

Section 510 - Zoning: districts, general provisions

510.01. Districts. Subdivision 1. For the purpose of this code, the city is hereby divided into the zoning districts and groups of zoning districts listed in this subsection.

Subd. 2. Residential districts:

- (a) "R-1" single family residential district.
- (b) "R-2" single and two family residential district.
- (c) "R-3" medium density residential district.
- (d) "R-4" residential-business district.

Subd. 3. Business districts:

- (a) "B-1" neighborhood business district.
- (b) "B-2" limited community business district.
- (c) "B-3" highway commercial district.
- (d) "B-4" community business district.

Subd. 4. Industrial districts:

- (a) "B-W" business-warehousing district.

Subd. 5. Special districts:

- (a) "FP" flood plain district.
- (b) "NG" neighborhood grocery.
- (c) "PUD" planned unit development.
- (d) "P" public facilities district (Amended, Ord. No. 97-06)

510.03. Boundaries. Subdivision 1. Application. The boundary lines of the districts listed in this section are hereby established as shown on that certain map entitled "Zoning District Map of Robbinsdale, Minnesota", which map is properly approved and filed with the city clerk and as described in Appendix A1 of this code. The zoning district map and all notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and is hereby made a part of this code by reference and incorporated herein as fully as if set forth herein at length.

Subd. 2. Boundaries. Zoning district boundary lines as indicated in Appendix A1 of this code follow lot lines, the projected center lines of streets or alleys, railroad right-of-way lines, the center of water courses or the corporate limit lines, all as they exist upon the effective date of this code. If district boundary lines do not follow any of the above described lines, the district boundary lines are established as indicated in Appendix A1. Where a district boundary line divides a lot of record which was in single ownership at the time of enactment of this code and places a portion of such lot of record in two or more zoning districts, any portion of such lot within 50 feet on either side of such a dividing district boundary line may be used for any use of either zoning district provided, however, if any portion of such lot shall extend beyond the 50 foot limitation, the district line as shown shall prevail.

Subd. 3. Appeal. Appeals from the city staff's determination and questions of doubt concerning the exact location of a zoning district boundary shall be heard by the planning commission who will then forward a recommendation to the city council for final decision.

Subd. 4. Vacation. When any street, alley or other public right-of-way is vacated by official action of the city, the zoning district abutting the center line of said alley or other public right-of-way shall not be affected by such proceeding.

510.05. Uses not provided for. Subdivision 1. Interpretation. Whenever in any zoning district a use is neither specifically permitted nor denied, it shall be the duty of the city planner to make an interpretation of the appropriate zoning district for the use in question. The interpretation of the city planner shall be based upon the similarity of the use to other uses already specifically identified by this code and shall include but not be limited to consideration of the operational characteristics of the use, the intensity of the use, the general compatibility of the use with other uses identified by this code, and consistency of the use with the stated purpose of the districts established by this code.

Subd. 2. Planning commission. Upon an interpretation having been made by the city planner, the planning commission shall be notified in writing of the interpretation for their concurrence or dissent. If within a period of ten days after such notification any member of the commission informs the city planner of a disagreement with the interpretation, the commission shall meet as a whole, according to its rules of procedure, to either approve or disapprove the interpretation. The commission may exercise the discretion to make any determination by following the procedures contained in section 535.03 of this code for an amendment. If within the ten day period no objection is raised on the part of the planning commission, the interpretation of the city planner shall stand as the determination of the appropriate zoning district for the use under consideration.

Subd. 3. Amendments. If an interpretation is made that a use under consideration is most similar to other uses which are identified by this code as conditional uses, then determination of the appropriate zoning district for said use shall only be made consistent with the procedures contained in subsection 535.03 of this code for an amendment. Such amendments shall specify any conditions or standards deemed generally necessary to reduce adverse affects of the use and to assure its compatibility with other permitted and conditional uses contained within the district for which the amendment is proposed.

Subd. 4. Appeals. The provisions of subsection 535.05 of this code, relating to appeals, may be invoked where it is alleged that a determination made pursuant to this section is in error.

510.07. Non-conforming buildings, structures and uses. Subdivision 1. Purpose. It is the purpose of this subsection to provide for the regulation of non-conforming buildings, structures and uses and to specify these requirements, circumstances and conditions under which non-conforming buildings, structures and uses will be operated and maintained. This code establishes separate districts, each of which is an appropriate area for the location of uses which are permitted in that district. It is necessary and consistent with the establishment of these districts that non-conforming buildings, structures and uses not be permitted to continue without restriction. Furthermore, it is the intent of this subsection that all non-conforming uses shall be eventually brought into conformity.

Subd. 2. Existing uses. Any structure or use lawfully existing upon the effective date of this code shall not be enlarged but may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified, or subsequently amended. (Amended, Ord. No. 08-04)

Subd. 3. Unsafe conditions. Nothing in this code shall prevent the placing of a structure in safe condition when said structure is declared unsafe by the building inspector providing the necessary repairs shall not constitute more than 50% of fair market value of such structure. Said value shall be determined by the city assessor or a professionally certified or recognized appraiser retained by the owner and approved by the city council. (Amended, Ord. No. 08-04)

Subd. 4. Moving. No non-conforming building, structure or use shall be moved to another lot or to any other part of the parcel of land upon which the same was constructed or was conducted at the time of this code unless such movement shall bring the non-conformance into compliance with the requirements of this code. (Amended, Ord. No. 08-04)

Subd. 6. Changes in use.

- (a) When any unlawful non-conforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be physically changed to any non-conforming use.
- (b) A lawful non-conforming use of a structure or parcel of land may be changed to lessen the non-conformity of use. Once a non-conforming structure or parcel of land has been so changed it shall not thereafter be so altered to increase the non-conformity.

Subd. 7. Damage or destruction of non-conforming building, structure or use. Any non-conforming building, structure or use including the lawful use or occupation of land on premises existing at the time of the adoption of an additional control of this code, may be continued, including through repair, replacement, restoration, maintenance or improvement, but not including expansion, unless the non-conforming use or occupation of land or premises is destroyed by fire or other peril to the extent of greater than 50% of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, a municipality may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. The city may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare and safety. (Amended, Ord. No. 08-04)

Subd. 8. Discontinued use. Whenever a lawful non-conforming use of a structure or land is discontinued and then remains discontinued for a period of 12 months, any future use of said structure or land shall be in conformity with the provisions of this code. (Amended, Ord. No. 08-04)

Subd. 9. Lawful non-conforming accessory structure. A lawful non-conforming accessory structure in an R-1 district may be expanded to increase the usability provided that the entire expansion meets the current zoning regulations and the structure is accessory to a single family dwelling. (Amended, Ord. No. 08-04)

Subd. 10. Buildings under construction. Any proposed structure which will, under this Code, become non-conforming but for which a building permit has been lawfully granted, not more than six months prior to the effective date of this code, may be completed in accordance with the approved plans, provided construction is started within six months of the effective date of this code, and continues to completion within two years. Such structure and use shall thereafter be a legally non-conforming structure and use. (Amended, Ord. No. 08-04)

Subd. 11. Maintenance. 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 extend or intensify the non-conforming use. (Amended, Ord. No. 08-04)

Subd. 12. Alterations. Alterations may be made to a building containing lawful non-conforming residential units when they will improve the livability thereof, provided they will not increase the number of dwelling units or the non-conformity of the structure. (Amended, Ord. No. 08-04)

Subd. 13. Screening. All non-residential, non-conforming buildings, structures and uses shall be screened on the side and rear yards from abutting and surrounding residential uses in compliance with subsection 510.25, subdivision 2 of this code. (Amended, Ord. No. 08-04)

Subd. 14. Nonrental units. Lawful non-conforming, non-income producing, residential units in R-1 and R-2 districts may be expanded to improve their livability, provided that the entire expansion meets the current zoning regulations. If, however, the expansion extends the non-conformity, without going any closer to the property line, such expansion may be permitted as a conditional use. (Amended, Ord. No. 08-04)

Subd. 15. Decks. Lawful non-conforming residential units in R-1 and R-2 districts may be expanded by adding a deck provided that the deck meets the current zoning regulations and a certificate of survey is provided to the city. (Amended, Ord. No. 08-04)

510.08. (Added, Ord. No. 99-11) Curing non-permitted uses and structures; statement of policy. The city council has become aware that there exists a number of instances of uses and structures which, for a variety of reasons, are not permitted within the residential district in which they are located. The council is, however, mindful that many such uses and structures have existed for long periods of time in harmony with surrounding permitted uses. The council believes that with respect to many such uses and structures, it is in the best interest of the city and of the owners of the property on which such uses and structures are located, that they be allowed to continue. The council also believes that, in many instances, requiring the owner of the property to pursue other procedures contained in this code could result in unnecessary hardship. Therefore, the procedures contained in section 510.081 of this code are intended to provide an expeditious and reasonable method whereby certain non-permitted uses and structures may be made lawful and permitted.

510.081. (Added, Ord. No. 99-11) Use or structure not permitted in the district. Subdivision 1. Procedure. The owner of property which contains a use or structure which is not permitted in the district in which it is located may make application to the Community Development Department (“department”) for a nonconforming use permit (“NUP”).

- (a) The request for a nonconforming use (“NUP”) permit, as provided within this subsection, shall be filed with the city on an official application form a minimum of four weeks before the planning commission meeting at which formal action is requested. Such application shall be charged a fee as established in subsection 535.15. This fee shall not be refunded. Such application shall also be accompanied by three copies of detailed written and graphic materials fully explaining the existing use. A certificate of survey showing all structures, significant features, and any other information determined by the city shall be submitted. The application, along with all related information, shall be referred to the city planning commission for consideration and a recommendation to the city council.
- (b) The applicant or a representative thereof shall appear before the planning commission in order to answer questions concerning the proposed “NUP”.
- (c) The “NUP” application shall be referred to the city staff for a report and recommendation to be presented to the commission. The city staff’s report and recommendations shall be given to the city planning commission at least five days prior to the meeting at which said report and recommendations are to be presented. The report and recommendations of the city staff are to be entered in and made part of the permanent record of the planning commission meeting.
- (d) The planning commission shall make findings of fact regarding any adverse effects of the proposed “NUP” and what additional requirements may be necessary to reduce such adverse effects. Its judgment shall be based upon, but not limited to, the following factors:
 - (1) the use or structure has existed in substantially its present form for at least 15 years;

- (2) during its existence no adverse neighborhood impacts have been reported to the city;
 - (3) the use or structure was established either by a prior owner, or by the current owner upon a good faith belief that the use or structure was lawful when established; and
 - (4) the structure either conforms to the current requirements of the building code, or the requirements of the building code as of the effective date of the NUP; or the city building official and applicant have agreed upon a compliance schedule which will bring the structure into compliance with the applicable building codes according to the terms of the schedule.
- (e) The planning commission shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant, concerning operational factors, said information to be declared necessary to establish performance conditions in relation to all pertinent sections of this code.
 - (f) Notice of time, place and purpose of the hearing shall be published in the official newspaper at least ten days prior to the day of the hearing. Individual notices shall be mailed not less than ten days before the hearing to all owners of property according to the assessment records, within 350 feet of the parcel included in the request.
 - (g) Failure of a property owner to receive said notice shall not invalidate any proceedings set forth within this code provided a bona fide attempt has been made to comply with this subsection.
 - (h) The planning commission shall recommend such conditions relating to the granting of said "NUP" as they deem necessary to carry out the intent and purpose of the code or recommend that the request be denied. The planning commission's recommendation and the city staff's report and recommendation shall be forwarded to the city council.
 - (i) The city council shall not grant a "NUP" until they have received a report and recommendation from the planning commission and the city staff. The planning commission shall reach a decision not later than the second regular meeting following the first regular meeting at which the request for a "NUP" is considered by the commission.
 - (j) Upon receiving the report and recommendation of the planning commission and the city staff, the "NUP" request shall be placed on the agenda for the next regular city council meeting, but no sooner than 20 days. Such reports and recommendations shall be entered in and made part of the permanent written record of the city council meeting.
 - (k) Upon receiving the report and recommendation of the planning commission and city staff, the city council shall have the option to set and hold a public hearing if deemed necessary and may impose any additional conditions it considers necessary to protect the public health, safety, and welfare.
 - (l) Approval of a "NUP" shall require passage by 4/5 vote of the full city council as set forth by city charter.

- (m) The NUP shall be deemed effective on the date of issuance unless the council determines that, for good cause shown by the applicant, the NUP should be effective as of an earlier date.
- (n) Upon issuance of a “NUP”, the use or structure to which the permit relates shall be deemed a lawful nonconforming use or structure and shall be subject to all of the provisions of this code regulating such uses or structures.
- (o) The city clerk shall notify the “NUP” applicant of the council’s decision in writing and place a copy of the decision in the central property file.

Subd. 2. Performance bond.

- (a) Except in the case of single family detached residential property, upon approval of a “NUP” the city shall be provided with a performance bond prior to the issuing of building permits or initiation of work on the proposed improvements or development. Said bond shall guarantee conformance and compliance with the conditions of the “NUP” and the codes and ordinances of the city. (Amended, Ord. No. 09-03)
- (b) The performance bond shall consist of a bond, cash escrow deposit or irrevocable letter of credit and be in the amount of the city engineer’s estimated costs of labor and materials for the proposed improvements or developments. (Amended, Ord. No. 09-03)
- (c) The city shall hold the performance bond until completion of the proposed improvements or development and a certificate indicating compliance with the non-conforming use permit and codes and ordinances of the city has been issued by the city building inspector. (Amended, Ord. No. 09-03)
- (d) Failure to comply with the conditions of the “NUP” or the codes and ordinances of the city or both shall result in forfeiture of the bond.

510.09. Lots. Subdivision 1. Single family. Any vacant lot of record at the time of the adoption of this code within an R district which does not meet the requirements of this code as to lot area or lot width may be utilized for a single family detached dwelling provided the lot area and lot width are within 80% of said requirements. All other setbacks and open space required by this code shall be met. Should said vacant lot fail to meet these requirements it shall be classified as having insufficient lot area or lot width as a buildable site and no building permit shall be issued unless sufficient land is added to the lot consistent with section 500 of the city code. An existing single family dwelling on a lot which is within an R district and with lot area or lot width below 80% of said requirements, may be expanded provided the entire expansion meets the current zoning regulations. (Amended, Ord. No. 91-03, Sec. 3)

Subd. 2. Buildings per lot. Except in the case of planned unit development as provided for in subsection 530.05 of this code, not more than one principal building shall be located in a lot. The words "principal building" shall be given their common, ordinary meaning. In case of doubt or on any question or interpretation the decision of the building inspector shall be final, subject to the right of appeal to the planning commission and city council.

Subd. 3. Through lots. On a through lot which is a lot fronting on two parallel streets, both street lines shall be front lot lines for applying the yard and parking regulations of this code.

510.11. (Repealed, Ord. No. 99-05; Added, Ord. No. 99-05) Accessory buildings permitted or conditionally permitted. All accessory buildings are subject to the following restrictions:

- (a) No accessory building shall be permitted on any lot prior to the time of the issuance of the building permit for the construction of a principal building.
- (b) Accessory buildings in the rear yard shall not be closer than 1-1/2 feet to any lot line.
- (c) Accessory buildings in a side yard shall not be any closer than five feet to the lot line. If an accessory building is located in a corner side yard, then the required setback shall be the same as what is required for the principal building.
- (d) No accessory building shall be built within six feet of the principal building unless it is connected to the principal building by a living space.
- (e) No detached accessory building shall be placed in the front yard.
- (f) Accessory buildings shall be setback from any alley right-of-way a minimum of two feet.
- (g) Garages with vehicular access to and from an alley or street right-of-way and with the vehicular entrance fronting the street right-of-way shall be set back a minimum of 20 feet from the property line. Garages with vehicular access to and from an alley with the vehicular entrance fronting the alley shall be set back a minimum of 16 feet from the property line. (Amended, Ord. No. 03-33)

- (h) Garages not covered under subsection 510.11, subdivision 1(f) and (g) shall be set back a minimum of two feet for every additional ten degrees of angle from the alley right-of-way.
- (i) In no case shall an accessory building exceed the height of the principal building.
- (j) Accessory buildings shall not exceed 16 feet in height.
- (k) No accessory building shall at any time be used as a dwelling unit (temporarily or permanently) or for a home occupation.
- (l) Attached garages shall be included in the calculation for the total amount of accessory building square foot coverage.
- (m) Any second accessory building(s) that exceeds 240 square feet in size shall require a conditional use permit.
- (n) The chart below sets forth the maximum size for a single accessory building and the total of all accessory buildings allowed:

<u>Lot Width</u>	<u>Maximum Size for a Single Building</u>	<u>Total Coverage of All Accessory Buildings Allowed on a Lot</u>
0 - 49 feet	800 square feet	1000 square feet
50 - 59 feet	860 square feet	1060 square feet
60 - 79 feet	920 square feet	1120 square feet
80 - 99 feet	1000 square feet	1200 square feet
100 plus feet	1200 square feet	1400 square feet

- (o) In no case shall the floor area of an accessory building exceed 100% of the main floor area of the principal structure.
- (p) In R-1 and R-2 zones, accessory buildings shall not occupy more than 25% of the rear yard area. Where a platted alley exists in the rear of the lot, 1/2 of the width of the platted alley may be included for the purpose of calculating rear yard coverage.
- (q) In R-1 and R-2 zones, only one accessory structure without a permanent foundation (concrete) shall be constructed or placed on a lot.

Subd. 2. Accessory structures, uses and equipment. No accessory structure, use or equipment which generates noise (such as air conditioning cooling condensers) may be located in a side yard in a residential district, except a corner lot side yard abutting a street, unless the following conditions are met:

- (a) the equipment is not within the required side yard, except that air conditioner condensers may be located in the required side yard if the following conditions are met:
 - (1) There is no encroachment into any drainage or utility easement;
 - (2) Placement of the equipment is approved by the city engineer to ensure it does not obstruct drainage or access around the equipment; and

- (3) Equipment installation and performance is consistent with 510.11, subdivision 2(c) and (d). (Amended, Ord. No. 06-06)
- (b) the equipment is not adjacent to the neighbor's side yard, except if the adjacent property meets one of the following conditions:
 - (1) the adjacent property is currently occupied by a principal building which is equipped with central air conditioning serving the entire building (full house air conditioning); or (Amended, Ord. No. 06-06)
 - (2) the adjacent property is currently occupied by a principal building which is to be equipped with central air conditioning serving the entire building (full house air conditioning) concurrently with the subject property; or (Amended, Ord. No. 06-06)
 - (3) the adjacent property is currently occupied by a principal building which has no windows or doors in the wall immediately abutting the yard in question or is separated from the yard in question by a detached accessory building or by an attached garage; or (Amended, Ord. No. 06-06)
 - (4) the adjacent property is currently occupied by a principal building which is at least 20 feet from the proposed location of the equipment. (Amended, Ord. No. 06-06)
- (c) the equipment operates at noise levels of 74 decibels (dB) or less according to manufacturer's specifications; and (Amended, Ord. No. 06-06)
- (d) the equipment is muffled so that it emits no more than 50 decibels at the nearest lot line. Acceptable muffling includes:
 - (1) a six foot high solid wood fence constructed along the side lot line running from front yard to back yard; or (Amended, Ord. No. 06-06)
 - (2) an acoustical fence constructed around the air conditioner; or (Amended, Ord. No. 06-06)
 - (3) landscaping installed around the air conditioning unit approved by staff.

Furthermore, such accessory uses shall not be located in any front, side, or rear yard in a business district if that yard abuts a residential district.

Subd. 3. Vehicle storage. The open storage of unlicensed and or inoperable passenger vehicles, trucks and recreational vehicles does not qualify for an accessory use.

Subd. 4. Swimming pools. All swimming pools shall have fences or walls at least six feet in height around the perimeter with a self-closing gate.

510.13. Yards. Subdivision 1. Exceptions. The following shall not be considered as encroachments on required yard setback requirements:

- (a) In any rear yard or front yard: terraces, awnings, canopies, steps, chimneys, flag poles, egress window wells, and roof overhangs of 12 inches on an accessory use structure and 24 inches on a principal use structure; and air conditioning or heating equipment provided that when placed in front yard, such equipment is screened with landscaping of sufficient height and thickness so as to render it as inconspicuous as is reasonably practical from the street. (Amended, Ord. No. 10-10, Sec. 1)
- (b) In side or rear yards: off-street open parking spaces in R-1 and R-2 districts.
- (c) In rear yards: recreational and laundry drying equipment, arbors and trellises, balconies, breezeways, detached outdoor living rooms, and garages.
- (d) Side yards: stoops and awnings which may be folded flat against the building, and roof overhangs of 12 inches on an accessory use structure and 24 inches on a principal use structure, egress window wells subject to the following conditions: (Amended, Ord. No. 10-10, Sec. 1)
 - (1) Egress window wells located within side yards shall not obstruct drainage patterns nor cause stormwater to drain onto adjoining properties. (Added, Ord. No. 10-10, Sec. 1)
 - (2) Approval by the City Engineer is required for egress window wells that are less than two feet from the side lot line. (Added, Ord. No. 10-10, Sec. 1)
 - (3) Egress window well walls closer than 1.5 feet to the side lot line will require a conditional use permit. (Added, Ord. No. 10-10, Sec. 1)

Subd. 2. Vestibules. On existing structures, vestibules may extend not more than five feet into any required yard provided it is only one story, does not exceed 50 square feet, and does not extend nearer than 25 feet from a front property line or ten feet from any rear property line.

Subd. 3. Decks. A deck or open porch no higher than 30 inches may extend not more than ten feet into any required yard provided it does not extend nearer than 20 feet from any front property line and five feet from any side or rear property line. Setbacks affecting decks and platforms exclusively associated with ramps for handicapped access may be waived by the city planner, whose decision may be appealed to the city council. Any such deck or platform having had applicable setbacks previously waived must be removed within 30 days of written notification by the community development department, that said deck or platform no longer meets the requirements for waiver. (Amended, Ord. 07-09)

510.15. General building requirements. Subdivision 1. Height limitations.

- (a) Exceptions: The building height limits established herein for districts shall not apply to the following:
- (i) belfries
 - (ii) chimneys or flues
 - (iii) church spires
 - (iv) cooling towers
 - (v) cupolas and domes which do not contain usable space
 - (vi) elevator penthouses
 - (vii) flag poles
 - (viii) monuments
 - (ix) parapet walls extending not more than three feet above the limiting height of the building
 - (x) water towers
 - (xi) poles, towers and other structures for essential services
 - (xii) necessary mechanical and electrical appurtenances
 - (xiii) television antennas not exceeding 20 feet
 - (xiv) telecommunications tower and facilities (Added, Ord. No. 97-06)
 - (xv) telecommunications facilities on antenna support structures (added, Ord. 97-06)
- (b) No excluded roof equipment or structural element extending beyond the limited height of a building may occupy more than 25 percent of the area of such roof.

Subd. 2. Dwelling unit restrictions. No basement, garage, tent, mobile home or accessory building shall at any time be used as a residence or dwelling unit, temporarily or permanently.

Subd. 3. Drainage plans. In the case of all apartment, business and industrial developments, the drainage plans shall be submitted to the city engineer for the engineer's comments and the final drainage plan shall have the engineer's approval.

Subd. 4. (Added, Ord. 08-09) Erosion control requirements. All land alteration or site grading in any district that results in the extraction of more than 25 cubic yards of material, or that disturbs an area of more than 100 square feet, or causes any stockpile in excess of five cubic feet of material shall require the following measures:

- (a) The entire perimeter of all disturbed or stockpiled areas shall be enclosed by silt fencing or other materials approved by the city engineer to contain the run off from soil or stockpiled materials.
- (b) All catch basins, curbs, manholes, storm drain inlets and other applicable infrastructure shall be protected during construction with straw bales, silt fence or other equivalent barrier approved by the city engineer to eliminate the infiltration of non-stormwater run off generated or associated with the site alteration activities.
- (c) When vegetation is removed during construction, the exposed condition of the land shall be kept to the shortest practical period of time, but no longer than 60 days. Areas left denuded for periods in excess of five days may be required to have temporary vegetation, seeding, mulch and to be stabilized with erosion control netting or blanket as required by the city engineer.

- (d) Streets must be cleaned and swept whenever tracking or spillage of sediment occurs and before sites are left idle for weekends and holidays.
- (e) Dust must be controlled in a manner approved by the city engineer.
- (f) Permanent vegetation and structures shall be installed within 30 days after completion of initial grading. If grading is not completed erosion measures, including dormant seeding and mulching shall be implemented.
- (g) If the soil is not stabilized through landscaping when a certificate of occupancy is issued, the city may require financial security, not to exceed 150% of the estimated cost of erosion and sediment control on the site. The financial security will be returned when the landscaping is approved by the city engineer.
- (h) Any person, firm, corporation, agency or other party who violates, disobeys, omits, neglects or refuses to comply with, or who resists the enforcement of any of the provisions of this code is subject to enforcement and penalties described in section 535.09, subdivision 1.

510.17. Off-street parking. Subdivision 1. Purpose. The purpose of this subsection is to alleviate or prevent congestion of public rights-of-way and to promote the safety and general welfare of the public, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures or both.

Subd. 2. General provisions.

- (a) Existing off-street parking spaces and loading spaces upon the effective date of this code shall not be reduced in number unless said number exceeds the requirements set forth herein for a similar new use.

- (b) Off-street parking facilities accessory to residential uses shall be utilized solely for the parking of licensed and operable passenger vehicles, licensed and operable recreational vehicles as regulated in subsection 515.01, subdivisions 3 and 4. Off-street parking facilities accessory to residential uses may be utilized for the parking of not more than one licensed and operable truck not exceeding a gross vehicle weight of 9,000 pounds. Under no circumstances shall facilities accessory to residential structures be used for the parking

or storage of semi-truck tractors or semi-truck tractor-trailer combinations, for the storage of commercial vehicles, or to provide off-street parking or storage facilities for non-residential uses.

(c) Calculating spaces. When determining the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space. In stadiums, sports arenas, churches, and other places of public assembly in which patrons or spectators occupy benches, pews, or other similar seating facilities, each 22 inches of such seating facilities shall be counted as one seat for the purpose of determining requirements for off-street parking facilities under this code.

(d) Stall and aisle or driveway design.

(1) (i) Standard size vehicles. Each parking space shall not be less than 8-1/2 feet wide and 18 feet in length exclusive of an adequately designed system of access.

(ii) Compact parking spaces. Each compact space shall not be less than 7-1/2 feet wide and 16 feet in length and shall be provided at a rate of 25% of the total required off-street parking.

(2) The required parking spaces serving one and two family dwellings may be designed for parking not more than two vehicles in a tandem arrangement for each dwelling unit in order to comply with the requirements of this code.

(3) Parking areas of five spaces or more shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley.

(4) Driveways serving four or less parking spaces shall be a minimum of ten feet in width.

(5) Parking areas of five spaces or more and their aisles or driveways shall be developed in compliance with Table I.

(i) Table I

	<u>Wall to Wall</u>		<u>Wall to Interlock</u>		<u>Interlock to Interlock</u>	
	<u>Bay Width</u>	<u>Aisle Width</u>	<u>Bay Width</u>	<u>Aisle Width</u>	<u>Bay Width</u>	<u>Aisle Width</u>
	(minimum)		(minimum)		(minimum)	
45	51.0'	14.0'	49.0'	14.0'	46.0'	14.0'
60	56.0'	16.0'	54.0'	16.0'	52.0'	16.0'
90	62.0'	25.0'	62.0'	25.0'	62.0'	25.0'

Notes:

Standard size vehicle spaces

Stall Width:	8-1/2 feet
Stall Length:	18 feet

Compact or sub-compact size vehicle spaces

Stall Width:	7-1/2 feet
Stall Length:	16 feet

Handicapped size vehicle spaces

Stall Width:	12 feet
Stall Length:	18 feet

- (6) Parallel space design. All on-street and off-street parallel parking spaces shall not be less than nine feet wide and 22 feet in length exclusive of an adequately designed system of access.
- (7) Handicapped stalls. Each parking space shall not be less than 12 feet wide and 18 feet in length and shall be provided at a rate of one space per 50 standard or compact spaces, or both, or any fraction thereof.
- (8) All parking areas providing five or more spaces shall be double striped.
- (e) Access. Driveways shall be provided for all off-street parking and shall be designed so as to provide adequate means of access to a public alley or street. Such access shall be located as to cause least interference with traffic movement and minimum traffic hazards.
- (1) No driveway in any district shall exceed 25 feet in width unless travel lanes are properly stenciled and no curb cut in any district shall exceed 22 feet in a residentially zoned district or 35 feet in a commercially zoned district. Detailed plans shall be submitted to the city engineer for approval for all curb cuts or driveway openings before a permit will be obtained therefore.
- (2) Driveway access curb opening on a public street, except for single and two-family dwellings, shall not be located less than 25 feet from one another.
- (f) Signs.
- (1) No sign shall be so located as to restrict the orderly operation and traffic movement within any parking area.
- (2) All compact and handicapped parking spaces shall be individually signed or stenciled.

- (g) **Surfacing.**
- (1) In all R-3, R-B, B-1, B-2, B-3, B-4 and B-W districts, areas intended to be utilized for self-propelled vehicle parking spaces and driveways shall be surfaced with blacktop, concrete, other hard surface material approved by the city, to control dust and drainage. Plans for parking lots in these districts shall be submitted to the city engineer for review
 - (2) and the final drainage plan shall be subject to the city engineer's approval. Compliance with the hard surfacing requirement may be scheduled over a period of time, not to exceed five years, if approved by the city council.
 - (3) For new construction of new garages and/or homes in all R-1 and R-2 districts, areas intended to be used for self-propelled vehicle parking spaces and driveways shall be surfaced with blacktop, concrete and/or other hard surfaced material approved by the city. Parking areas and driveways for existing garages and/or homes shall be surfaced with a material suitable to control dust and drainage. A grass covering does not constitute an acceptable surfacing material. (Amended, Ord. No. 03-33)
- (h) **Lighting.** Any lighting used to illuminate an off-street parking area shall be so arranged as to reflect the light away from adjoining property, abutting residential uses and public rights-of-way and be in compliance with subsection 510.25, subdivision 5.
- (i) **Curbing, screening, and landscaping.**
- (1) All open off-street parking areas of five spaces or more designed to have head-in parking along the property line shall provide a bumper curb not less than five feet from the side property line or a guard of normal bumper height not less than one foot from the side property line. A fence or evergreen planting of three feet in height shall be erected along the front yard setback line with grass, planting, or surfaced material occupying the space between the sidewalk and curb, fence or evergreen planting.
 - (2) All open off-street parking areas of five or more spaces shall be screened and landscaped from abutting or surrounding residential uses in compliance with subparagraph (1) above and subsection 510.25, subdivision 2 of this code.
- (j) **Maintenance of off-street parking.** It shall be the joint and several responsibility of the operator and owner of the principal use, uses, or building, or both, to maintain, in a neat and adequate manner, the parking space, accessways, landscaping, and required fences.

Subd. 3. **Location.** All accessory off-street parking facilities required by this code shall be located and restricted as follows:

- (a) Space accessory to one and two family dwellings shall be on the same lot or on a directly adjacent lot under the same ownership as the principal use served.

- (b) Ninety degrees (90°) head in parking, directly off of and adjacent to a public street or alley, with each stall having its own direct access to the public street or alley, shall be prohibited. However, the city council may approve sixty degree (60°) head in angle parking, directly off and adjacent to a public street or alley, with each stall having its own direct access to a public street or alley, as a conditional use as regulated by subsection 535.01. (Amended, Ord. No. 00-04).
- (c) There shall be no off-street parking within five feet of any street right-of-way in a commercially zoned district (B-1, B-2, B-3, B-4, and B-W) and no off-street parking within 15 feet of any street right-of-way in a residentially zoned district (R-1, R-2, R-3, and R-B) as measured from the property line.
- (d) For one and two-family dwellings no more than one of the required parking spaces for each unit may be located in the front yard. This requirement shall not apply to approved combination residential and commercial projects as regulated by subsections 515.07 and 520.03 of this code. Said type of parking spaces shall not be enclosed within a building or structure.
- (e) Spaces accessory to multiple family dwellings shall be on the same lot as the principle use served or within 200 feet of the main entrance to the principal building served.
- (f) Except as additionally limited above, spaces accessory to uses located in any use district shall be within 300 feet of the main entrance to the principal building served unless otherwise authorized by conditional use permit.

Subd. 4. Off-site parking.

- (a) Public property, including public right-of-way or private property, or both, may be utilized to meet the parking requirements of this code, provided that:
 - (1) Any off-site parking which utilizes private property to meet the requirements of this code shall be a conditional use as regulated by subsection 535.01 of this code. Any off-site parking which utilizes public property to meet the requirements of this code shall be approved by motion of the city council.
 - (2) Such off-site parking shall comply with all parking standards stated in this code.
 - (3) Reasonable access from off-site parking facilities to the use served shall exist.
 - (4) Use of public right-of-way to meet the requirements of this code shall be a conditional use as regulated by subsection 535.01.
- (b) Any use which depends upon off-site parking to meet the requirements of this code shall maintain the minimum number of required parking spaces or cease operation and use until such time as there is full compliance with the requirements of this code.

- (c) Whenever required parking facilities are on land, a lot or parcel other than the principal building which is to be served, a properly drawn legal instrument, executed by the parties concerned, duly approved as to form and manner of execution by the city attorney, shall be filed with the city clerk.
- (d) Any use which depends upon off-site parking to meet the requirements of this code shall require a certificate of zoning compliance, renewable annually, as regulated by section 535.07.

Subd. 5 . Within structures. The off-street parking requirements may be furnished by providing a space so designed within the principal building or one attached thereto as defined herein; however, if provisions are so made, no building permit shall be issued to convert said space into a dwelling unit or living area unless other adequate provisions are made to comply with the required off-street parking provisions of this code.

Subd. 6. Joint facilities.

- (a) Except in the R-1 and R-2 districts and as herein provided, required off-street parking facilities serving two or more uses may be located on the same lot or in the same structure provided that the total number of parking spaces furnished shall not be less than the total sum of the separate requirements for each use.
- (b) The city council may, after receiving a report and recommendation from the planning commission, approve a conditional use permit for one or more businesses to provide the required off-street parking facilities by joint use of one or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the planning commission shall not recommend that such permit be granted nor the council approve such a permit except when the following conditions are found to exist.
 - (1) Up to 50% of the parking facilities required for a theatre, bowling alley, dance hall, bar or restaurant may be supplied by the off-street parking facilities provided by types of uses specified as primarily daytime uses in paragraph 4 below.
 - (2) Up to 50% of the off-street parking facilities required for any use specified under paragraph 4 below as primary daytime uses may be supplied by the parking facilities provided by the following nighttime or Sunday uses: auditoriums incidental to a public or parochial school, churches, bowling alleys, dance halls, theaters, bars or restaurants.
 - (3) Up to 80 percent of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses specified under paragraph 4 below as primarily daytime uses.

- (4) For the purpose of this subsection the following uses are considered as primarily daytime uses: banks, business offices, retail stores, personal service shops, household equipment or furniture shops, clothing or shoe repair or service shops, manufacturing, wholesale and similar uses.
- (5) Conditions required for joint use. The following are required:
- (i) the building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities;
 - (ii) the applicant shall show that there is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed; and
 - (iii) a properly drawn legal instrument, executed by the parties concerned for joint use of off-street parking facilities, duly approved as to form and manner of execution by the city attorney, shall be filed with the city clerk and recorded with the appropriate official of Hennepin County.

Subd. 7. Number of spaces required. The following minimum areas shall be provided and maintained by ownership, easement, or lease or combination thereof for and during the life of the respective uses as hereinafter set forth:

- (a) single family, two family, and townhouse sites: two spaces per unit;
- (b) multiple family dwellings: one and one-half fee-free spaces per unit;
- (c) motels, motor hotels, hotels: one space per each rental unit plus one additional space for each ten units;
- (d) boarding and rooming houses: at least one fee-free parking space for each person for which accommodations are provided for sleeping;
- (e) hospitals: 1.9 spaces per bed;
- (f) medical, dental, or hospital out-patient clinics: one space for each 110 square feet of net floor area or seven and one-half spaces per doctor, whichever number of parking spaces is greater;
- (g) sanitarium, convalescent home, rest home or nursing home: at least one parking space for each six occupants for which accommodations are offered plus one additional parking space for each 15 occupants;
- (h) senior housing: one-half space per unit; (Amended, Ord. No. 08-02)

- (i) churches, theatres, and other places of public assembly: at least one parking space for each five seats based upon the design capacity of the main assembly hall;
- (j) drive-in establishment and convenience food: at least one parking space per 15 square feet of gross area excluding kitchen and dining area, or the parking demand required by subdivision 7(1), or a minimum of eight spaces where there is no interior ordering area, whichever is greater. (Amended, Ord. No. 93-13)
- (k) motor fuel station: at least four off-street parking spaces plus two off-street parking spaces for each service stall. Those facilities designed for sale of other items than strictly automotive products, parts or service or both shall be required to provide additional parking in compliance with other applicable sections of this code;
- (l) restaurants, cafes, private clubs serving food and drinks, taverns: at least one space for each four seats based upon design or where there is no design layout, one space for each 30 square feet of gross floor area;
- (m) retail sales and service business: one space for every 200 square feet of gross floor area; if located within the Downtown Architectural Design Guidelines Overlay District, one space for every 400 square feet of gross floor area. (Amended, Ord. No. 01-07)
- (n) warehousing, storage, or industry, or combination thereof: at least one space for every 500 square feet of gross floor area or one space for each employee on the maximum shift, whichever is greater. Where uses, as outlined in this section, constitute at least 50% of gross floor area and are combined with retail service uses, parking requirements shall be calculated through appropriate application of both subdivision 7(m) and (n) of this subsection;
- (o) general office uses in all B zones: one space for every 250 gross square feet;
- (p) general office uses in RB zones: one space for every 200 gross square feet;
- (q) handicap housing: one-half space per unit;
- (r) state licensed residential care facilities: two spaces per dwelling unit, plus one space per support vehicle, plus one-half space for every support staff of the dwelling on the maximum shift.
- (s) medical centers greater than 100,000 square feet and part of a planned unit development: the number of spaces shall be determined by independent study based upon existing procedures used by the Institute of Transportation Engineering (ITE) or equivalent. Furthermore, a study, paid for by applicant and conducted by a consultant of city's choice, will be required one year after completion, before additional phases are to be constructed, to determine if adequate parking needs are met. Any parking shortage identified by the parking study must be mitigated. After each phase of the planned unit development, the parking will be evaluated for its efficiency before any further phases of construction are approved. (Added, Ord. No. 93-13)

Subd. 8. Shared parking.

- (a) The city may reduce, by conditional use permit, the amount of off-street parking required when an off-street parking facility serves two or more individual land uses and when certain other conditions as set forth in paragraph (b) below are met. In these uses the parking requirement shall be equal to the combined peak parking demand of the individual land uses determined by using subsection 510.17, subdivision 7 for number of spaces required and the following table for the percentage of peak parking demand for various time periods:

(1) Table II.

**Percentage of Parking Occupied as Compared to
Peak Parking Demand for Individual Land Uses,
By Day and Hour of Day**

(i) Weekday.

<u>Hour</u>	<u>Res.</u>	<u>Off.</u>	<u>Ret.</u>	<u>Rest.</u>	<u>Theater</u>	<u>Hotel/ Motel</u>
7	90	20	6	--	--	85
8	80	60	15	6	--	65
9	74	92	31	10	--	55
10	68	100	52	20	--	45
11	60	100	65	30	--	35
12 Noon	60	88	74	50	30	30
1	60	92	75	70	60	30
2	60	96	74	60	60	35
3	61	94	72	56	60	35
4	65	76	66	50	60	45
5	78	48	60	70	60	60
6	85	25	62	90	68	70
7	94	8	68	100	78	75
8	96	5	65	100	84	90
9	98	4	44	100	84	95
10	100	2	22	95	84	100

(ii) Saturday.

<u>Hour</u>	<u>Res.</u>	<u>Off.</u>	<u>Ret.</u>	<u>Rest.</u>	<u>Theater</u>	<u>Hotel/ Motel</u>
7	95	4	4	--	--	85
8	88	10	10	3	--	65
9	80	14	29	5	--	55
10	74	15	45	8	--	45
11	72	18	72	10	--	35
12 Noon	71	19	83	30	32	30
1	70	14	94	45	70	30
2	70	10	100	45	70	35
3	74	8	98	45	70	35
4	76	5	90	45	70	45
5	82	4	75	63	70	60
6	88	3	63	88	80	70
7	94	--	60	100	90	75
8	96	--	54	100	100	90
9	98	--	40	99	100	95
10	100	--	37	93	100	100

(b) The following conditions must be met before the city may allow shared parking:

- (1) The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities.
- (2) The off-street parking facility shall be located in a development of at least two acres in size or shall accommodate at least 100 cars.
- (3) A properly drawn legal instrument, executed by the parties concerned for shared use of off-street parking facilities, duly approved as to form and manner of execution by the city attorneys shall be filed with the city clerk and recorded with the register of deeds, Hennepin county.
- (4) The site shall be located in B-3 or B-4 zones.

510.19. Offstreet loading. Subdivision 1. Design and maintenance.

(a) Location.

- (1) All required loading berths shall be off-street and located on the same lot as the building or use to be served.
 - (2) A loading berth shall not be located less than 40 feet or two-thirds of the lot width from the intersection of two public streets.
 - (3) No loading berth shall be located closer than 50 feet from a residential district unless within a structure.
 - (4) Loading berths shall not occupy the front yard setbacks.
 - (5) Loading berths located at the front or at the side of buildings on a corner lot shall require a conditional use permit.
 - (i) loading berths shall not conflict with pedestrian movement.
 - (ii) loading berths shall not obstruct the view of the public right-of-way from off-street parking access.
 - (iii) loading berths shall comply with all other requirements of this section.
- (b) Size. Unless otherwise specified in this code, a required loading berth shall be not less than ten feet in width, 25 feet in length and 14 feet in height, exclusive of aisle and maneuvering space.
- (c) Access. Each required loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will least interfere with traffic.

- (d) Surfacing. All loading berths and accessways shall be improved with a durable material to control the dust and drainage according to a plan approved by the city engineer.
- (e) Accessory use. Any space allocated as a loading berth or access drive so as to comply with the terms of this code shall not be used for the storage of goods, inoperable vehicles or be included as a part of the space requirements necessary to meet the off-street parking area.
- (f) All loading areas shall be screened and landscaped from abutting and surrounding residential uses in compliance with subsection 510.25, subdivision 2.

Subd. 2. Required loading berths. Subdivision 1. Off-street loading. In connection with any structure which is to be erected or substantially altered and which requires the receipt or distribution of materials or merchandise by trucks or similar vehicles, and which will have a gross floor area of 10,000 square feet or more, there shall be provided off-street loading space on the basis of the minimum requirements set forth in subdivision 3:

Subd. 3. Table III.

<u>Square Feet of Aggregate Gross Floor Area</u>	<u>Minimum Required Number of Berths</u>
10,000 up to and including 16,000	1
16,000 up to and including 40,000	2
40,000 up to and including 70,000	3
70,000 up to and including 100,000	4
For each additional 40,000	1 additional
Multiple dwellings 10,000 square feet and up	1 berth

510.21. Land reclamation. Subdivision 1. Permit required. Under this code, land reclamation is the reclaiming of land by depositing of material so as to elevate the grade in which 400 cubic yards or more of fill is deposited. Land reclamation shall not be interpreted as the depositing of fill from a building excavation on the same property. Land reclamation shall be permitted by conditional use permit in all districts as regulated by subsection 535.01.

Subd. 2. Permit requirements. The permit shall include, as a condition thereof, a finished grade plan which will not adversely affect the adjacent land and as conditions thereof shall regulate the type of fill permitted, program for rodent control, plan for fire control and general maintenance of the site, controls of vehicular ingress and egress, and for control of material disbursed from wind or hauling of material to or from the site.

Subd. 3. Concurrent permits. The restrictions, conditions and requirements of the granting of an excavation permit, as regulated by section 800 of the city code, shall pertain to and be considered concurrently with an application for land reclamation conditional use permit and shall be concurrently granted or denied. In such cases, the application fee for the excavation permit shall be waived.

510.23. Building permits. Subdivision 1. Permit required. No construction shall commence until a building permit has been issued indicating that the existing or proposed structure and the use of the land comply with this code and all building codes.

Subd. 2. Applications, site plans. All applications for building permits, which will affect the outside dimensions of a structure, shall be accompanied by three copies of a site plan.

- (a) If the site consists of (1) land not a part of a subdivision, (2) land composed of partial lots, or (3) an existing structure where no survey showing existing structures is available, the site plan shall be attached to a certificate of survey or a registered land survey showing the actual dimensions of the lot, lots or parcel to be built upon and any existing structures. The site plan shall also show dimensions of existing or proposed structures to be erected or structurally altered or both, their location on the site in relation to the outside boundary, the required off-street parking plan, proposed and existing grades, which indicate drainage considerations, and such other information as may be necessary to provide for the enforcement of these regulations. The city may waive the certificate of survey requirement for minor additions such as stoops, chimneys, and decks provided the addition is well within the setback requirements.
- (b) Site plans submitted for all uses except one and two family dwellings shall contain lighting and landscape plans, and all site improvements are to be bonded at the rate of one and one-half times their estimated cost, guaranteed by cash, letter of credit or bond to the city based on the city's discretion.
- (c) The council may waive the bond requirement, but a performance agreement is then required from the landowner. The performance agreement shall require the work to be done within a reasonable time, to be fixed in the agreement, and shall further provide that if such improvements are not completed within the time specified, the city may enter onto the property and construct or complete such improvements and assess the cost against the landowner.

Subd. 3. Construction plans. No building permit will be issued unless sufficient construction plans or written description of construction, grading, excavating and filling as required by the city to assure reasonable structural safety and adequacy of building and finished grades for the proposed use have been submitted and approved.

Subd. 4. New construction. For new construction, other than additions and accessory buildings in R-1 and R-2 districts, once construction of the foundation has been completed, a certificate of survey showing the location of the foundation shall be required before the framing of the structure is begun.

Subd. 5. Parking lots. All institutional, multiple dwelling, commercial and industrial developments must obtain a parking lot permit before paving may begin on any parking lot built or added on to, that is not a part of a building permit. A plan for the parking lot shall be submitted to the city for approval. This plan shall show the proposed site, structures, access drives, off-street loading spaces, screening, lighting, stacking spaces, curbing, drainage, striping, landscaping, parking spaces, existing structures within 100 feet of the site and paving specifications. If the proposed plan meets all city and state requirements, a parking lot expansion permit shall be issued.

Subd. 6. Expiration. Every permit issued by the city under the provisions of this code shall expire by limitation and become null and void if the building or work authorized by such permit is not commenced within 180 days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of 180 days. Before such work can be recommenced, a new permit shall be first obtained so to do, and the fee therefore shall be one-half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work; and provided further that such suspension or abandonment has not exceeded one year.

510.25. General performance standards. Subdivision 1. Purpose. The purpose of this subsection is to establish general development performance standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight; deterioration and decay; and to enhance the health, safety and general welfare of the residents of the community.

Subd. 2. Screening and landscaping.

(a) Required screening and landscaping is as follows:

- (1) Where landscaping or screening, or both, is required under the provisions of this ordinance, the person responsible for the proposed actions must submit to the construction coordinator or city planner, or both, a detailed landscaping plan, identifying design, size, and type of all planting or screening materials, or both.
- (2) Performance bonds.
 - (i) The city shall be provided with a performance bond, cash escrow, certificate of deposit, securities, or cash deposit prior to approval of the landscaping plan or initiation of work on the proposed improvement or development. Said security shall guaranty conformance and compliance with the provisions of this section, and where applicable, the conditions of the conditional use permit. (Amended, Ord. No. 09-03)
 - (ii) The security shall be in an amount to be determined by the city planner or construction coordinator, or both, but no less than one and one-half times nor, more than twice the amount determined by the city planner or construction coordinator, or both, for completion of the required screening or landscaping, or both.

- (iii) The security shall be in force for at least two growing seasons subsequent to the completion of the required landscaping and to insure proper planting and growth.
- (3) The screening required herein shall consist of a solid fence or wall constructed from masonry, brick, wood, or steel, or combination thereof. Such fence or wall shall not exceed six feet in height or be less than four feet in height. Screening shall not extend within 15 feet of any street and shall be placed along the property line or in the case of screening along a street, 15 feet from the street with landscaping, trees, shrubs, grass, or other planting between the screening and the boulevard.
- (4) Earth mounds, compact evergreen, or dense deciduous hedge five to six feet in height, together with over and under story trees or other plantings may be required in addition to or in lieu of screening. Where required, such landscaping shall consist of the following:
 - (i) Earth mounds not greater than four feet in height and shall not exceed a 1:1.5 slope.
 - (ii) Planting materials measuring at the time of planting:

	Potted/Bare Root*	Balled and Burlapped
Shade trees	1 3/4 in. dia.	2 in. dia.
Half trees (flowering crab, russian olive, hawthorn, etc.)	6-7 ft.	1 1/2 in. dia.
Evergreen trees		3-4 ft.
Tall shrubs and hedge material (evergreen or deciduous)	3-4 ft.	
Low shrubs (evergreen or 18-24 in. deciduous)		

*Mode is dependent upon time of planting season, availability, and site conditions. Includes both natural (soils, climate, ground water, etc.) and man-made (irrigation, grading, etc.) influences). Consult the city landscape architect or the city's qualified representative as to correct procedure.

- (5) Trees, shrubs, or ground covers shall meet the standards of the American association of nurserymen.
- (6) Regular maintenance of said landscaping, as dictated by the site conditions (soils, climate, ground water, etc.) shall be required. Failure of said landscaping to consistently comply with and meet the intent of this section shall constitute a violation of this code.

- (b) General screening and landscaping.
- (1) No fence shall exceed six feet in height and in the case of grade separation such as the division of properties by a retaining wall, the height shall be determined on the basis of measurement from the average point between the highest and lowest grades.
 - (2) Fences located in a front yard may not exceed four feet in height.
 - (3) All exposed areas surrounding or within a principal or accessory use, including street boulevards which are not devoted to parking, drives, sidewalks, patios or other such uses, shall be landscaped with grass, shrubs, trees, or other ornamented landscape material. Such landscaping shall conform with the planting plan submitted within the building plans approved by the city, unless subsequent alterations in the landscaping plan have been approved by the city planner or construction coordinator, or both.
 - (4) All outdoor swimming pools shall have fences or walls at least six feet in height around the perimeter with self-closing gates.
 - (5) Fence height limits may be increased by the city council for public facilities requiring additional security or safety measures. (Added, Ord. No. 95-14)
- (c) Fences adjacent to property lines. Every fence hereinafter erected within five feet of a property line shall be erected in the following manner: posts, supporting rails and other supporting elements, when located to one side of the wire mesh or other screening materials, shall be located on and face the fence owner's property.
- (d) Hazardous fences. No person shall place, construct or maintain or cause to be placed or constructed any electric fence within the city nor shall any person install or permit to be installed, any wire or chain-link type fence with the cut or selvage end or the fencing exposed at the top, when such exposed top is less than six feet above the ground level. Further, no person shall construct, use or maintain any barb-wire fence on residentially zoned or used property. On all property zoned other than residential, barb-wire may be permitted on the top of a fence, provided that no strand of barbed wire is less than six and one-half feet above the ground level below.
- (e) Plantings or other structures/features in streets, alleys, sidewalks, or boulevard easements. No structures/features, fences, walls, posts, trees, bushes, or any plant life other than grass shall be placed or replaced, or planted or replanted, in any combination thereof, within any of the public easements for right-of-way for streets, alleys, sidewalks, and boulevards within the city unless authorized by a written permit from the city as set forth in Section 800.23 of the city code. Any unauthorized structure/feature, planting, etc. may be deemed a nuisance and abated as set forth in Section 2020, Subdivision 2-5. The above provisions shall not prohibit planting or replanting and maintenance of trees in accordance with Section 820.02 of the city code, nor shall such provisions be deemed to prohibit the installation or maintenance by the city of any fence, wall, post or other structure on public right-of-way. (Amended Ordinance No. 04-01)

- (f) Visibility at intersections. In addition to the restriction of subsection 510.25, subdivision 2(e), and in order to preserve and promote the public safety, nothing shall be erected, placed, planted, maintained, or allowed to grow on a corner lot in any district in such a manner as materially to impede vision between a height of three feet and ten feet above the centerline grades of the intersection streets in the triangle bounded by the curb lines of such corner lot and a straight line joining points on such curb lines 35 feet from their intersection; however, for developments located in Section 521 – Zoning: downtown district, this curbline dimension may be reduced to 20 feet. (Amended, Ord. No. 99-15)
- (g) Visibility at alleys.
- (1) Nothing shall be erected, placed, planted, maintained, or allowed to grow on a lot in any district in such a manner as materially to impede vision between a height of three feet and ten feet above the centerline grade of the intersection of any street and alley or two alleys in the triangle bounded by the property lines of such lot and a straight line adjoining points on such property lines five feet from their intersection of the property.
 - (2) No fence or wall may be installed within 24 inches of an alley right-of-way.
 - (3) No shrub, tree, or hedge may extend over the alley driving surface, and further, no shrub, tree or hedge may be planted in the alley right-of-way.
- (h) Mechanical equipment screening.
- (1) For all zoning districts except R-1 and R-2 districts all mechanical equipment mounted on a roof shall be physically screened completely or partially as determined by 510.25 2(h)(3) or (4). For the purpose of this subsection, mechanical equipment requiring screening includes but is not limited to exposed and/or protruding fans, grills, pipes, tubes, wires, vents; unfinished metal covering, exposed rivets, exposed seams. (Amended, Ord. No. 99-16)
 - (2) Materials used for screening shall include factory prefinished metal, wood laminated with metal, or other building material in a manner architecturally integral to the building of buildings on site. The use of wood as a screening material shall not be considered as being architecturally integral unless the building is constructed with a wood exterior. All screening materials must be securely fastened to the structure. (Amended, Ord. No. 99-16) (Amended, Ord. No. 99-16)
 - (3) Any new construction shall be required to screen all rooftop equipment that is setback closer than 10 feet to the edge of the rooftop and two feet higher than the roof parapet on all sides of the building. In some cases the city may allow low profile equipment to be painted to blend in with background materials and color. (Added, Ord. No. 99-16)
 - (4) The city council at their discretion may waive rear and side screening requirements for existing buildings being substantially renovated for reasons including but not limited to:

- (a) the building consists of a multiple tenant building where the tenant doesn't have control over the rest of the buildings;
 - (b) the screening would lack architectural continuity;
 - (c) there is screening already provided on the front portion of the building;
and
 - (d) the property/building is located on a double fronted lot. (Added, Ord. No. 99-16)
- (5) All mechanical equipment located on the ground and possessing one or more of the characteristics listed below in 510.25, subdivision 2(h)(6) shall be physically screened from public view and adjacent residential land uses with either plant material approved by the city or factory prefinished metal, wood laminated with metal, or other building material in a manner architecturally integral to the building or buildings on site or ground. (Amended, Ord. No. 99-16)
- (6) Irregular in size and shape; exposed and/or protruding fans, grills, pipes, tubes, wires, vents; unfinished metal covering, exposed rivets, exposed seams. (Added, Ord. No. 95-14; Amended, Ord. No. 99-16)

Subd. 3. Exterior storage. All materials and equipment except as provided for in this section shall be stored within a building or fully screened so as not to be visible from adjoining properties, except for the following:

- (a) laundry equipment;
- (b) recreational equipment and vehicles;
- (c) construction and landscaping material currently being used on the premises;
- (d) off-street parking of passenger vehicles and trucks not exceeding a gross capacity of 9,000 pounds.

Subd. 4. Refuse.

- (a) All waste materials, debris, refuse or garbage shall be subject to section 605 of the code.
- (b) Passenger vehicles and trucks in an inoperative state or unlicensed or unregistered, or combination thereof, shall not be parked or stored in an outside location for a period exceeding 30 days; inoperative shall mean incapable of movement under their own power and in need of repairs or junk yard. All exterior storage not included as a permitted accessory use, a permitted use, or included as part of a conditional use, or otherwise permitted by provisions of this code shall be considered as refuse.

Subd. 5. Glare. Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged as to deflect light away from any adjoining residential zone or from the public streets. Direct or sky-reflected glare, where from floodlights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property. Bare incandescent light bulbs shall not be permitted in view of adjacent property or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one foot candle meter reading as measured from the center line of said street. Any light or combination of lights which cast light on residential property shall not exceed 0.4 foot candles meter reading as measured from said property.

Subd. 6. Smoke. The emission of smoke by any use shall be in compliance with and regulated by the state of Minnesota pollution control standards, Minnesota regulation APC 1-15 and as subsequently expanded, modified or amended.

Subd. 7. Dust and other particulated matter. The emission of dust, fly ash or other particulated matter by any use shall be in compliance with and regulated by the state of Minnesota pollution control standards, Minnesota regulation APC 1-15 and as subsequently expanded, modified or amended.

Subd. 8. Odors. The emission of odorous matter in such quantity as to be offensive, shall not be permitted. The emission of odor by any use shall be in compliance with and regulated by the state of Minnesota pollution control standards, Minnesota regulation APC 1-15 and as subsequently expanded, modified or amended.

Subd. 9. Noise standards.

- (a) These standards describe the limiting levels of sound established on the basis of present knowledge for the preservation of public health and welfare. These requirements are consistent with speech, sleep, annoyance, and hearing conservation requirements for receivers within areas grouped according to land activities by the land use districts herein described. However, these standards do not, by themselves, identify the limiting levels of impulsive noise, needed for the preservation of public health and welfare.

(b) Table IV.*

<u>Land Use District</u>	<u>Day (7:00 a.m. - 10:00 p.m.)</u>		<u>Night (10:00 p.m. - 7:00 a.m.)</u>	
	L50	L10	L50	L10
RI, R2, R3, NG	60dBA	50dBA	50dBA	55dBA
RB, BI, B2, B3, B4	65dBA	70dBA	65dBA	70dBA
BW	75dBA	80dBA	75dBA	80dBA

* L50, L10, dBA are defined in Chapter 7010 of the Minnesota Pollution Control Agency Air Quality Division Noise Pollution Control Rules. These definitions are incorporated by reference herein.

(c) Exceptions to standards established in subdivision 9 (a) and (b) above.

- (1) noises not directly under the control of the property owner;
- (2) noises emanating from construction and maintenance activities between 7:00 a.m. and 9:00 p.m.;
- (3) the noise of safety signals, warning devices, and emergency pressure relief valves;
- (4) transient noises of moving sources such as automobiles, trucks, airplanes and railroads.

Subd. 10. Procedures. In order to assure compliance with the performance standards set forth above, the city council may require the owner or operator of any permitted use to have made such investigation and tests as may be required to show adherence to the performance standards. Such investigation and tests as are required to be made shall be carried out by an independent testing organization as may be agreed upon by all parties concerned, or if there is failure to agree, by such independent testing organization as may be selected by the council after 30 days notice. The costs incurred in having such investigations or tests conducted shall be shared equally by the owner or operator and the city, unless the investigation and tests disclose noncompliance with the performance standards, in which event the entire investigation or testing cost shall be paid by the owner or operator. The procedure above shall not preclude the city from making any tests and investigations it finds appropriate to determine compliance with these performance standards.

Subd. 11. (Added, Ord. No. 93-01) Performance standards. All planned unit developments in R-B districts will be required to adhere to performance standards required of similar uses in this code, but also subject to additional provisions as provided by the city.

(a) Bufferyards.

The purpose of a bufferyard is to reduce the undesirable impact of a use on a neighboring property.

Where bufferyard requirements conflict with any other portion of the city ordinance, the stricter requirements shall apply.

These bufferyard standards may be adjusted by the city through the PUD process to allow for the overall benefit of the adjacent neighborhood.

(b) Determination of required bufferyard.

Bufferyards shall be required for all new buildings within a residential business planned unit development (R-B PUD) which are adjacent to an R-1 or R-2 district.

Residential single-family and two family uses within the R-B PUD shall be exempt from the requirements of bufferyards.

For purposes of this ordinance adjacent shall mean abutting or across a street or right-of-way.

(c) Determination of bufferyard width.

When a bufferyard is required, the width of the bufferyard shall be equal to or greater than 2.5 (two and one half) times the height of the proposed new building. This buffer width shall be measured from the building wall of the proposed dissimilar use. When calculating this distance, roads shall be considered as follows:

- (1) One-half of the width of a local street may be used to meet the required buffer distance if at least 25 feet of land is owned on both sides of the right-of-way and can meet the other requirements set forth in this ordinance for bufferyard space. In all other cases local streets may not be used to meet the required buffer distance.
- (2) One half of the width of a collector street may be used to meet the requirements of the buffer distance.
- (3) The entire width of an arterial street may be used to meet the requirements of buffer distance.

If the proposed dissimilar use causes significant increased traffic, noise, or light glare to an adjacent residential street or adjacent residential neighborhood, additional bufferyard width, screening, baffling, landscaping, or noise walls, may be required to mitigate the effects of the increased impact on the immediate neighborhood.

(d) Where required bufferyard width encompasses city owned land, the city may allow the land to be used to fulfill the bufferyard requirements. If city-owned land is used to fulfill bufferyard requirements, the city may require one or more of the following:

- (1) A fee equivalent to the amount of landscaping that would otherwise be required under this ordinance for that portion of land owned by the city.
- (2) The equivalent amount of landscaping that would otherwise be required under this ordinance for that portion of land owned by the city to be installed at a location deemed appropriate by the city.

- (3) An increase in the amount of bufferyard on other areas contiguous to the proposed bufferyard, up to an amount equal to the area of city-owned land used for bufferyard. Streets and other rights-of-way may be considered as contiguous buffer areas.

(e) Reducing bufferyard width requirements.

The bufferyard width requirement may be reduced to a buffer width of two times the building height if the city council finds that the impact of the proposed use on the neighborhood is mitigated by one or more of the following:

- (1) Architectural designs which break structural mass into neighborhood scale, either vertically or horizontally.
- (2) Building materials and/or colors that are consistent with neighborhood structures.
- (3) Roof lines that are consistent with neighborhood roof lines.
- (4) Lighting cast at the property line of residential uses does not exceed three foot candles.

(f) Accessory uses allowed.

Within required bufferyards the following uses shall be allowed; walks, utilities, essential services, traffic control and regulatory signs, directional and governmental signs, lights, driveways, and canopies.

(g) Accessory uses prohibited.

Within required bufferyard the following uses shall be specifically prohibited; loading and parking.

(h) Required landscaping.

Where a bufferyard is required, the following minimum landscaping requirements shall apply for every 100 feet, or fraction thereof, of horizontal length of the elevation of the proposed building facing the neighboring use.

- (1) For buildings 30 feet in height and less, three shade trees and three evergreens.
- (2) In addition to (1), for every 10 feet additional building height or fraction thereof one additional shade tree, one additional evergreen tree and one ornamental tree are required.
- (3) In addition to (1) and (2), for each 1,000 square feet of building above grade (except for parking structures), 0.2 additional evergreen tree and 0.2 additional ornamental tree are required.

- (4) For parking structures, square footage shall be calculated as one level per 10 feet above grade. In addition to (1) and (2), for each 1,000 square feet of parking area, 0.2 additional evergreen tree and 0.2 additional ornamental tree are required unless sufficient light screening as determined by the city council is provided in which case this requirement may be reduced to 0.1 additional evergreen tree and 0.1 additional ornamental tree.

- (i) Required locations for bufferyard landscaping.

Bufferyard landscaping shall be located in yards along and within the outer perimeter of a lot wherever two dissimilar land uses abut one another. In all instances landscaping and required screening shall be located to screen the neighboring use in the most effective way.

- (j) Bufferyard plantings.

Plantings in required bufferyards must meet the following minimum standards at time of planting.

Shade trees	3 inches in diameter
Evergreens	8 feet tall
Ornamentals	1.5 inches in diameter

Plants larger than the required minimum size shown above may be used at the city council's discretion to reduce the required number of plantings by up to 40%.

Species: All trees used shall be indigenous to the appropriate hardiness zone and physical characteristics of the site. All deciduous trees proposed to satisfy the requirements of this ordinance shall be of the long-lived hardwood species.

Walls, berms, and fences may be used to replace 30% of the required number of plantings if the city council finds that such devices are effective in protecting and maintaining the residential character of a neighborhood.