

SECTION 1011 – GENERAL DEVELOPMENT AND PERFORMANCE STANDARDS

1011.01 NON-CONFORMING BUILDINGS, STRUCTURES, USES AND LOTS

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

Subd. 2. Provisions.

- a. As provided by Minnesota Statutes, section 462.357, subd. 1e or in this Code, a lawful non-conforming structure, use, or lot may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion. It is the intent of this section that all lawful non-conforming structures, uses, or lots shall be eventually brought into conformity with the requirements of the Zoning Code.
- b. A lawful non-conforming structure, use, or lot must be brought into full compliance with the applicable provisions of the City's Zoning Code as provided in Minnesota Statutes, section 462.357, subd. 1e, as amended from time to time.
- c. A lawful non-conforming structure, use, or lot may not be expanded, except as permitted by this Code. Any intensification of the lawful non-conforming structure, use, or lot shall be considered an expansion for purposes of this provision.
- d. Lawful non-conforming, non-income producing residential units may be expanded provided that such expansion meets all setback requirements and if the expansion includes the construction of a second story, the second story construction shall have a minimum setback of one and one-half (1-1/2) times greater than the required side yard or street yard setback on lakeshore lots, or rear yard setback on non-lakeshore lots for that district.
- e. Lawful non-conforming, non-income producing single family residential dwellings which violate setback standards may be expanded to improve livability when approved by the Zoning Administrator, provided that the non-conformity is not increased beyond the existing conditions upon the lot and no other deviations within the Zoning Ordinance are created.

- f. 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 Ordinance adoption unless such movement shall bring the non-conformance into substantially closer compliance with the requirements of this Ordinance.
- g. A lawful non-conforming use of a building, 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 changed, it shall not thereafter be so altered to increase the non-conformity.
- h. Legal Non-Conforming Lots.
 - 1. Vacant or Redeveloped Residential Lots.
 - a) A lot of record existing as of the effective date of this Ordinance in a residential district, which does not meet the requirements of this Ordinance as to area or width, may be utilized for single family detached dwelling purposes provided that in all residential districts, the measurements of such lot's area and frontage width are within sixty (60) percent of the requirements of the respective district, as established by this Ordinance.
 - b) The preceding subsection a) is not intended to permit a reduction in setbacks or required yards.
 - c) In the event that the measurements of such lot's area and width do not comply with subsection a) above, then approval for the construction of a single family dwelling may be requested as a conditional use permit, subject as regulated by Section 1003 of this Ordinance.
 - 2. Developed Lots. An existing conforming use on a lot of substandard size may be expanded or enlarged if such expansion or enlargement meets all other provisions of this Ordinance.
- i. Non-conforming buildings, structures, and/or uses, which based upon documented study and evidence pose a danger and/or threat to the health, safety, and general welfare of the community, shall:
 - 1. Be legally declared a nuisance by the City.
 - 2. Upon being identified by the City and upon the owner being notified in writing by the City, the owner shall provide to the City a documented time schedule and program with rationale to support the proposed amortization of the building, structure, or use investments which will result in the termination or correction of the non-conformity.

- a) The termination/correction time schedule shall be based upon, but not limited to, factors such as the initial investment and the degree of threat or danger being posed.
- b) The acceptability of the time schedule shall be determined by the Zoning Administrator with right of appeal.
- c) In no case shall a time schedule exceed five (5) years.

Subd. 3 Non-Confirming Use or Structure Permit

Subd. 1 Procedure. The owner of a property which contains a lawful non-conforming use or structure which is not currently permitted in the district in which it is located may make application to the City for a nonconforming use permit (“NUP”).

- a. The request for a nonconforming use permit, shall be filed with the city on an official application form provided by the City. Such applicant shall be charged a fee as established in the City’s fee schedule. This fee shall not be refunded. Such application shall also be accompanied by three (3) copies of detailed written and graphic materials fully explaining the existing lawful non-conformity. A certificate of survey showing all structures, significant features, and any other information determined necessary by the City shall be submitted.
- b. City staff shall have the authority to request additional information from the applicant which is deemed necessary to evaluate the requested permit and to establish performance conditions.
- c. City staff may impose such conditions relating to the granting of said NUP as they deem necessary to carry out the intent and purpose of the City Code, but such conditions must take into account the nature of lawful non-conforming rights.
- d. Upon review of the NUP application, if City staff determines that the applicant has provided sufficient evidence which adequately establishes a lawful non-conformity, the City shall issue a NUP.
- e. The NUP shall be deemed effective on the date of issuance.
- f. 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.
- g. Any applicant aggrieved by the decision of City staff pursuant to this Section may appeal said decision to the City Council. In order to appeal such decision, the aggrieved applicant must notify the City Administrator, in writing, within 14 days of the decision made hereunder. The written appeal shall include a detailed statement identifying the decision being appealed, as well as any information which the aggrieved applicant would like the City

Council to consider as part of the record on appeal. The Council may review the record and any other information it deems necessary in order to determine whether a NUP should issue.

- h. No permit issued pursuant to this Section shall prevent the expiration of lawful non-conforming rights in accordance with applicable law.

1011.02 GENERAL BUILDING AND PERFORMANCE REQUIREMENTS.

Subd. 1. Purpose. The purpose of this section of the Zoning Ordinance 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. Dwelling Unit Restriction.

- a. No garage, tent, accessory building, travel trailer or motor home shall at any time be used as living quarters, temporarily or permanently.
- b. Tents, play houses or similar structures may be used for play or recreational purposes.
- c. Basements and cellars may be used as living quarters or rooms as a portion of the principal residential dwelling.
- d. Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Tonka Bay opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings. (Amended 9/22/16)

Subd. 3. Platted and Unplatted Property.

- a. Any person desiring to improve property shall submit to the Building Official a survey of said premises and information on the location and dimension of existing and proposed buildings, location of easements crossing the property, encroachments, and any other information which may be necessary to insure conformance to City Ordinances.
- b. All buildings shall be so placed so that they will not obstruct future streets which may be constructed by the City in conformity with existing streets, adopted plans, and according to the system and standards employed by the City.
- c. Substandard lots of record shall be governed by Section 1011.01 of this Ordinance.

- d. On a through lot (a lot fronting on two [2] parallel streets), both street lines shall be front lot lines for applying the yard and parking setback regulations of this Ordinance. In addition, no home on a through lot or corner lot in any residential zone shall maintain direct access to any arterial street designated as such by the Comprehensive Plan.
- e. When a development is proposed which is to be located on two or more lots, and such lots are required to meet the minimum district area and frontage requirement and/or are required to accommodate the use, the lots shall be combined in accordance with the City's Subdivision Ordinance, prior to the issuing of a building permit.
- f. When two or more lots are located in the same residential district, one or more of which lack adequate area or dimensions to qualify for residential use under the current Ordinance requirements and are contiguous and held in one ownership, they shall be combined for use in order to meet the lot requirements by subdividing the property in accordance with the Subdivision Ordinance.
- g. No division of a parcel shall be made which leaves remaining any lot with frontage or area below the requirements stated in this Ordinance.
- h. Except in the case of planned unit development as provided for in Section 1006 of this Ordinance, not more than one (1) principal building shall be located on a lot.

Subd. 4. Grading and Drainage.

- a. No land shall be developed and no use shall be permitted that results in water runoff causing flooding, erosion, or deposit of minerals on adjacent properties. Such runoff shall be properly channeled into a storm drain, watercourse, ponding area, or other public or private facilities subject to the review and approval of the City Engineer.
- b. In the case of all residential and commercial development activity, the grading and drainage plans shall be submitted to the City Engineer for review and the final drainage plan shall be subject to the Engineer's written approval. In the case of such uses, no modification in grade and drainage flow through fill, erection of retaining walls or other such actions shall be allowed until such plans have been reviewed and received written approval from the City Engineer.
- c. Except for written authorization of the City Engineer, the top of the foundation and garage floor of all structures shall be one (1) foot above the grade of the crown of the abutting street upon which the property fronts.
- d. Modifications which serve to alter the average and typical natural grade of an individual lot more than two (2) feet shall require the review of the City Engineer and approval of the City Council.

- e. The City Council, at its sole discretion, may determine the necessity of a performance bond for grading and drainage projects. Issuance of a performance bond shall comply with the provisions found in Section 1003.03.6 of this Ordinance.

Subd. 5. Traffic Sight Visibility Triangle. Except for a governmental agency for the purpose of screening, no wall, fence, structure, tree, shrub, vegetation or other obstruction shall be placed on or extend into any yard or right-of-way so as to pose a danger to traffic by obscuring the view of approaching vehicular traffic or pedestrians from any street or driveway. Visibility from any street or driveway shall be unobstructed between the height of three (3) feet and six (6) feet, measured from where both street, driveway or railway center lines intersect within the triangle describes as beginning at the intersection of the projected curb lines of two intersecting streets or drives, thence thirty (30) feet along one curb line, thence diagonally to a point thirty (30) feet from the point of beginning along the other curb line (see attached drawing). The exception to this requirement shall be where there is a street, planting or landscape arrangement within such area that will not create a total obstruction wider than two (2) feet. These requirements shall not apply to conditions that legally exist prior to the effective date of this Ordinance unless such conditions are determined to constitute a safety hazard by the Zoning Administrator.

Subd. 6. 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 property, over public water or from the public streets. Direct or sky-reflected glare, where from flood lights or from high temperature processes such as combustion or welding shall not be directed into any adjoining property or over public water. The source of lights shall be hooded or controlled in some manner so as not to light adjacent property or over public water. Bare incandescent light bulbs shall not be permitted in view of adjacent property, over public water, or public right-of-way. Any light or combination of lights which cast light on a public street shall not exceed one (1) foot-candle (meter reading) as measured from the centerline of said street. Any light or combination of lights which cast light on residential property or over public water shall not exceed four (4) foot-candles (meter reading) as measured from said property.

Subd. 7. Smoke. The emission of smoke by any use shall be in compliance with and regulated by the Rules as promulgated by the MPCA.

Subd. 8. 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 Rules as promulgated by the MPCA.

Subd. 9. Odors. The emission of odor by any use shall be in compliance with and regulated by the Rules as promulgated by the MPCA.

Subd. 10. Noise. Noises emanating from any use shall be in compliance with and regulated by the Rules as promulgated by the MPCA.

Subd. 11. Refuse.

- a. Passenger automobiles and trucks not currently licensed by the State, or which are because of mechanical deficiency incapable of movement under

their own power, parked or stored outside for a period in excess of seventy-two (72) hours, and all materials stored outside in violation of the City Ordinances are considered refuse or junk and shall be disposed of by the property owner.

- b. Any accumulation of refuse on any premises not stored in containers which comply with City Code, or any accumulation of refuse including car parts on any premises which has remained thereon for more than one (1) week is hereby declared to be a nuisance and may be abated by order of the City Administrator, a copy of which shall be delivered to the Property Owner no less than ten days before any abatement activity, as provided by Minnesota Statutes and the cost of abatement may be assessed on the property where the nuisance was found, as provided by law.

Subd. 12. Exterior Storage Display. In all zoning districts, all materials and equipment except as specifically noted and as provided for in Sections 1017-1026 of this Ordinance shall be stored within a building or fully screened so as not to be visible from adjoining properties and the public right-of-way, except for the following:

- a. Clothes line pole and wires.
- b. Not more than two (2) recreational vehicles and equipment (not including race cars) as further regulated in Section 1011.06, Subd. 6.
- c. Construction and landscaping material currently used on the premises.
- d. Off-street parking of passenger vehicles and non-commercial trucks not exceeding a gross weight of 12,000 pounds in residential areas (both on and off-street) as further regulated in Section 1011.06, Subd. 6.
- e. Portable storage containers
 - 1) Portable storage containers shall be permitted for a maximum of thirty (30) days
 - 2) The containers must be located solely on private property and shall not be placed on any portion of the public right-of-way.
 - 3) The containers must be placed in a driveway or parking area
 - 4) The containers shall be restricted in size to a maximum of 400 cubic feet and a maximum height of eight (8) feet.
 - 5) No more than two portable storage containers shall be located on a single lot.

Subd. 13. Waste Material. Waste material resulting from or used in industrial or commercial manufacturing, fabricating, servicing, processing or trimming shall not be washed into the public storm sewer system nor the sanitary sewer system or any public water body, but shall be disposed of in a manner approved by the Minnesota State fire Marshal, the Pollution Control Agency, and the Department of Natural Resources.

Subd. 14. Bulk Storage (Liquid). All uses associated with the bulk storage of all gasoline, liquid fertilizer, chemical, flammable and similar liquids shall comply with requirements of the Minnesota State Fire Marshal and Minnesota Department of Agriculture

offices and have documents from those offices stating the use is in compliance. Such uses shall also comply with Section 320 of this Code.

Subd. 15. Radiation Emission. All activities that emit radioactivity shall comply with the minimum requirements of the Minnesota Pollution Control Agency.

Subd. 16. Electrical Emission. All activities which create electrical emissions shall comply with the minimum requirements of the Federal Communications Commission.

Subd. 17. Sales in Residential Areas.

a. Personal Vehicles.

1. Vehicles sold in residential areas shall be the personal property of the occupant.
2. Sales of personal vehicle shall be limited to no more than one (1) vehicle per calendar year, unless approved by the Zoning Administrator.
3. Vehicles for sale shall not be parked in any portion of the public right-of-way, public boulevard, or required front yard except a designated, improved driveway.
4. For sale signs on or in such vehicles shall be limited to two (2) square feet.

b. Garage or Rummage Sales.

1. Merchandise offered for sale shall be the personal property of the occupant.
2. Sales shall be limited to a maximum of four (4) consecutive days and occurring no more than two (2) times within one (1) calendar year per property.
3. All goods shall be confined within a building and improved driveway with no display occurring within other portions of the front yard.
4. Signs shall be governed by Section 330 of this Code.

Subd. 18. Construction Sites All residential and commercial construction sites shall comply with the following:

- a. Work at construction sites shall be limited to 7:00 a.m. to 8:00 p.m., Monday through Friday and 10:00 a.m. to 5:00 p.m., Saturday and Sunday.
- b. Measures shall be taken to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private

roadway shall be removed by street cleaning (not flushing) before the end of each workday.

- c. Equipment shall be stored within the confines of the construction site or off-site in enclosed or properly zoned and screened areas.
- d. Dust shall be controlled at the construction site or while any materials are in transit to or from the site.
- e. Accumulation of construction waste and debris shall be cleared from the site and stored in containers in compliance with Section 1011.02.11.a. of this Ordinance.
- f. Proper storm water management controls shall be installed to control site erosion and runoff from disturbed areas of the site in accordance with Section 1011.02.4 of this Ordinance.
- g. Parking, loading or unloading of construction and employee vehicles shall be allowed on public streets or right-of-way adjacent to construction sites only during those hours specified in Subd. 18.a. above.

1011.03 GENERAL YARD, LOT AREA AND BUILDING REGULATIONS.

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

Subd. 2. Usable Open Space. Except in the case of elderly (senior citizen) housing, each multiple family dwelling site shall contain at least five hundred (500) square feet of usable open space as defined in Section 1002.02 of this Ordinance for each dwelling unit contained thereof.

Subd. 3. Height

- a. The top peak of any portion of roof shall not exceed the allowable building height in the applicable zoning district by more than five (5) feet without a conditional use permit subject to the following (amended August 2, 2007):
 - 1. For each additional one (1) foot or fraction thereof increase over the threshold established above, (amended August 2, 2007) front and side yard setback requirements shall be increased by one (1) foot.
 - 2. The construction does not limit solar access to abutting and/or neighboring properties.
 - 3. The provisions of Section 1003.01.8, conditional uses, are considered and satisfactorily met.
- b. The building height limits established in each zoning district shall not apply to the following list of items, except that no such structure element may

exceed forty (40) feet in total height or exceed the maximum height of the building by more than five (5) feet, whichever is greater, except by conditional use permit.

1. Belfries.
 2. Chimneys or flues
 3. Church spires.
 4. Communication reception/transmission devices.
 5. Cupolas and domes which do not contain usable space.
 6. Flag poles.
 7. Monuments.
 8. Parapet walls.
 9. Necessary mechanical and electrical appurtenances.
- c. No excluded roof equipment or structural element contained in Section 1011.03.3.b above extending beyond the limited height of a building may occupy more than twenty-five (25) percent of the area of such roof.
- d. Modifications to the site grading of a lot may not be undertaken as a means of achieving increased building height, unless approved by the City Council.

Subd. 4. Building Type and Construction.

- a. No galvanized or unfinished steel, galvalum or unfinished aluminum buildings (walls or roofs), except those specifically intended to have a corrosive designed finish such as corten steel shall be permitted in any zoning district.
- b. Buildings in all zoning districts shall maintain a high standard of architectural and aesthetic compatibility with surrounding properties to insure that they will not adversely impact the property values of the abutting properties or adversely impact the community's public health, safety and general welfare.
- c. Exterior building finishes shall consist of materials comparable in grade and quality to the following:
 1. Brick.
 2. Natural stone.
 3. Decorative concrete block.
 4. Cast-in-place concrete or precast concrete panels.
 5. Wood, provided the surfaces are finished for exterior use and wood or proven exterior durability is uses, such as cedar, redwood, cypress.
 6. Curtain wall panels of steel, fiberglass and aluminum (non-structural, non-load bearing), provided such panels are factory fabricated and finished with a durable non-fade surface and their fasteners are of a corrosion resistant design.
 7. Glass curtain wall panels.
 8. Stucco.
 9. Vinyl.

10. Metal (roofs only).
11. Other materials as determined by the Zoning Administrator, but not including galvanized or unfinished metal siding.

Subd. 5. Yards.

- a. Except as provided below, no lot, yard or other open space shall be reduced in area or dimension so as to make such lot, yard or open space less than the minimum required by this Ordinance. No required open space provided about any building or structure shall be included as part of any open space required for another structure.
- b. Permitted Encroachments: The following shall not be considered as encroachments on yard setback requirements:
 1. Chimneys, flues, leaders, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and the like, provided they do not project more than two (2) feet into a required yard. *(Revised 8/26/04)*
 2. Terraces, decks, patios, uncovered porches, stoops or similar features provided they do not extend above the height of the average ground level more than nine (9) inches, or to a distance less than five (5) feet from a side yard and rear lot lines, or more than five (5) feet into a required front yard. No encroachment shall be permitted in existing or required drainage and utility easements. All decks, porches, or stoops over nine (9) inches in height from the average ground level shall comply with all principal structure setbacks. *(Revised 8/26/04)*
 3. Steps, provided they have their floor no higher than the entrance floor of the building and do not extend to a distance less than five (5) feet from any property line.
 4. In rear yards, recreational and laundry drying equipment, arbors and trellises, detached outdoor living rooms, and air conditioning or heating equipment, not exceeding established State noise levels, provided they are at a distance of ten (10) feet from any lot line or as permitted in Section 1070 of the shoreland regulations. No encroachment shall be permitted in existing or required drainage and utility easements.
 5. Cantilevers in the side or rear yard provided they do not project more than two (2) feet into a required yard. This includes cantilevered architectural features including balconies, bay windows, canopies, cornices, eaves and solar equipment as well as cantilevered additions to living area of less than 20 sf. In no case shall a cantilever be located closer than three (3) ft. from a side property line.
- c. For non-riparian lots, the required front yard setback, as established by the respective zoning districts, may be reduced, upon the granting of a variance

by the City Council

- d. For riparian lots, no principal structure or building addition shall be located closer to the ordinary high water mark than the greater of fifty (50) feet, or the average setback of the two adjacent riparian principal structures on either side of a proposed building site. In all circumstances, the setback shall be established by measuring the distance from the ordinary high water level to the part of the said principal structure that is closest to the lake.
- e. Front yard requirements shall be observed on each street frontage of a corner lot. Where the rear boundary line of a corner lot is part of the side boundary of a residential lot no part of any principal structure or building on the corner lot shall be nearer its street side lot line than the minimum depth of any front yard required along such side street. In the case of a narrow corner lot where compliance with this requirement should give an impractical depth to a structure or building, the City Council may allow the construction of such structure as near to the street side lot line as will give a practicable depth by approval of a conditional use permit.
- f. On a through lot, both street lines shall be front lot lines for applying the yard and parking regulations of this Ordinance.

Subd. 6. Minimum Floor Area per Dwelling Unit.

- a. Single Family Dwelling Units. Except as otherwise specified in the zoning district provisions single family homes as classified below shall have the following minimum floor areas per unit:

Two Bedroom	960 square feet above grade
Three Bedroom	1,040 square feet above grade

- b. Multiple Dwelling Units. Except for elderly housing units living units classified as multiple dwellings shall have the following minimum floor areas per unit:

Efficiency Units	500 square feet
One Bedroom Units	700 square feet
Two Bedroom Units	900 square feet
More than Two Bedroom Units	An additional 150 square feet For each additional bedroom

- c. Elderly (Senior Citizen) Housing. Living units classified as elderly (senior citizen) housing units shall have the following minimum floor areas per unit:

Efficiency Units	440 square feet
One Bedroom Units	520 square feet
More than One Bedroom Units	An additional 80 square feet For each additional bedroom

- d. Two Family, Quadraminiums, Townhouses, and Manor Homes. Except as otherwise specified in the zoning district provisions two family, quadrominiums, townhouses and manor homes, as classified below, shall have the following minimum floor area per one bedroom unit:

Two Family	650 square feet first floor above grade, plus 100 additional square feet for each additional bedroom
Quadraminiums, Townhouses, and Manor Homes	600 square feet first floor above grade, plus 100 additional square feet for each additional bedroom

- e. Efficiency Apartments. Except for elderly (senior citizen) housing, the number of efficiency apartments in a multiple dwelling shall not exceed ten (10) percent of the total number of apartments. In the case of elderly (senior citizen) housing, efficiency apartments shall not exceed thirty (30) percent of the total number of apartments.
- f. Commercial Structures. Commercial buildings (principal structure) having less than one thousand (1,000) square feet of floor area may only be allowed upon approval of a conditional use permit as provided for in Section 1003 of this Ordinance.

Subd. 7. Minimum Lot Area per Unit. The lot area per unit requirement for two family, townhouses, quadraminiums, manor homes, apartments, and planned unit developments shall be calculated on the basis of the total area in the project and as controlled by an individual and joint ownership as per the specific zoning district regulation. Areas qualifying as wetlands pursuant to this Ordinance shall not be included in the calculation of total area.

Subd. 8. Two Family, Townhouse, Manor Home, Multiple Family Uses.

- a. No single townhouse structure shall contain more than five (5) dwelling units.
- b. Minimum unit lot frontage for townhouses shall be not less than twenty (20) feet.
- c. Subdivision of Two-Family Double Bungalows, Townhouse or Quadraminium Lots. The subdivision of base lots containing two family dwellings, townhouses, or quadraminiums to permit individual private ownership of a single dwelling within such a structure is acceptable upon the approval by the City. Approval of a subdivision request is contingent on the following requirements:
1. Two family, townhouses, and quadraminiums intended for owner occupancy shall be subdivided on an individual lot basis according to the provisions of Section 1006 (Planned Unit Development) of this Ordinance.

2. Prior to a two family double bungalow dwelling, townhouse or quadraminium subdivision, the base lot must meet all the requirements of the zoning district.
 3. Except for planned unit developments, there shall be no more than one principal structure on a base lot in all residential districts. The principal structure on the base lot created in a two family, townhouse or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lot.
 4. Permitted accessory uses as defined by the zoning districts are acceptable, provided they meet all the zoning requirements.
 5. A property maintenance agreement must be arranged by the applicant and submitted to the City Attorney for review and approval. The agreement shall ensure the maintenance and upkeep of the structure and lots to meet minimum City standards. The agreement is to be filed with the Hennepin County Recorder's Office as a deed restriction against the title of each unit lot.
 6. Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the City Engineer.
 7. The subdivision is to be platted and recorded in conformance to the requirements of the Subdivision Regulations of the City.
 8. Structural requirements of the Uniform Building Code at the time of subdivision are complied with.
- d. Subdivision of multiple family, two family duplex, manor homes and other such units:
1. The subdivision is to be platted and recorded in conformance with the requirements of the Subdivision Regulations of the City as applicable.
 2. The subdivision shall comply with applicable cooperative or condominium laws of the State of Minnesota.
- e. Any multiple family dwelling over two (2) stories in height shall be provided with elevator service.

Subd. 9. Single Family Dwellings. All single family detached homes shall:

- a. Be constructed upon a continuous perimeter foundation that meets the requirements of this Ordinance and Uniform Building Code.
- b. Shall not be less than thirty (30) feet in length and not less than twenty-two (22) feet in width over that entire minimum length. Width measurements

shall not take account of overhang and other projections beyond the principal walls. Dwelling shall also meet the minimum floor area requirements as set out in this ordinance.

- c. Have an earth covered, composition, shingled or tiled roof.
- d. Receive a Building Permit. The application for a building permit in addition to other information required shall indicate the height, size, design and the appearance of all elevations of the proposed building and a description of the construction materials proposed to be used. The exterior architectural design of a proposed dwelling may not be so at variance with, nor so similar to, the exterior architectural design of any structure or structures already constructed or in the course of construction in the immediate neighborhood, nor so at variance with the character of the surrounding neighborhood as to cause a significant depreciation in the property values of the neighborhood or adversely affect the public health, safety or general welfare.
- e. Meet the requirements of the State Uniform Building Code or the applicable manufactured housing code.

1011.04 ACCESSORY BUILDINGS, STRUCTURES, USES AND EQUIPMENT.

Subd. 1. General Provisions.*

- a. Except as may be specifically provided, no accessory use, building, structure or equipment shall be allowed within a required front yard. Placement of accessory buildings, structures, and equipment in the Shoreland District shall be regulated as found in Section 1070 of this Code.
- b. Accessory buildings may encroach into the required rear yard setbacks within the rear yard of a lot, except, however, that no such encroachment may occur on required easement, or in a required side yard setback abutting a street in the case of a corner lot.
- c. No accessory building shall exceed the allowable building height except to match roof pitch or style of the principal structure. If the height standards are exceeded, a conditional use permit, according to the provisions of Section 1003 and Section 1011.04.5 of this Ordinance, shall be required.
- d. An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway.
- e. No accessory building for single family dwellings shall exceed one thousand (1,000) square feet of floor area, except by variance as provided for in Section 1004 of this Ordinance.
- f. No building permit shall be issued for the construction of more than one (1) private garage structure for each detached single family dwelling, except by

approval of a variance according to the provisions of Section 1004 of this Ordinance.

- g. Every detached single family dwelling unit erected after the effective date of this Ordinance shall be so located on the lot so that at least a two (2) car garage, either attached or detached, can be located on said lot.
- h. No lot shall have more than one (1) accessory building, including but not limited to, fish houses, storage sheds and yard barns, but not including a garage, except on the approval of a variance according to the provisions of Section 1004 of this Ordinance.
- i. Except in the case of single family detached dwellings, accessory buildings shall not exceed thirty (30) percent of the gross floor area of the principal buildings. In those cases where the standards are exceeded, a variance according to the provisions of Section 1004 of this Ordinance shall be required.
- j. Accessory buildings shall be set back from adjoining lots as prescribed in the applicable district and shall not be located within a utility easement.
- k. Accessory buildings, uses or equipment such as air conditioning cooling structures or condensers, satellite dishes and fish houses shall be located only within the principal structure setback requirements and shall be screened from view in accordance with Section 1011.05 of this Ordinance.
*Revised 8/24/99
- l. All accessory buildings shall require a building permit, and shall be reviewed by the Zoning Administrator for zoning compliance.

Subd. 2. Time of Construction. No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.

Subd. 3. Building Materials. The same or similar quality exterior material shall be used in the accessory building and in the principal building, except pole barn structures and metal sided accessory buildings may be allowed through conditional use permit in residential districts as provided for in Section 1003 and Section 1011.04.5 of this Ordinance subject to the following:

- a. The exterior appearance of the accessory building is not at variance with the principal building from an aesthetic and architectural standpoint as to cause a difference to a degree to cause incongruity.
- b. A depreciation of neighborhood values or adjacent property values will not occur.
- c. A nuisance such as unsightly building exterior does not result.
- d. The provisions of Section 1003.01.8 of this Ordinance shall be considered.

Subd. 4. Trash Receptacles. All buildings having exterior trash receptacles shall provide an enclosed area in conformance with the following:

- a. Exterior wall treatment shall be similar and/or complement the principal building.
- b. The enclosed trash receptacle area shall be located in the rear or side yard.
- c. The trash enclosure must be in accessible location for pick up hauling vehicles.
- d. The trash receptacles must be fully screened from view of adjacent properties and the public right-of-way.
- e. The design and construction of the trash enclosure shall be subject to the approval of the Zoning Administrator.

Subd. 5. Conditional Use Permits. Application for a conditional use permit under this subsection shall be regulated by Section 1003 of this Ordinance. Such a conditional use permit may be granted provided that:

- a. There is a demonstrated need and potential for continued use of the structure for the purpose stated.
- b. In the case of residential uses, no commercial or home occupation activities are conducted on the property.
- c. The building has an evident re-use or function related to the principal use.
- d. Accessory building shall be maintained in a manner that is compatible with the adjacent residential uses and does not present a hazard to public health, safety and general welfare.
- e. The provisions of Section 1003.01.8 of this Ordinance shall be considered and a determination made that the proposed activity is in compliance with such criteria.

1011.05 FENCING/SCREENING.

Subd. 1. Fence Regulations, General Standards.

- a. No person shall hereafter construct or cause to be constructed or erected within the City of Tonka Bay, any fence without first making an application for and securing a building permit.
- b. Each application for a permit under this section shall be submitted to the Zoning Administrator on forms provided by the City. Each such application shall include a site plan drawn to scale showing the location of house(s), garage(s), and other improvements on the lot and the location of the fencing

to be erected, altered or relocated. A certificate of survey shall be required for all fences.

- c. All fences within the City shall be subject to the following general provisions:
1. No fences shall be placed on or extend into the public rights-of-way.
 2. All fences shall be located entirely upon the property of the person constructing or causing the construction of such fence.
 3. That side of any fence considered to be its "face" (i.e., the finished side having no structural supports) shall face abutting property.
 4. Both sides of any fence shall be maintained in a condition of reasonable repair and appearance by its owner and shall not be allowed to become and remain in a condition of disrepair or danger, or constitute a nuisance, public or private.
 5. Barbed wire, blade wire, and barbed top fences are only allowed in the City by conditional use permit.
 6. No person shall construct or maintain or allow to be constructed or maintained anywhere within the City any above-grade electric fence.
 7. Driveway entry gates (electric or manual) are prohibited.
 8. All fences located in the front or side yard shall consist of materials comparable in grade and quality to the following: decorative masonry, wrought iron or wood, provided the surfaces are finished for exterior use, or wood of proven durability is used, such as cedar or redwood.
 9. For the purpose of fence regulations, in the case of a corner lot, both yards abutting a street shall be considered a front yard.
 10. For the purpose of fence regulations, in the case of a riparian (lakefront) lot, the yard abutting the lake shall be considered a front yard.
 11. In no case shall any fence bordering upon any street or sidewalk be constructed to a height which could obstruct the clear vision of drivers or pedestrians entering or within the public right of way or at intersections.

Subd. 2 - Single Family Residential Fence Standards

- a. Location.
1. No fence or wall shall be located closer than five (5) feet to the paved edge of a street.
 2. No fence or wall shall be located closer than ten (10) feet to the Ordinary High Water Level of a lake.

- b. Height. The height of fences or walls shall be measured from the ground level to the top of the fence or wall. Fence height shall be restricted according to the location as follows
1. Riparian Lots.
 - a) Front yard: Fences in the front (lakeside) yard between the shoreline and the greater of the building line of the house or fifty (50) feet, shall be no more than three (3) feet in height. Fences or walls located within the buildable area of the lot and at least fifty (50) feet from the shoreline may be up to six (6) feet in height.
 - b) Side yards: six (6) feet maximum.
 - c) Rear yard: four (4) feet maximum. For riparian lots whose rear yards face County Road 19 (Manitou Road) rear yard fences may be constructed to a maximum of six (6) feet.
 - d) Visually-Impairing Elements (VIE).
 1. No person shall cause to exist, or shall maintain, any Visually-Impairing Element which includes:
 - a. An area consisting of five feet from a property line and within 50 feet of the ordinary high water level or
 - b. The average setback of the two adjacent riparian principal structures on either side of a parcel.
 2. All property owners within the City shall be required to, within these areas, maintain all privately-planted vegetation. VIE shall be restricted according to the location as follows:
 - a) Front yard: VIE in the front (lakeside) yard between the shoreline and the greater of the building line of the house or fifty (50) feet, shall be no more than three (3) feet in height. VIE located within the buildable area of the lot and at least fifty (50) feet from the shoreline may be up to six (6) feet in height.
 - b) Side yards: six (6) feet maximum.
 - c) Rear yard: four (4) feet maximum. For riparian lots whose rear yards face County Road 19 (Manitou Road) rear yard VIE may be constructed to a maximum of six (6) feet.
 3. Failure to comply with this section shall constitute a public nuisance pursuant to Tonka Bay City Code Section 1130 and Minn. Statute 609.74.
 2. Non-Riparian Lots.
 - a) Front yard: four (4) feet.
 - b) Side yards: six (6) feet
 - c) Rear yard: six (6) feet
 3. Open wire fences not exceeding ten (10) feet in height enclosing tennis courts, pools, and similar uses, shall be permitted without restriction.
- c. Swimming Pool Fences. Outdoor swimming pool fences shall be required as follows:

1. All outdoor swimming pools existing and hereafter constructed shall be completely enclosed by a security fence or wall at least four (4) feet but not more than six (6) feet high and located at least four (4) feet from the edge of a pool. The bottom of the fence or wall shall be no higher than four (4) inches above the surface of the ground. Fence openings or point of entry to the pool area shall be equipped with self-closing and self-latching lockable gates.
2. The enclosure for outdoor swimming pools may utilize a wall or walls of a house or building as a part hereof, provided the wall or walls are at least six (6) feet high and the enclosure is completed by a fence or wall conforming to the provisions of 1. herein above.
3. All persons owning or operating an outdoor swimming pool shall comply with this Ordinance within ninety (90) days from the date of publication of this Ordinance.
4. New swimming pools shall not be filled or used until all applicable fencing requirements herein are complied with.
5. This Ordinance does not apply to:
 - a) Above-ground outdoor swimming pools having at least four (4) foot high, vertical or outward inclined side walls, provided sole access is by means of a removable ladder, ramp, or stairs which must be removed when the pool is not in use.
 - b) Swimming pools which are wholly enclosed within a building or structure.

Subd. 4. General Landscaping and Maintenance. All exposed ground areas surrounding or within a principal or accessory use, including street boulevards, and not devoted to parking areas, drives, sidewalks, patios or other such uses shall be landscaped with grass, shrubs, trees or other ornamental landscape materials within one (1) year following the date of building occupancy. All landscaped areas shall be kept neat, clean and uncluttered, and where a landscape plan is required by City approval any plant material which is diseased or dies shall be replaced with like kind of the original size. No landscaped area shall be used for the parking of vehicles or for the storage or display of materials, supplies or merchandise. Fences and/or plantings placed upon utility easements are subject to removal by the City or utility company if required for maintenance or improvement of the utility. Trees on utility easements containing overhead wires shall not exceed fifteen (15) feet in height, which it shall be the property owner's responsibility to maintain.

Subd. 5. Required Fencing and Screening Multi-Family and Non-Residential Uses.

- a. Fencing and Screening. Where any townhouse, quadraminium, manor home, multiple family or non-residential use (i.e., structure, parking or

storage) abuts property zoned for residential use, the higher density residential or the non-residential use shall provide screening along the boundary of the residential property. Screening shall also be provided where a non-residential use is across the street from a single family residential zone, but not on that side of a non-residential use considered to be the front (as determined by the Zoning Administrator). All the fencing and screening specifically required by this Ordinance shall be subject to Section 1011.05.5 and shall consist of either a fence or a green belt planting strip as provided for below.

1. A green belt planting strip shall consist of evergreen trees and/or deciduous trees and plants and shall be of sufficient width and density to provide an effective visual screen. This planting strip shall be designed to provide complete visual screening to a minimum height of six (6) feet. Earth mounding or berms may be used but shall not be used to achieve more than three (3) feet of the required screen. The planting plan and type of plantings shall require the approval of the City Council.
2. A required screening fence shall be constructed of masonry, brick, wood or metal. The design and materials used in constructing a required screening fence shall be subject to the approval of the City Council.

b. Fence Height:

1. Front yard: six (6) feet.
2. Side yard: six (6) feet.
3. Rear yard: six (6) feet.

Subd. 6: Landscaping - New Residential Subdivisions, Semi-Public and All Income Producing Property Uses (excluding residential structures containing less than four (4) dwelling units.) Prior to approval of a building permit, all above referenced uses shall be subject to mandatory landscape plan and specification requirements. Said landscape plan shall be developed with an emphasis upon the boundary or perimeter of the proposed site at points adjoining other property and the immediate perimeter of the structure. All landscaping incorporated in said plan shall conform to the following standards and criteria:

- a. All plants must be at least equal the following minimum size:

	Potted/ Bare Root	Balled/ Burlapped
Shade Trees*	2" diameter	2" diameter
Half Trees (Flowering Crabs, Russian Olive, Hawthorn, etc.)	6-7" high	1-1.5" diameter
Evergreen Trees	---	3-4' high
Tall Shrubs and Hedge Material (Evergreen or Deciduous)	3-4' high	3-4' high
Low Shrubs – Deciduous	18-24"	24-30"
Evergreen	18-24" potted	24-30"

Spreading Evergreens	18-24" potted	18-24"
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* Type and mode are dependent upon time of planting season, availability, and site conditions (soils, climate, ground water, manmade irrigation, grading, etc.)

b. Spacing.

1. Plant material centers shall not be located closer than three (3) feet from the fence line or property line and shall not be planted to conflict with public plantings based on the judgement of the Zoning Administrator.
2. Where plant materials are planted in two or more rows, plantings shall be staggered in rows unless otherwise approved by the Zoning Administrator.
3. Where massing of plants or screening is intended, large deciduous shrubs shall not be planted more than four (4) feet on center, and/or evergreen shrubs shall not be planted more than three (3) feet on center.

c. Design.

1. The landscape plan shall show site amenities (i.e., composition of plant materials, and/or creative grading, decorative lighting, exterior sculpture, etc.) which are largely intended for aesthetic purposes.
2. All areas within the property lines (or behind, if site grading extends beyond) shall be treated. All exterior areas not paved or designated as roads, parking, or storage must be planted into ornamental vegetation (lawns, ground covers, or shrubs) unless otherwise approved by the Zoning Administrator.
3. Turf slopes in excess of 2:1 are prohibited.
4. All ground areas under the building roof overhang must be treated with a decorative mulch and/or foundation planting.
5. All buildings must have an exterior water spigot to ensure that landscape maintenance can be accomplished.

d. Landscape Guarantee. All new plants shall be guaranteed for two (2) full years from the time planting has been completed. All plants shall be alive and in satisfactory growth at the end of the guarantee period or be replaced.

e. Existing Trees. With respect to existing trees in new developments, all trees on the site are to be saved which do not have to be removed for street, buildings, parking, utilities, drainage or active recreational purposes. Trees over six (6) inches in diameter that are to remain, are to be marked with a

red band, and to be protected with snow fences or other suitable enclosure, prior to any excavation. The City may further require that the developer retain a professional forester to prepare forest inventory and management plan for the development, in order to control and abate any existing or potential loss. In those instances where trees of over six (6) inches in caliper will be lost due to construction, the City Council may require the planting of new trees in an amount equal to or greater than the total caliper inches which will be removed.

Subd. 7. Screening of Mechanical Equipment. Mechanical equipment located on the roof of any building and visible from the street level or from neighboring properties shall be screened with a material designed to blend harmoniously with the building's facing materials. Where buildings have exposure to buildings with higher elevation, roof equipment shall be totally screened or enclosed with a material to blend with the roof surface material.

1011.06 OFF-STREET PARKING AND LOADING

Subd. 1. Purpose. The purpose of the off-street parking regulations is to alleviate or prevent congestion of the public right-of-way, by establishing minimum requirements for off-street parking of motor vehicles in accordance with the utilization of various parcels of land or structures.

Subd. 2. Application of Off-Street Parking Regulations. The regulations and requirements set forth herein shall apply to all off-street parking facilities in all of the zoning districts for uses and structures, except as hereinafter provided.

Subd. 3. General Provisions.

- a. All site plans submitted for a structure requiring parking spaces and/or loading facilities shall show or designate the parking and/or loading area(s), number of parking spaces, and type of surfacing, screening, drainage, curbing, sidewalks and other improvements which may be required to be installed. Said plan shall be a part of the building permit for any such structure, and no certificate of occupancy shall be issued until all items shown on the plan for parking and loading facilities have been completed, unless an agreement supported by a cash deposit or bond provides for the completion of said plan.
- b. When the site intensity or use of a building is increased with consequent effect upon the parking requirements as prescribed in this Section, the parking requirements as prescribed herein shall be used to provide for such increase in the site intensity and/or use.
- c. Off-street parking and loading spaces or lot area existing upon the effective date of this Ordinance shall not be reduced in number or size unless said number or size exceeds the requirements set forth herein for a similar new use.

- d. Every detached single family dwelling unit erected after the effective date of this Ordinance shall be so located on the lot so that at least a two (2) car garage, either attached or detached in conformance with this Ordinance, can be located on said lot.

Subd. 4. Off-Street Parking Facilities Provided On a Site Elsewhere Than the Principal Use.

- a. When parking is provided on a site other than the lot or tract upon which a principal use is located, said parking area shall be in the ownership of and remain in the possession of the owner of the principal use for which it is designated. No authorization for separate parking facilities shall be given until such time as the City Council is reasonably certain that the ownership and use of the parking area will continue and that the site will be well maintained. Off-site parking facilities may only be allowed by conditional use permit and may only be allowed by conditional use permit and shall be subject to the following conditions:
 - 1. Off-site parking shall be developed and maintained in compliance with all requirements and standards of this Ordinance.
 - 2. Reasonably improved access from off-street parking facilities to the use being serviced shall be provided.
 - 3. Off-site parking for multiple family dwellings shall not be located more than one hundred (100) feet from any normally used entrance of the principal use serviced.
 - 4. Off-site parking for non-residential uses shall not be located more than three hundred (300) feet from the main entrance of the principal use being served. No more than one (1) main entrance shall be recognized for each principal building.

Subd. 5. Design of Residential Off-Street Parking

- a. Driveways for Single-Family Residential uses are *not* considered “parking areas”.
- b. All exposed parking areas, driveways, and loading areas shall be surfaced with an all-weather, durable and dust-free surfacing material to be approved by the City Engineer, shall be well drained and landscaped, and shall be maintained in a sightly and well kept condition.
- c. Driveways shall maintain a setback of at least five (5) feet from side property lines.
- d. No curb cut access shall exceed twenty-four (24) feet in width except upon approval by the City Engineer.
- e. Curb cut openings shall be located at a minimum of five (5) feet from the side yard lot line in all districts.

- f. Detached single family dwelling uses shall be limited to one (1) driveway access per property.
- g. Parking shall be prohibited in any portion of the front yard except designated driveways leading directly into a garage or one (1) open, surfaced space located on the side of a driveway, away from the principal use. Said extra space shall be surfaced with concrete or bituminous or crushed rock material.

Subd. 6. Landscaping. All exposed parking areas of four (4) or more required spaces shall be landscaped on all sides. Such screening shall be in conformance with Section 1011.05 of this Ordinance and be approved in advance by the Zoning Administrator. Landscaping shall consist of a wall or fence and plantings or surfacing material shall be provided in all areas bordering the parking area. No landscaping or screening shall interfere with the drive or pedestrian visibility for vehicles entering or exiting the premises.

Subd. 7. Off-Street Parking Restrictions.*

- a. Except where otherwise allowed in a zoning district, trucks of more than twelve thousand (12,000) GVW or greater than thirty (30) feet in length, and contracting or excavating equipment may not be parked, stored or otherwise continued on any property within the City unless being used in conjunction with a temporary service benefiting the residential or commercial premises. One (1) truck not to exceed twelve thousand (12,000) GVW shall be allowed to be parked or stored in residential districts.
- b. Junked or inoperable vehicles may not be parked, stored or otherwise continued on any property within the City for a period greater than seventy-two (72) hours unless placed completely within an enclosed building or garage or screened in accordance with the provisions of Section 1011.05 of this Ordinance. Said regulations shall also apply to racecars.
- c. No motor vehicle repair work of any kind shall be permitted in conjunction with exposed off-street parking facilities, except for minor repairs of vehicles owned by the occupant or resident of the principal use for which the parking space is intended. No exterior storage of car parts are allowed at any time.
- d. Except where otherwise allowed by zoning district, contractor's supplies and equipment or machinery kept for eventual sale, commercial repair, rental or other commercial purposes may not be stored, kept or otherwise continued on any property within the City. The keeping, storage or otherwise continuing of such materials within the City is prohibited and shall be considered to be a non-conforming use if in existence at the effective date of this Ordinance. *Revised 8/24/99

Subd. 8. Parking Area Design and Maintenance for Multi-Family, Commercial, Industrial Uses

- a. Driveways for Residential uses are *not* considered “parking areas”.
- b. All exposed parking areas, driveways, and loading areas shall be surfaced with an all-weather, durable and dust-free surfacing material to be approved by the City Engineer, shall be well drained and landscaped, and shall be maintained in a sightly and well kept condition.
- c. All parking areas where four (4) or more spaces are required shall be marked by durable painted stripes, not less than four (4) inches wide, designating the parking spaces unless excepted by the City Engineer.
- d. Setbacks.
 - 1. Front, side and rear setbacks of at least five (5) feet from property lines shall be maintained from parking areas in all zoning districts.
 - 2. No area used by motor vehicles other than driveways for ingress to and egress from the site shall be located within the public street right-of-way.
- e. Calculating Space.
 - 1. The term “floor area” for the purpose of calculating the number of off-street parking spaces required shall be determined on the basis of the exterior floor area dimensions of the buildings, structure or use times the number of floors, minus ten (10) percent except as may be hereinafter modified.
 - 2. When in the process of determining the required number of off-street parking spaces, there occurs a fraction of a space. Such fraction shall be deemed as the requirement for an additional parking space. Parking spaces shall not be counted toward meeting a parking requirement when, in the Council’s opinion, they are sufficiently inconvenient to be of questionable use.
 - 3. 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 eighteen (18) inches of such seating facilities shall be counted as one (1) seat for the purpose of determining requirements.
 - 4. Except for a shopping center, should a structure contain two (2) or more types of uses, the gross floor area of each use shall be calculated and a ten (10) percent reduction shall be

made for non-productive space. The resulting net usable floor space figure shall be utilized to determine the off-street parking requirement.

5. Provision shall be made in the parking area for adequate snow storage or removal in order to ensure that the required number of spaces are available at all times during the year.
 6. Required accessory off-street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, or storage of inoperable vehicles.
- f. Design. Vehicular traffic generated by a use shall be channeled and controlled in a manner which will avoid congestion or interference with other vehicular transportation systems or pedestrian traffic and which will avoid creating traffic hazards or excessive traffic through residential areas. The adequacy of any proposed traffic circulation system to accomplish these objectives shall be determined by the City, which may require such additional measures for traffic control as it may deem necessary, including but not limited to the following: directional signalization, channelization, standby turn lanes, sidewalks illumination and other facilities within the site to prevent a backup of vehicles on public streets.

1. Parking Stalls.

- a) All parking spaces, except for parallel spaces and compact car sales, shall be a minimum of eight and one-half (8-1/2) feet in width and twenty (20) feet in length, except a parking stall eighteen (18) feet in width and twenty (20) feet in length, except a parking stall eighteen (18) feet in length with a two (2) foot overhang beyond the parking surface may be allowed upon approval of the City Engineer.
 - b) Up to twenty (20) percent of the parking spaces in a parking lot of forty (40) spaces or more may be permanently marked for compact cars only. A compact space shall be a minimum of eight (8) feet in width and sixteen (16) feet in length.
 - c) In areas such as parking ramps or similar facilities size requirements may be determined by the City Engineer.
 - d) Parallel parking spaces shall be twenty-three (23) feet in length.
2. Minimum driveway and traffic land widths shall be developed in compliance with the following standards:

Angle of Parking	Traffic Flow	Minimum Width
90 Degree	Two Way	24 feet
60 Degree	One Way	18 feet
45 Degree	One Way	14 feet

3. The off-street parking requirement may be furnished by providing fee free space so designed within the principal building or one (1) structure attached thereto; however, unless provisions are made, no building permit shall be issued to convert said parking structure into a dwelling unit or living area or other activity until other adequate provisions are made to comply with the required off-street parking provisions of this Ordinance. In creating other provisions, on-street parking shall not be used.
4. Parking areas shall be designed so that circulation between parking bays or aisles occurs within the designated parking lot and does not depend upon a public street or alley. Except in the case of single, two family, townhouse, and quadraminium dwellings, parking area design which requires backing into the public street is prohibited. Parking spaces in a public right-of-way cannot be utilized in meeting required off-street parking standards.
5. No curb cut or other driveway access shall be located less than forty (40) feet from the intersection of two (2) or more street rights-of-way. Minimum distance for commercial uses shall be sixty (60) feet. This distance shall be measured from the intersection of lot lines, not curb lines.
6. No curb cut access shall exceed twenty-four (24) feet in width except upon approval by the City Engineer.
7. Curb cut openings shall be located at a minimum of five (5) feet from the side yard lot line in all districts.
8. Driveway access curb openings on a public street shall not be located less than forty (40) feet from one another except on approval by the City Engineer.
9. The grade elevation of any parking area or portion thereof shall not exceed five (5) percent. *(Note: typical grade for driveway is 10% or under – City Admin. note, not part of ordinance)*
10. Each property shall be allowed one (1) driveway access for each one hundred twenty-five (125) feet of street frontage. All property shall be entitled to at least one (1) driveway access. *Revised 8/24/99

11. Except in the case of a planned unit development, each lot shall have access directly onto an abutting, improved and City accepted public street. Exception to this access requirement may be allowed as a conditional use permit.
12. 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 Section 1011.02, Subd. 6. of this Ordinance.
13. No sign shall be located as to restrict the sight lines and orderly operation and traffic movement within any parking lot. All signs shall be in conformance with Section 330 of this Code.

Subd. 9. Location.

- a. Required accessory off-street parking shall be on the same lot under the same ownership as the principal use being served, except as provided for under the provisions of Section 1011.06(4) and 1011.06(1) of this Ordinance.
- b. Head-in parking, directly off of and adjacent to a public street, with each stall having its own direct access to the public street shall be prohibited.
- c. There shall be no off-street parking area within fifteen (15) feet of any street surface.
- d. The boulevard portion of the street right-of-way shall not be used for parking.

Subd. 10. Emergency Vehicle Access Lanes. The City Council by resolution may designate emergency vehicle access lanes on or across public or private property. No person shall park a vehicle in said lanes or otherwise obstruct said lanes. The Fire Marshal shall notify in writing the owner of private property which has been designated as an emergency vehicle access lane, and within thirty (30) days after said written notification, the benefiting property owners shall at their cost erect signs identifying said lanes, the size, lettering, and placement of which signs shall be subject to the approval of the Fire Marshal. The City shall erect such signs on all said designated lanes which are on public property. Any person violating the provisions of this subdivision shall be guilty of a misdemeanor.

Subd. 11. Maintenance. It shall be joint and several responsibility of the owner of the principal use (or lessee, if there is one) to use and to maintain in a neat and adequate manner, the parking space, access way, striping, landscaping, required fences and snow removal.

Subd. 12. Joint Facilities. The City Council may approve a conditional use permit for one (1) or more businesses to provide the required off-street parking facilities by joint use of

one (1) or more sites where the total number of spaces provided are less than the sum of the total required for each business should they provide them separately. When considering a request for such a permit, the Council shall not recommend that such permit be granted except when the following conditions are found to exist.

- a. Up to fifty (50) percent of the parking facilities required for a theater, bowling alley, or bar may be supplied by the off-street parking facilities provided by types of uses specified as primarily daytime uses in Section 1011.06.11.d below.
 - b. Up to fifty (50) percent of the off-street parking facilities required for any use specified under Section 1011.06.11.d below as primarily daytime uses may be supplied by the parking facilities provided by the following night time or Sunday uses: churches, bowling alleys, theaters, bars, restaurants, or apartments.
 - c. Up to eighty (80) percent of the parking facilities required by this section for a church may be supplied by the off-street parking facilities provided by uses specified under Section 1011.06.11.d below as primarily daytime uses.
 - d. For the purposes of this section, the following uses are considered as primarily daytime uses: banks, business offices, retail stores, personal service shops, restaurants, service shops, manufacturing, wholesale and similar uses.
 - e. In addition to the preceding requirements, the following conditions are required for joint parking usage:
 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 three hundred (300) feet of such parking facilities.
 2. The applicant shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which joint use of off-street parking facilities is proposed.
 3. A legally binding instrument, executed by the parties concerns, for joint use of off-street parking facilities, duly approved as to title of grantors or lessors, and form and manner of execution by the City Attorney, shall be filed with the City Clerk and recorded with the Hennepin County Recorder or Registrar or Titles, and a certified copy of the recorded document shall be filed with the City within sixty (60) days after approval of the joint parking use by the City.
- Subd. 13. Truck Loading Areas, Design and Maintenance.
- a. Unless otherwise specified in this Ordinance, the first loading berth shall be not less than seventy (70) feet in length and additional berths required shall be not less than thirty (30) feet in length and all loading berths shall be not

less than ten (10) feet in width and fourteen (14) feet in height, exclusive of aisle and maneuvering space. All loading areas shall consist of a maneuvering area in addition to the berth and shall not use any of that portion of the site containing parking stalls. Maneuvering areas shall be of such size as to permit the backing of truck tractors and coupled trailers into a berth, without blocking the use of other berths, drives or maneuvering areas or on public right-of-way. The construction and setback standards listed in Section 1011.06.12.c also shall apply to all loading areas.

- b. Loading berths shall be screened from all property lines. Said screening shall be accomplished by a solid wall or fence and shall be so designed as to be architecturally harmonious with the principal structure and in conformance with Section 1011.05 of this Ordinance. Screening plantings may be substituted, provided such plantings are in conformance with Section 1011.05 of this Ordinance.
- c. Location.
 - 1. All required loading berths for non-residential uses shall be off-street and located on the same lot as the building or use to be served.
 - 2. All loading berth curb cuts shall be located at minimum fifty (50) feet from the intersection of two (2) or more street rights-of-way. This distance shall be measured from the property line.
 - 3. No loading berth for a non-residential use shall be located closer than fifty (50) feet from a residential district unless completely within a structure, except on approval by the City Council.
 - a) Loading berths shall not conflict with pedestrian movement.
 - b) Loading berths shall not obstruct the view of the public right-of-way from off-street parking access.
 - c) Loading berths shall comply with all other requirements of this section.
 - 4. Each loading berth shall be located with appropriate means of vehicular access to a street or public alley in a manner which will cause the least interference with traffic.
 - 5. Any space allocated as a required loading berth or access drive so as to comply with the terms of these zoning regulations shall not be used for the storage of goods, inoperable vehicles or snow and shall not be included as part of the space requirements to meet off-street parking requirements.
 - 6. Loading berths shall not occupy the front yard setbacks.

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

Subd. 14. Off-Street Parking and Loading Requirements.

Use	Number of Parking Spaces Required	Off-Street Loading Spaces Required
Animal Hospitals or Kennels	Six (6) spaces plus one (1) space for each two hundred (200) square feet of gross floor area over ten thousand (10,000) square feet.	One (1) space per structure.
Auditoriums, Theaters, Religious Institutions	One (1) space for each four (4) permanent seats based on the design capacity of the main assembly hall. Facilities as may be provided in conjunction with such buildings or uses shall be subject to additional requirements which are imposed by this Ordinance.	One (1) space for each structure with over one hundred thousand (100,000) square feet of gross floor area.
Beauty or Barber Shops	Two (2) spaces for each working station, plus two (2) spaces for each three (3) employees.	N/A
Boat and Marine Sales	Parking shall be provided as established in Sections 510 and 520 of this Code.	One (1) space plus one (1) additional for each twenty-five thousand (25,000) square feet of gross floor area.
Boating Marinas and Yacht Clubs	Seven (7) spaces for each ten (10) boat or mooring spaces.	One (1) space for each twenty thousand (20,000) square feet.
Bowling Alleys	Five (5) spaces for each lane or alley, plus additional spaces as may be required herein for related uses contained within the principal structure.	One (1) space for each structure with over twenty thousand (20,000) square feet of gross floor area.
Community Center, Physical Culture Studio, Libraries, Museums	Ten (10) spaces plus one (1) for each one hundred fifty (150) feet in excess of two thousand (2,000) square feet of floor area in the principal structure.	One (1) space for each structure with over one hundred thousand (100,000) square feet of gross floor area.
Drive-In Convenience Food Establishment	One (1) space for each fifteen (15) square feet of gross floor service area, one (1) space for each eighty (80) square feet of gross kitchen area and one (1) space for each forty (40) square feet of seating area, but not less than fifteen (15) spaces, plus two (2) spaces per drive-through window.	One (1) space
Drive-In Banks	One (1) space for every three hundred fifty (350) square feet of gross usable floor area plus stacking requirements as	One (1) space for buildings between thirty thousand (30,000) square feet and one hundred

Use	Number of Parking Spaces Required	Off-Street Loading Spaces Required
	determined by the Zoning Administrator.	thousand (100,000) square feet in gross floor area, plus one (1) space for each additional one hundred thousand (100,000) square feet.
Furniture Sales	One (1) space for each four hundred (400) square feet of floor area for the first twenty five thousand (25,000) square feet, plus one (1) space for each six hundred (600) square feet thereafter.	One (1) space plus one (1) additional space for each twenty five thousand (25,000) square feet of gross floor area.
Group Day Care Centers	One (1) space for each employee, plus one (1) space for each four (4) children.	One (1) space.
Housing for the Elderly	One (1) space for each one and one-half (1-1/2) dwelling units.	One (1) space.
Medical or Dental Offices or Clinics	Six (6) spaces for each doctor per building or dentist.	One (1) space.
Motels, Hotels, Lodging or Boarding Houses	One (1) space per lodging unit, plus spaces equal to twenty five (25) percent of the capacity of any club or lodge.	One (1) space per building.
Multiple Family Dwellings, Townhouses	Two (2) fee free spaces for each living unit, of which one (1) is to be enclosed.	One (1) space for each multiple family building over four (4) units.
Nursing Homes, Rest Homes	One (1) space for each four (4) beds.	One (1) space plus one (1) additional space for each one hundred thousand (100,000) square feet of gross floor area.
Office Buildings and Professional Offices, other than any area for doctors or dentists, banks, public administration offices	One (1) space for each eight (8) seats of design capacity.	One (1) space for each structure with over one hundred thousand (100,000) square feet of gross floor area.
Public Parks, Playgrounds and Playfield	At least five (5) spaces for each acre of park over one (1) acre; two (2) parking spaces per acre for playgrounds, and ten (10) spaces for each acre of playfield. When a public recreation site has more than one (1) use designation, the areas must be divided for determining the required parking spaces.	N/A
Restaurants, Private Clubs, Lodges, Food Dispensing Establishment (except drive-in	One (1) space for each forty (40) square feet of gross floor area of dining and bar area and one (1) space for each eighty (80) square feet of kitchen area.	One (1) space for each ten thousand (10,000) square feet of gross floor area.

Use	Number of Parking Spaces Required	Off-Street Loading Spaces Required
restaurants)		
Retail Commercial Uses, except as prescribed herein	One (1) space for each two hundred (200) square feet of floor area.	One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional fifty thousand (50,000) square feet.
Retail Sales and Service Business with 50% or more gross floor area devoted to storage, Warehouses and/or Industry	Eight (8) spaces or one (1) space for each two hundred (200) square feet devoted to public sales or service, plus one (1) space for each five hundred (500) square feet of storage area.	One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional fifty thousand (50,000) square feet.
Shop for a Trade Employing Six or Less People, Garden Supply Store, Building Material Sales in Structure	Eight (8) off-street parking spaces, plus one (1) space for each two hundred (200) square feet of floor space over one thousand (1,000) square feet.	One (1) space for the first ten thousand (10,000) square feet of gross floor area, plus one (1) space for each additional fifty thousand (50,000) square feet.
Shopping Center	Five and one-half (5-1/2) spaces for each one thousand (1,000) square feet of gross leasable floor area.	One (1) space for the first ten thousand (10,000) square feet of gross leasable area plus one (1) space for each additional fifty thousand (50,000) square feet or part thereof.
Single Family, Two Family Dwellings	Two (2) spaces per family unit.	N/A
Warehousing	One (1) space for each one thousand (1,000) square feet of gross floor area. That space which is solely used as office shall comply with the office use.	Determined by the Zoning Administrator.
N/A = Not Applicable		

Subd. 15. Non-Specified Uses. Other uses not specifically mentioned herein shall be determined on an individual basis by the City Council. Factors to be considered in such determination shall include (without limitation) size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery of service vehicles.

Subd. 16. Space Reductions. Subject to the review and processing of a conditional use permit as regulated by Section 1003 of this Ordinance, the City may reduce the number of required off-street parking spaces and/or loading spaces when the user can demonstrate in documented form a need which is less than required. In such situations, the City may require land to be reserved for parking development should use or needs change.

1011.07 **SIGNS.** The erection and/or placement of any sign in the City shall be in compliance with the provisions of Section 330 of this Code.

1011.08 **SITE/BUILDING PLAN REVIEW.**

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

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

Subd. 3. Plan Review/Approval. Except in the case of individual single family uses and minor projects, additions or alterations as determined by the Zoning Administrator and all building and site plans shall be subject to review by the City Council.

Subd. 4. Plan Agreements. All site and construction plans officially submitted to the City shall be treated as a formal agreement between the building contractor and the City. Once approved, no changes, modifications or alterations shall be made to any plan detail, standard or specifications without prior submission of a plan modification request to the Building Official for review and approval.

Subd. 5. Enforcement. The Building Official shall have the authority to order the stopping of any and all site improvement activities, when and where a violation of the provisions of this Section has been officially documented by the Building Official.

1011.09 **LAND RECLAMATION**

Subd. 1. Land Reclamation. Any lot or parcel on which three hundred (300) cubic yards or more of fill is to be deposited shall be regarded as land reclamation and require a grading and fill permit. Land reclamation shall not be interpreted as the depositing of fill from a building excavation on the same property. The permit shall include, as a condition thereof, a finished grade plan which has determined that the reclamation 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.* *Revised 8/24/99

1011.10 **BUILDING RELOCATION.**

Subd. 1. Review Process. The relocation of any building or structure on a lot or onto another lot within the City shall be subject to review and approval through the land use process.

Subd. 2. Performance Standards.

- a. Upon relocation, the building shall comply with the applicable requirements of the State Uniform Building Code.

- b. The proposed relocated building shall comply with the character of the neighborhood in which it is being relocated as determined by the City Council
- c. The relocated use will not result in a depreciation of neighborhood or adjacent property values
- d. The relocated structure shall be similar to the market valuation of adjacent principal structures as determined by the City Assessor.

Subd. 3. Occupancy. The relocated structure shall be ready for occupancy within eight (8) months from the date of location on the site.

Subd. 4. Performance Security. A performance security shall be provided to the City as specified in Section 1003.03.6 of this Ordinance.

1011.11 MODEL HOMES.

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

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

- Subd. 3. Special Requirements.
- a. Temporary parking facilities equal to four (4) spaces per model home dwelling unit shall be provided. The overall design, drainage, and surfacing of the temporary parking facility shall be subject to the approval of the Zoning Administrator.
 - b. Access from a temporary parking facility onto a local, residential street shall be discouraged. Where this requirement is physically impractical, access shall be directed away from residential neighborhoods to the greatest extent possible.
 - c. No model home shall incorporate outside lighting which creates a nuisance due to glare or intensity, as provided for in Section 1011.02.6 of this Ordinance.
 - d. All model home signage shall comply with the sign regulations as contained in Section 330 of this Code.
 - e. All criteria for conditional use permit consideration as contained in Section 1003.01.8 of this Ordinance shall be considered and satisfactorily met.

1011.12 DOCKS. All residential docks shall be in conformance with the provisions of Sections 500 and 510 of this Code and all commercial docks shall be in conformance with the provisions of Section 510 and 520 of this Code and the Rules of the LMCD.

1011.13 DAY CARE NURSERY FACILITIES.

Subd. 1. Purpose. The regulation of day care nursery facilities in these zoning regulations is to establish standards and procedures by which day care facilities can be conducted within the City without jeopardizing the health, safety and general welfare of the day care participants and/or the surrounding neighborhood. This Section establishes the City's minimum requirements for the establishment of a day care facility which are not defined as permitted uses by State Statute or which are operated in uses other than single family homes. Day care facilities other than those defined permitted uses by State Statutes which operate in a single family dwelling as an accessory use shall be subject to Section 1014 of this Ordinance and processed as a home occupation.

Subd. 2. Application. Day care nursery facilities shall be considered a permitted conditional use within all the zoning districts of the City and shall be subject to the regulations and requirements of Section 1003 of this Ordinance. In addition to the City regulation, all day care facility operations shall comply with the minimum requirements of the Minnesota Department of Health regulations, as may be amended.

Subd. 3. Declaration of Conditions. The City Council may impose such conditions on the granting of a day care facility conditional use permit as may be necessary to carry out the purpose and provisions of this Section.

Subd. 4. Site Plan Drawing Necessary. All applications for a day care facility conditional use permit shall be accompanied by a site plan drawn to scale and dimensioned, displaying the information required by Section 1003 of this Ordinance.

Subd. 5. General Provisions.

- a. Day care facilities shall be allowed as a principal use or as an accessory use, provided that the day care facilities meet all the applicable provisions of this section.
- b. The proposed site for a day care facility as a principal use shall have a minimum lot area as determined by the Minnesota Department of Health. The City Council may increase the required lot area in those cases where such an increase is considered necessary to ensure compatibility of activities and maintain the public health, safety and general welfare. The day care facility shall meet the setback requirements of the respective zoning district.
- c. The site of the proposed day care facility as an accessory use shall meet all area and setback provisions of the respective zoning district in which the facility is to be located.
- d. Where the day care facility is in or abuts any commercial or industrial use or zoned property, the day care facility shall provide screening along the shared boundary of such uses. All of the required fencing and screening shall comply with the fencing and screening requirements of Section 1011.05 of this Ordinance.
- e. Parking.

1. There shall be adequate off-street parking which shall be located separately from any outdoor play area and shall be in compliance with Section 1011.06 of this Ordinance. Parking areas shall be screened from view of surrounding and abutting residential uses in compliance with Section 1011.05 of this Ordinance.
 2. When a day care facility is an accessory use within a structure containing another principal use, each use shall be calculated separately for determining the total off-street parking spaces required.
- f. One off-street parking space in compliance with Section 1011.06 of this Ordinance shall be provided.
 - g. All signing and informational or visual communication devices shall be in compliance with Section 330 of the City Code.
 - h. The structure and operation shall be in compliance with State of Minnesota Department of Human Services regulations and be licensed accordingly.

Subd. 6. Non-Conforming Use. Existing day care facilities lawfully existing on the effective date of this Ordinance may continue as non-conforming uses. They shall, however, be required to obtain permits for their continued operation. Any existing day care facility that is discontinued for a period of more than one hundred eighty (180) days, or is in violation of the provisions of this Ordinance under which it was initially established, shall be brought into conformity with the provisions of this Section.

Subd. 7. Inspection. At any and all reasonable hours, with notice, the City hereby reserves the right upon issuing any day care facility conditional use permit to inspect the premises in which the occupation is being conducted to insure compliance with the provisions of this Section or any conditions additionally imposed.

1011.14 ANIMALS.

- Subd. 1. Keeping Animals. The following animals may be kept in the City:
- a. Domestic animals are allowed in all zoning districts.
 - b. Farm animals such as chickens and goats are not allowed in the City.
 - c. Animals may only be kept for commercial purposes if authorized in the zoning district where the animals are located.
 - d. Animals may not be kept if they cause a nuisance or endanger the health or safety of the community.
 - e. Dog kennels shall require a conditional use permit pursuant to Section 1003.01.8 of this Ordinance and shall be subject to other applicable sections of the City Code.

1011.15 COMMUNICATION RECEPTION/TRANSMISSION DEVICES

Subd. 1. Permitted Uses. Satellite dishes, television antennas, radio antennas and other such communication transmission/ reception devices are permitted accessory uses within all zoning districts, provided that they meet the following conditions:

- a. Height. A ground mounted communication device height shall not exceed fifteen (15) feet unless approved as a conditional use permit by the City Council.
- b. Yards. The communication device shall be located only within the principal structure setback requirements and shall not be located within a utility or drainage easement.
- c. Roofs. The communication device may be placed on the roof of any authorized structure on the premises. The height of the communication device shall not exceed six and one-half (6-1/2) feet above the peak of the roof, unless approved by a conditional use permit by the City Council.
- d. Neighborhood Property Impact. In cases where no building permit is required, the communication device shall be so located that in the event it falls, it will not fall on adjoining property.
- e. Building Permits. A building permit shall be required for the installation of any communication device which requires a conditional use permit, or for any device which has a structural surface exposure of greater than nine (9) square feet. Building permit applications shall be accompanied by a site plan and structural components data for the communication device, including details of anchoring. The Building Official must approve the plans before installation.
- f. Color/Content. Communication devices shall be of a neutral color and shall not be painted with scenes or contain letters or messages which qualify as a sign.
- g. Lightning Protection. Each communication device shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code as adopted by the City.
- h. Electrical Code. Communication device electrical equipment and connections shall be designed and installed in conformance with the National Electric Code as adopted by the City.
- i. Effective Date. The provisions of this Section shall be applicable to all communication reception/ transmission devices erected after the effective date of this Ordinance. All such structures existing prior to this date shall be addressed as legal non-conforming uses.

Subd. 2. Conditional Use Permit. Communication reception/transmission devices not qualifying as a permitted accessory use may be considered through conditional use provisions established by Section 1003 of this Ordinance and shall meet the following conditions:

- a. All obsolete and unused communication devices shall be removed within twelve (12) months of cessation of operation at the site, unless an exemption is granted by the Zoning Administrator.
- b. All communication devices shall be in compliance with all City building and electrical code requirements.
- c. Structural design, mounting and installation of the communication device shall be verified and approved by a professional engineer.
- d. When applicable, written authorization for communication device erection shall be provided by the property owner.
- e. Communication devices shall be of a neutral color and shall not be painted with scenes or contain letters or messages which qualify as a sign.
- f. The height of the communication device shall be the minimum necessary to function satisfactorily.
- g. Communication devices shall not be artificially illuminated unless required by law or by a governmental agency to protect the public's health and safety.
- h. When applicable, proposals to erect new communication devices shall be accompanied by any required federal, state, or local agency licenses.
- i. If a new communication device support structure is to be constructed, it shall be designed so as to accommodate other users including but not limited to other cellular communication companies, local police, fire and ambulance companies.
- j. Communication device support structures under two hundred (200) feet in height shall be painted silver or have a galvanized finish to reduce visual impact.
- k. Each communication device shall be grounded to protect against natural lightning strikes in conformance with the National Electrical Code, as adopted by the City.

1011.16 ESSENTIAL SERVICES.

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

Subd. 2. Special Permit Required. All underground telephone lines, pipelines for local distribution, underground electric transmission lines, and overhead utility lines and electric

transmission lines and sub-stations less than 33 KV, when installed in any public right-of-way in any zoning district, shall require a special permit approved by the City Engineer.

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

- a. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning administrator, all maps and other pertinent information as deemed necessary for the City Engineer to review the proposed project.
- b. The Zoning Administrator shall transmit the map and accompanying information to the City Engineer for review and approval regarding the project's relationship to the Comprehensive Plan and parts thereof and/or City Code provisions.
- c. The City Engineer shall report in writing to the Zoning Administrator the findings as to the compliance of the proposed project with the Comprehensive Plan and City Code provisions.
- d. In considering applications for the placement of essential services, as regulated in this Section, the aforesaid City staff shall consider the effect of the proposed project upon the health, safety and general welfare of the City, as existing and as anticipated; and the effect of the proposed project upon the Comprehensive Plan.
- e. Upon receiving the approval of the City Engineer, the Zoning Administrator shall issue a permit for the installation and operation of the applicant's essential services. If the Engineer's report recommends the denial of said permit causing the Zoning Administrator to deny its issuance, the applicant may appeal said decision to the Board of Appeals and Adjustments under the rules and procedures as set forth in Section 1005 of this Ordinance.

Subd. 4. Conditional Use Permit Required. All transmission pipelines (i.e., pipelines not required for local distributing network), and overhead transmission and sub-station lines in excess of 33 KV shall be a conditional use in all districts subject to the following procedural requirements:

- a. Prior to the installation of any of the previous essential services, the owner of such service shall file with the Zoning Administrator, all maps and other pertinent information as deemed necessary for the City Council to review the proposed project.

- b. The Zoning Administrator shall transmit the map and accompanying information to the City Council for its review regarding the project's relationship to the Comprehensive Plan and parts thereof.
- c. The City Council shall hold the necessary public hearings as prescribed by this Section for conditional uses.
- d. In considering the applications for the placement of essential services, as regulated by this Section, the City Council shall consider the advice and recommendations of City staff and the effect of the proposed project upon the health, safety, and general welfare of the City, existing and anticipated and the effect of the proposed project upon the Comprehensive Plan.

1011.17 PUBLIC PROPERTY/ RIGHTS-OF-WAY.

Subd. 1. Coverage. The erection and/or placement of any structure or landscaping in the public right-of-way or on City property by any person, or group other than the City of Tonka Bay, Hennepin County, Metropolitan Council or the State of Minnesota, shall require the processing of a right-of-way permit in accordance with Section 1005 of this Ordinance.

Subd. 2. Identification. The erection or placement of all structures in the public right-of-way or on City property shall require the following identification:

- a. A permanent identification tag or mark shall be placed by the erector of each structure.
- b. The City shall be notified of the location and date of placement of each structure.
- c. The City shall be notified of change of ownership, structure modification, or removal.
- d. The erector shall disclose lease or joint use agreements or arrangements applicable to each utility structure.
- e. A utility company shall remove all unused poles, guy wires or other utility structures within sixty (60) days of their discontinuance of service.

Subd. 3. Liability. As a condition of approval for the erection or placement of a structure in the public right-of-way, or on City property by any party other than a governmental unit, the applicant shall be required to sign a contract with the City that holds harmless the City of Tonka Bay for any potential liability and shall demonstrate to the City proof of adequate liability insurance.

1011.18 SUBDIVISION OF TWO FAMILY LOTS. The subdivision of base lots containing two-family dwellings to permit individual private ownership of a single dwelling within such a structure is acceptable upon approval by the City Council. Approval of a subdivision request is contingent upon the following requirements:

Subd. 1. Prior to a two-family dwelling subdivision, the base lot must meet all the requirements of the zoning district.

Subd. 2. There shall be no more than one principal structure on a base lot in all residential districts. The principal structure or a unit lot created in a two-family subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.

Subd. 3. Permitted accessory uses as defined by the zoning districts are acceptable provided that they meet all the zoning requirements.

Subd. 4. A property maintenance agreement must be executed by the applicant and submitted to the City Attorney for review and approval. The agreement shall insure that the maintenance and upkeep of the structure and the lots to meet minimum City standards. The agreement must be filed with the Hennepin County Recorder's Office as a deed restriction against the title to each unit lot.

Subd. 5. Separate public utility service shall be provided to each subdivided unit and shall be subject to the review and approval of the City Engineer.

Subd. 6. Subdivision is to be platted and recorded in conformance with the requirements of Section 1030 of this Code.

1011.20 ALTERNATIVE ENERGY SYSTEMS

Subd. 1. Wind Energy Conversion Systems (WECS). WECS are not permitted in the City of Tonka Bay. The City of Tonka Bay studied the use of WECS in 2017 and although the City is supportive of alternative energy systems, the City did not find WECS to be a viable use within the City of Tonka Bay at this time.

Subd. 2. Solar Energy Systems (SES)

a. Purpose. Regulations governing solar energy systems are established to provide for appropriate locations for solar energy systems, to ensure compatibility with surrounding uses, and to promote safe and effective use of solar energy to increase opportunities for generation of renewable energy. The City of Tonka Bay finds that it is in the public interest to encourage the use and development of renewable energy systems that enhance energy conservation efforts, but result in limited adverse impacts on nearby properties. As such, the City supports the use of solar energy systems.

b. Permitted Uses and Specific Standards

1. In general. Solar energy systems shall be permitted in those zoning districts where permitted as an accessory use, subject to the standards of this article. Solar collector surfaces and all mounting devices shall comply with the minimum yard setback requirements of the zoning district in which they are located. Screening of solar collector surfaces shall not be required.

2. Building-mounted solar energy systems.
a) Zoning district standards.

- i. Residential zoning districts. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three (3) feet above the ridge level of a roof on a principal structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of a flat roof. Solar energy systems are permitted on accessory structures, only if they are flush mounted and shall be no higher than twelve (12) inches above the roof.

Solar panels on principal structures shall be mounted to align with the slope of the roof and shall not deviate more than ten (10) percent from the roof angle of a gable, hip, or gambrel roof.

- ii. Commercial and park zoning districts. Notwithstanding the height limitations of the zoning district, building mounted solar energy systems shall not extend higher than three (3) feet above the ridge level of a roof on a principal structure with a gable, hip, or gambrel roof and shall not extend higher than ten (10) feet above the surface of the roof when installed on a flat roof. Solar energy systems are permitted on accessory structures, only if they are flush mounted and shall be no higher than twelve (12) inches above the roof.

Solar panels on principal structures shall be mounted to align with the slope of the roof and shall not deviate more than ten (10) percent from the roof angle of a gable, hip, or gambrel roof.

- b) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one (1) foot from the exterior perimeter of a roof for every one (1) foot that the system extends above the roof surface on which the system is mounted to ensure ready roof access in the event of a fire or other safety related occurrence whereby roof access is needed. Solar energy systems that extend less than one (1) foot above the roof surface shall be set back from the roof edge by a minimum of one (1) foot.

- c) The collector surface and mounting devices for building-mounted solar energy systems shall not extend beyond the exterior perimeter of the building on which the system is mounted or built.

- d) Building-mounted systems, excluding building-integrated systems, shall not cover more than 80% of the roof upon which the panels are mounted to ensure ready roof access in the event of a fire or other safety occurrence whereby roof access is needed.

- e) The structure upon which the solar energy system is mounted shall have the structural integrity to carry the weight of the solar energy system. A statement verifying the structural integrity shall be submitted with the building permit application.

- 3. Freestanding solar energy systems are not permitted.

c. Design and Performance Standards. In addition to the standards required above, the following standards shall apply to all solar energy systems.

1. Feeder lines. Any lines accompanying a solar energy system, other than those attached to on-site structures by leads, shall be buried within the interior of the subject parcel, unless there are existing lines in the area which the lines accompanying a solar energy system can be attached. The Zoning Administrator may grant exemptions to this requirement in instances where shallow bedrock, water courses, or other elements of the natural landscape interfere with the ability to bury lines.
2. Maintenance. Solar energy systems shall be kept in good repair and free from damaged supports, mounts, framework, or other components.
3. Abandonment. A solar energy system that is allowed to remain in a nonfunctional or inoperative state for a period of twelve (12) consecutive months, and which is not brought in operation within the time specified by the City shall be presumed abandoned and may be declared a public nuisance subject to removal at the expense of the owner.
4. Compliance. All solar energy systems shall be designed, constructed, and operated in compliance with any applicable federal, state, and local laws, codes, standards, and ordinances, as well as adhere to the requirements of local utilities if connected to utility lines, including, but not limited to the State of Minnesota Building Code, Minnesota State Electric Code, and Minnesota State Plumbing Code.
5. Interference. Solar energy systems shall be designed to not cause electrical, radio frequency, television, and other communication signal interference.
6. Installation. Solar energy systems shall be installed only by licensed contractors.

d. Administrative Review Process

1. In general. Applications that meet the design requirements of this policy shall be granted administrative approval by the Zoning Administrator or other Authorized Agent. Plan approval does not indicate compliance with Building Code or Electric Code. All systems shall comply with the Minnesota State Building and Electric Code.
2. Submittal requirements. An application for a solar energy system shall be filed on a form provided by the City. In addition, the applicant shall submit the following:
 - a) Plan application for solar energy systems shall be accompanied by scaled horizontal and vertical (elevation) drawings. The drawings must show the location of the system on the building including the property lines.
 - i. For all building-mounted systems other than a flat roof the elevation drawings shall show the highest finished slope of

the solar collector and the slope of the finished roof surface on which it is mounted.

- ii. For flat-building-building systems a drawing shall be submitted showing the distance to the roof edge and any parapets on the building and shall identify the height of the building and the highest finished height of the solar collector above the finished surface of the roof.
 - b) Written evidence that the electric utility service provider that serves the proposed site has been informed of the applicant's intent to install a solar energy system, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.
 - c) Written evidence that the electric solar energy system components have a UL listing.
- e. Solar access. Solar access easements may be filed consistent with Minn. Statute Section 500.30 as may be amended from time to time. Any property owner may purchase an easement across nearby properties to protect access to sunlight. The easement is purchased or granted by owners of nearby properties and can apply to buildings, trees, or other structures that would diminish solar access.

Accessory Uses (Residential District)

Subject to the provisions of 1011.21, the following accessory uses are permitted in the R-1A District:

- a. Solar energy systems, subject to the provisions of 1011.21 (Solar Energy Systems).

Accessory Uses (Residential District)

Subject to the provisions of 1011.21, the following accessory uses are permitted in the R-1B District:

- a. Solar energy systems, subject to the provisions of 1011.21 (Solar Energy Systems).

Accessory Uses (Residential District)

Subject to the provisions of 1011.21, the following accessory uses are permitted in the R-2A District:

- a. Solar energy systems, subject to the provisions of 1011.21 (Solar Energy Systems).

Accessory Uses (Residential District)

Subject to the provisions of 1011.21, the following accessory uses are permitted in the R-3 District:

- a. Solar energy systems, subject to the provisions of 1011.21 (Solar Energy Systems).

Accessory Uses (Commercial District)

Subject to the provisions of 1011.21, the following accessory uses are permitted in the C-1 District:

a. Solar energy systems, subject to the provisions of 1011.21 (Solar Energy Systems).

Accessory Uses (Commercial District)

Subject to the provisions of 1011.21, the following accessory uses are permitted in the C-2 District:

a. Solar energy systems, subject to the provisions of 1011.21 (Solar Energy Systems).

Accessory Uses (Park District)

Subject to the provisions of 1011.21, the following accessory uses are permitted in the P District:

a. Solar energy systems, subject to the provisions of 1011.21 (Solar Energy Systems). (Amended 2/2/17)