 2571 **DWELLING.** A building or portion thereof which is designed or used exclusively for human
2572 habitation.
- 2573 **DWELLING, SINGLE-FAMILY.**
- 2574 **DWELLING, TWO-FAMILY.**
- 2575 **DWELLING SITE.**
- 2576 **DWELLING UNIT.** Residential accommodation including complete kitchen facilities,
2577 permanently installed, which are arranged, designed, used, or intended for use exclusively as
2578 living quarters for one family.
- 2579 **DWELLING UNIT, ACCESSORY (ADU).**
- 2580 **DWELLING, ATTACHED.** A dwelling which is joined to other dwellings at both sides by
2581 party walls, as one of a series of not more than eight dwellings arranged in a row including the
2582 semi-detached dwellings at the ends.



2583 **DWELLING, DETACHED.** A residential building which is entirely surrounded by open
2584 space on the same lot.

2585 **DWELLING, MULTIPLE-FAMILY.** A building or portion thereof containing three or more
2586 dwelling units.

2587 **DWELLING, SEMI-DETACHED.** A dwelling which is joined to another dwelling at one
2588 side only by a party wall.

2589 **DWELLING, TWO-FAMILY.** A residential building containing two dwelling units
2590 including detached and semi-detached dwellings.

2591 **END ISLAND.**

2592 **EASEMENT, PUBLIC UTILITY.**

2593 **EFFICIENCY APARTMENT.** A dwelling unit in a multiple-residence building providing
2594 complete dwelling facilities except a bedroom or bedrooms. For the purpose of the Zoning Code,
2595 an efficiency apartment may have a kitchen, living room, and bathroom.

2596 **ESSENTIAL SERVICES.** Overhead or underground electrical, gas, steam or water
2597 transmission or distribution systems and structures for collection, communication, supply or
2598 disposal systems; and structures used by public utilities or governmental departments or
2599 commissions, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm
2600 boxes, police call boxes, traffic signals, hydrants or other similar equipment and accessories
2601 used in conjunction therewith.

2602 **FAMILY.** An individual; or two (2) or more persons each related by blood, marriage or
2603 adoption, living together as a single housekeeping unit; or a group of not more than four (4)
2604 persons not so related, maintaining a single housekeeping unit.

2605 **FENCE.**

2606 **FLOOD.**

2607 **FLOOD FREQUENCY.**

2608 **FLOOD FRINGE.**

2609 **FLOOD INSURANCE RATE MAP (FIRM).**

2610 **FLOOD PRONE AREA.**

2611



2612 **FLOODPLAIN.**

2613 **FLOODPROOFING.**

2614 **FLOODWAY**

2615 **GARAGE, PRIVATE.** An accessory building of the type historically used for storage of
2616 self-propelled vehicles and tools and equipment maintained as incidental to a conforming use
2617 of the premises.

2618 **GAS (SERVICE) STATION.** A place where gasoline, kerosene, or any other motor fuel,
2619 lubricating oil or grease for operating motor vehicles is offered for sale to the public and
2620 deliveries are made directly into motor vehicles.

2621 **GREEN AREA.** A mandatory reservation of open space for the common use of the tenants on
2622 any lot or plot on which a multiple-family dwelling will be constructed. The amount of space
2623 to be reserved as green area shall be determined in proportion to the number and kinds of
2624 dwelling units to be constructed. The green area may be left in its natural state, may be seeded,
2625 landscaped with approval plantings, or developed for outdoor recreational purposes where such
2626 is stated and approved on the site plan.

2627 **HANDICAPPED ACCESS FACILITIES.** A sidewalk, ramp, lift or similar feature which
2628 provides wheelchair or similar access to a building.

2629 **HARDCOVER** (see IMPERVIOUS SURFACE)

2630 **HAZARDOUS MATERIALS.**

2631 **HOME OCCUPATION:** A service business without retail sales, beauty or barber chairs or
2632 stations, conducted entirely within a Home Occupation Accessory Use only by members of a
2633 family residing full-time on the property which use is clearly incidental and secondary to the
2634 use of the dwelling or residential lot for residential purposes, and does not change the lot's
2635 residential character.

2636 **HOME OCCUPATION ACCESSORY USE.**

2637 **HOMEOWNERS ASSOCIATION.**

2638 **HOT TUB.**



2639 **HOTEL.** An establishment providing, for a fee, sleeping accommodations and customary
2640 lodging services, including maid service, the furnishing and upkeep of furniture and bed linens,
2641 and telephone and desk service. Related ancillary uses may include but shall not be limited to
2642 conference and meeting rooms, restaurants, bars, and recreational facilities.

2643 **ILLICIT DISCHARGE.**

2644 **ILLICIT CONNECTIONS.**

2645 **IMPERVIOUS SURFACE (HARD COVER).** Any structure or other surface including but
2646 not limited to buildings, driveways, sidewalks, patios, decks, clay, concrete, and other similar
2647 surfaces; tennis and other sport courts; rock and timber walls; any landscaping materials such
2648 as rocks or mulch under which is a non-permeable material such as plastic; or other materials
2649 which interfere with the direct absorption of stormwater into the ground.

2650 **INTENSIVE VEGETATION CLEARING.**

2651 **INTERIM USE.** A temporary use of property until a particular date, until the occurrence of a
2652 particular event, or until zoning regulations no longer permit it.

2653 **INFILTRATION.**

2654 **JUNKYARD.**

2655 **LAKE ACCESSORY USES.**

2656 **LANDSCAPING.** The finishing and adornment of unpaved yard areas. Materials and treatment
2657 generally include naturally growing elements such as grass, trees, shrubs, and flowers. This
2658 treatment may also include the use of logs, rocks, water features, fences, walls, and contouring
2659 of the earth.

2660 **LANDSCAPING PLAN.** A plan which outlines, in detail, the proposed landscaping scheme
2661 for a property or a particular area.

2662 **LOADING SPACE.** A space which is accessible from a street, alley, railroad, or way, in a
2663 building or on a lot, for the use of trucks while loading and unloading merchandise or materials.

2664 **LODGING ROOM.** A room rented as sleeping and living quarters without cooking facilities.
2665 In a suite of rooms, without cooking facilities, each room which provides sleeping
2666 accommodations shall be counted as one lodging room



- 2667 **LOT**
- 2668 **LOT TYPES** [see Section 8.2(B)]
- 2669 **LOT OF RECORD.**
- 2670 **LOT, OTHER.**
- 2671 **LOWEST FLOOR.**
- 2672 **MANUFACTURED HOME.** a structure, transportable in one or more sections, which is built
2673 on a permanent chassis and is designed for use with or without a permanent foundation when
2674 attached to the required utilities. The term “manufactured home” does not include the term
2675 “recreational vehicle.” No manufactured dwelling shall be moved into the City that does not
2676 meet the Manufactured Home Building Code as defined in Minnesota Statutes, Section 327.31,
2677 Subdivision 3 which shall mean Housing and Urban Development (HUD) certified (**move this**
2678 **last provision into the City Code or Zoning**).
- 2679 **MATERIAL STORAGE AREAS.**
- 2680 **MAXIMUM EXTENT PRACTICABLE (MEP).**
- 2681 **MAYOR.** Mayor of the City of New Brighton
- 2682 **MOTEL.** Two or more attached, detached, or semi-detached buildings containing guest rooms
2683 or apartments, designed, intended, or used for the accommodation of travelers including auto
2684 cabins, motor lodges, motor courts, automobile courts, and similar designations. (**consider**
2685 **elimination**)
- 2686 **MOTOR VEHICLE. A**
- 2687 **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4).**
- 2688 **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)**
2689 **STORMWATER DISCHARGE PERMIT.**
- 2690 **NEW CONSTRUCTION.**
- 2691 **NONCOMMERCIAL RECREATIONAL OR CULTURAL USES.** Any recreational or
2692 cultural use of land or buildings or buildings intended solely for the residents of a planned
2693 residential development to which membership is obtained only by living in the planned
2694 residential development. (**consider elimination**)
- 2695 **NONCONFORMING USE.**



2696 **NOXIOUS MATTER.** Material which is capable of causing injury, is in any way harmful to
2697 living organisms, or is capable of causing detrimental effect upon the health, the psychological,
2698 social, or economic well-being of human beings.

2699 **OBSTRUCTION.**

2700 **ONE HUNDRED YEAR FLOODPLAIN.**

2701 **OPACITY.**

2702 **ORDINARY HIGH WATER LEVEL (OHW).**

2703 **OUTDOOR STORAGE.**

2704 **OWNER-OCCUPANT.**

2705 **PARCEL.**

2706 **PARKING AREA/LOT.**

2707 **PARKING SPACE.** An area of not less than 180 square feet that measures at least 9 feet by
2708 20 feet, exclusive of access or maneuvering area, to be used exclusively as a temporary storage
2709 space for a private motor vehicle.

2710 **PATIO.**

2711 **PERMITTED USE.**

2712 **PERSON.** Any individual, firm, partnership, corporation, company, association, joint stock
2713 association, or other legal entity or body politic including any trustee, receiver, assignee, or
2714 other similar representative thereof.

2715 **PERSON, ELDERLY.** A person who is at least 55 years of age.

2716 **PERVIOUS PAVEMENT.**

2717 **PERVIOUS SURFACE.**

2718 **POLLUTANT.**

2719 **POST-CONSTRUCTION RUNOFF MANAGEMENT BMPS**

2720 **PRD - PLANNED RESIDENTIAL DEVELOPMENT**



- 2721 **PUD - PLANNED UNIT DEVELOPMENT.**
- 2722 **PLAT.**
- 2723 **PREMISES.**
- 2724 **PRINCIPAL USE.**
- 2725 **PRIVATE AMATEUR RADIO.**
- 2726 **PRIVATE RECEIVING ANTENNAE AND ANTENNA SUPPORT STRUCTURES.**
- 2727 **PRIVATE RECREATIONAL FACILITY.**
- 2728 **PROCESSING AREAS.**
- 2729 **PUBLIC WATERS.**
- 2730 **REACH.**
- 2731 **RECEIVING WATERS.**
- 2732 **RECREATIONAL EQUIPMENT.**
- 2733 **RECREATIONAL VEHICLE.**
- 2734 **REGIONAL FLOOD.**
- 2735 **REGULATORY FLOOD PROTECTION ELEVATION (RFPE).**
- 2736 **REMODELING.**
- 2737 **REPETITIVE LOSS.**
- 2738 **REST HOME, NURSING HOME OR BOARDING CARE HOME.** A building used to
2739 provide care for aged or infirmed persons requiring or receiving personal care or custodial care
2740 in accordance with the regulations of the State Board of Health.
- 2741 **RETENTION.**
- 2742 **RUN-ON.**
- 2743 **SATELLITE DISH.**



2744 **SCHOOL.** An institution for learning, specifically grammar and high schools, which provide
2745 elementary and preparatory instruction.

2746 **SCREENING.** A partition of vegetation and/or fencing that visually separates land uses or
2747 objects of one property from adjacent properties and streets. Screening techniques shall be such
2748 that the screening is effective throughout all seasons of the year.

2749 **SECONDARY CONTAINMENT.**

2750 **SETBACK.** See the definition for “setback line” in Section 8.2(B)(3)(e).

2751 **SETBACK AREA.**

2752 **SETBACK, MINIMUM FRONT.**

2753 **SETBACK, MINIMUM LAKE.**

2754 **SETBACK, MINIMUM REAR.**

2755 **SETBACK, MINIMUM SIDE.**

2756 **SEWER SYSTEM.**

2757 **SHORE IMPACT ZONE.**

2758 **SHORELAND.**

2759 **SHORELINE STABILIZATION.**

2760 **SIGN.**

2761 **SIGN, ADVERTISING.**

2762 **SIGN, BUSINESS.**

2763 **SIGN, NAMEPLATE.**

2764 **SIGN, SURFACE AREA OF.**

2765 **SIGN, TEMPORARY.**

2766 **SITE DESIGN BMP.**

2767 **SITE, SIGNIFICANT HISTORIC.**



- 2768 **SOLAR COLLECTOR.**
- 2769 **SOURCE CONTROL BMP.**
- 2770 **SPECIAL FLOOD HAZARD AREA.**
- 2771 **STAIRWAY.**
- 2772 **START OF CONSTRUCTION.**
- 2773 **STEEP SLOPE.**
- 2774 **STORAGE SHED.**
- 2775 **STORM EVENT.**
- 2776 **STORMWATER.**
- 2777 **STORMWATER DISCHARGE.**
- 2778 **STORMWATER CONVEYANCE SYSTEM.**
- 2779 **STREET.** A public right-of-way or public roadway easement which affords a primary means
2780 of access to abutting property.
- 2781 **STRUCTURE.** Anything erected, the use of which requires more or less a permanent location
2782 on the ground or attachment to something having a permanent location on the ground. **OR**
2783 Anything constructed or erected on the ground or attached to the ground or on-site utilities,
2784 including, but not limited to, buildings, sheds, detached garages, manufactured homes, non-
2785 exempt recreational vehicles, and other similar items. **(for consideration...be sure to drill**
2786 **down on “structure” vs “building”)**
- 2787 **STRUCTURAL ALTERATION.** Any change or addition, other than incidental repairs to the
2788 supporting members of a building, such as bearing walls, columns, beams, girders or
2789 foundations, which would prolong the building's life.
- 2790 **STRUCTURAL BMP.**
- 2791 **STRUCTURE, PERMANENT USE OR.**
- 2792 **STRUCTURE, PRINCIPAL.** The predominant structure in which the principal use of the lot
2793 is conducted.



2794 **SUBDIVISION.** A parcel of land divided into smaller parts such as blocks or lots, or a tract of
2795 land which is redivided after the first division.

2796 **SUBSTANTIAL DAMAGE.**

2797 **SUBSTANTIAL IMPROVEMENT.**

2798 **SWIMMING POOL.**

2799 **TELECOMMUNICATIONS ANTENNAE.**

2800 **TELECOMMUNICATIONS CO-LOCATION.**

2801 **TELECOMMUNICATIONS TOWER.**

2802 **TELECOMMUNICATION TOWER AND ANTENNA HEIGHT.**

2803 **TEMPORARY TELECOMMUNICATIONS TOWER.**

2804 **TEMPORARY STRUCTURE.**

2805 **TERRACE.**

2806 **TOWER.** Any pole, spire or structure, or combination thereof, to which an antenna is attached
2807 and all supporting lines, cables, wires, braces and masts.

2808 **TOWNHOUSE.** A group of three or more single-family residences attached one to the other
2809 with common sidewalls. These dwellings may be one or more story buildings, but each unit
2810 shall be designed and constructed to house single families. The design, construction, or use of
2811 multi-story units to house more than one family shall not be permitted.

2812 **TRAFFIC VISIBILITY TRIANGLE.** An open area on or adjacent to a corner lot measured
2813 along the intersecting edges of the public street's paved surface closest to the lot line.

2814 **TRAILER.** Any vehicle or structure designed and constructed in such a manner as will permit
2815 occupancy thereof as sleeping quarters for one or more persons, or the conduct of any business
2816 or profession, and is so designed that it is or may be mounted on wheels or flat-bed trucks and
2817 moved on highways or streets propelled on its own or by other motive power. The word "trailer"
2818 shall be synonymous with "trailer coach" and "mobile home." (move new definitions from
2819 recent ordinance in)



- 2820 **TRAILER PARKS.** A trailer park, trailer court, camp site, lot, parcel or tract of land designed,
2821 maintained or intended for the purpose of supplying a location or accommodations for any
2822 trailer, coach, or trailer coaches and upon which any trailer, coach, or trailer coaches are parked
2823 and shall include all buildings used or intended for use as part of the equipment thereof whether
2824 a charge is made for the use of the trailer park and its facilities or not. "Trailer park" shall not
2825 include automobile or trailer sales lots on which unoccupied trailers or mobile homes are parked
2826 for purposes of inspection and sale.
- 2827 **TRANSITIONAL ZONING.** The permitting of a less restrictive use on certain residential lots
2828 abutting on business or manufacturing districts to provide a more satisfactory blending of the
2829 two districts.
- 2830 **TREATMENT CONTROL BMP.**
- 2831 **USE.** The purpose for which land or premises or a building thereon is designed, arranged or
2832 intended, or for which it is occupied or maintained.
- 2833 **USE, CONFORMING.** Any use of land, structure or combination thereof which is in
2834 compliance with all applicable portions of the Zoning Code.
- 2835 **USE, DISCONTINUED.** A use shall be considered to be discontinued when the premises are
2836 not regularly occupied or when the characteristic equipment and furnishings of such use have
2837 been removed from the premises. **(legal review needed)**
- 2838 **USES, NONCONFORMING.** Any use of land, structure, or combination thereof which was
2839 lawfully established and which does not comply with all applicable portions of the Zoning Code.
- 2840 **VARIANCE.** A modification or variation of the provisions of this zoning code as applied to a
2841 specific piece of property
- 2842 **VEGETATIVE BUFFER.**
- 2843 **WALKWAY.**
- 2844 **WALL.**
- 2845 **WASTEWATER.**
- 2846 **WATER QUALITY MANAGEMENT PLAN STORMWATER POLLUTION**
2847 **PREVENTION PROGRAM.**
- 2848 **WATER-ORIENTED ACCESSORY STRUCTURE OR FACILITY.**



- 2849 **WETLANDS.**
- 2850 **WETLAND.**
- 2851 **WIND ENERGY CONVERSION SYSTEM (WECS).**
- 2852 **WIND ENERGY CONVERSION SYSTEM, SMALL (SWECS).**
- 2853 **WECS HEIGHT, TOTAL.**
- 2854 **WECS SYSTEM, ACCESSORY.**
- 2855 **WIND TURBINE.**
- 2856 **YARD.** [see Section 8.2(B)(3)]