APPLE VALLEY

FOOD SYSTEMS POLICY ANALYSIS
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EXECUTIVE SUMMARY

Diets high in vegetables, fruits, whole grains, and lean proteins help maintain a healthy weight and avoid chronic diseases related to poor diet such as diabetes, cancer, and heart disease. But for many people, eating a healthier diet is not as simple as choosing to eat healthier foods. Some neighborhoods do not have grocery stores that sell healthy foods and sometimes healthy foods are too expensive for people to buy. Some neighborhoods have access to community gardens and farmers’ markets, while others do not. To eat healthier diets, people need better access to healthy, affordable food.

As local communities seek to increase their access to healthy foods, they are finding that many aspects of the local food environment are impacted by a wide range of municipal (city and county) and state laws. For example, state laws create food safety requirements for restaurants and local laws can create zoning restrictions governing where a restaurant or community garden can operate. Understanding how municipal and state laws impact access to healthy food is critical for those seeking to increase access to healthy food.

This policy brief analyzes local ordinances in Apple Valley, current as of July 2015, that may directly or indirectly impact access to healthy food in Apple Valley. While this policy brief focuses primarily on Apple Valley’s municipal regulations impacting the local food system, it also flags areas where state law may impact relevant activity at the local level. This analysis can be read in whole or in part. Citations are included at the end of this document for further reference.

The analysis divides the material into the following sections:

- growing,
- processing,
- distributing,
- getting,
- making, and
- disposing of food
These sections follow the structure of the food system identified by the Minnesota Food Charter to create consistency and continuity between this local food system analysis and the statewide food system analysis developed in Minnesota’s Food Charter.¹

Each section is divided into subsections focused on key areas of interest. Within each subsection, relevant state law and municipal regulations are identified and discussed.

This policy memo addresses the following questions regarding the impact of the municipal code in each section and subsection:

- Does the municipal code require a license or permit?
- What are the relevant regulations?

This memo also includes the specific regulatory language (see italics for cue when either a municipal code provision or state law is directly quoted) in Appendix F.

Lastly, when appropriate, this policy memo identifies potential resources and links to additional information, especially when state law may have an impact on the issue discussed.

When assessing opportunities and barriers impacting access to healthy food in different municipalities, it is important to recognize that there is not a “one size fits all” approach to municipal regulations impacting access to food. The ordinances governing activities in a municipality reflect different historical, political, environmental, and economic realities. Municipalities that are more rural in nature with more land and a stronger farming background will often have different priorities and needs reflected in their municipal ordinances than municipalities with greater population densities and more industrial or business enterprises. Those seeking to increase access to healthy food through local ordinances must recognize the different characteristics in a particular municipality and be sensitive to the larger municipal structure and priorities when identifying priorities and setting a policy agenda.

¹ A copy of the Minnesota Food Charter is available online at http://mnfoodcharter.com/wp-content/uploads/2014/10/MNFoodCharterSNGLFINAL.pdf. Please see page 17 of the charter for a graphic of the food system.
Project Background

In April 2015, using funding from the Minnesota Department of Health’s Statewide Health Improvement Program provided by the Dakota County Public Health Department, the Open Door contracted with the Public Health Law Center (Center) to analyze how the municipal codes impact the local food system to support the Open Door’s efforts to increase access to healthy food for its clients and Dakota County communities. This project analyzes the impact the municipal codes in the following municipalities have on access to healthy food:

- Apple Valley,
- Burnsville,
- Dakota County,
- Eagan,
- Farmington,
- Hastings,
- Inver Grove Heights,
- Lakeville,
- Mendota Heights,
- Rosemount,
- South St. Paul, and
- West St. Paul.

The Center developed individual memos for each of these municipalities. In addition, the Center developed a Summary Guide providing an overview of key findings from the project’s research for the city ordinances in Dakota County reviewed. The Summary Guide walks through 15 different issues and compares how each of the municipalities researched for this project governs a particular issue.

For some topics, such as on-site composting, the State of Minnesota has also established state-wide regulations governing the activity or practice. For the most part, Minnesota statutes and regulations do not regulate personal activities related to urban agriculture within municipal boundaries, especially if the activities are on private land, however, there are several activities that have received state attention, including:

- Structures and buildings
- On-site composting
- Beekeeping
- The sale of personally grown produce
- Food safety
- Food retail (particularly the sale or processing of food)
- Farmers’ markets

A discussion of state law is beyond the scope of this project. However, the following resources provide an overview of the key state laws impacting access to food that may overlap with the issues discussed in this memo:
In addition, information about some recent changes to Minnesota state law not included in these resources has been provided in Appendix G, below.

**Gaps, Barriers and Opportunities**

During the course of this project, researchers reviewed local ordinances to identify general themes, including gaps, barriers, and opportunities, that impact the ability of the local community to access healthy food. The following discussion provides an overview of some of the key gaps, barriers, and opportunities identified in the municipal ordinances reviewed that impact access to healthy food. The discussion of gaps, barriers, and opportunities is broken down into general municipal ordinance issues impacting access to healthy food and the different components of the food system identified in the Minnesota Food Charter, including growing, process, getting, making, and disposing of food.

**General Municipal Ordinance Issues**

Many municipalities include a general restriction within the zoning code indicating that if a particular use or activity is not specifically allowed, then that use or activity is prohibited. This type of general restriction can inadvertently restrict or prohibit different activities increasing access to healthy food. For example, if a municipality has this general restriction in its code, all activities promoting access to healthy food, such as community gardens, farmers’ markets, and keeping bees and chickens, must be specifically recognized as permitted or allowed to be a lawful activity. The review of Dakota County municipal ordinances included in this project found that many municipal codes that include this general restriction failed to specifically permit a wide range of activities throughout the code that serve to increase access to healthy food. Municipalities may want to assess the extent to which the general restriction against any activity that is not specifically permitted may impact activities promoting access to healthy food.

In addition, many municipal ordinances restrict a property from developing an accessory use or activity on a property before a principle use or structure is established. This type of restriction can impact the establishment of community gardens on vacant lots, especially if gardening activities are only recognized as an accessory use of property.

Finally, local ordinances that specifically define and approve certain activities that increase access to healthy food can serve to promote these activities and create a more supportive environment. For example, municipal ordinances can provide a definition of a certain activity or
structure to provide direction to community members, such as defining the terms restaurant, community garden, or farm animal. While many of the municipal ordinances reviewed included a broad range of definitions for different activities or structures impacting growing and getting food, a number of local ordinances reviewed never used the defined term. Providing a definition is a start, but the defined term then should be followed with regulation for that use. The regulation may be to allow the use, such as gardening, in all zones, or the regulation may be to require fencing for community gardens. Having a term defined and used within the code not only helps residents, businesses, and would be entrepreneurs understand the local requirements but also proactively establishes parameters for addressing needs for healthy food within a community.

**Growing Food**

**Gardening**

Allowing backyard and community gardens as permitted uses within, at a minimum, all agricultural and residential zones has the effect of promoting these uses by identifying them. Additionally, by specifically identifying and approving community gardens, the general restriction found in many cities for unidentified uses is removed. Including vegetable gardens and production in the definitions of backyard and community gardens as well as urban agriculture, landscaping, agriculture, agricultural pursuits, and farming can clarify ambiguities within existing regulations. Finally, establishing community garden regulations can provide support to these activities while also ensuring these activities are appropriately used throughout a city.

For example, by recognizing community gardens as a principle use, municipalities can recognize community gardens as a proper use of vacant lots. In addition, cities may want to assess allowing the sale of products on the garden site where the produce is grown. These types of regulations can allow neighborhoods to establish gardens that not only increase access to healthy food but also promote livable neighborhoods within a city.

**Farming**

Different municipalities take a wide range of approaches to the definition and regulation of farming within the city. At the same time, the term “farm” is also used in some municipal ordinances out of context, without a specific or clear definition in the ordinance. Municipalities may want to assess their approach to governing farms in the city limits and make sure that the definition of farm is consistent with other municipal ordinances.

**Keeping Animals**

By identifying allowable animals, such as bees and chickens, and developing appropriate restrictions, municipalities can enable residents to increase their access to foods like eggs and honey. Some municipal codes restrict the total number of permits allowed for chickens or beekeeping. In addition, some codes include limits on the duration of the permit and the
opportunity to renew existing permits. These types of regulations can discourage community members from pursuing these activities even when the municipal code allows the activity in certain areas. Chicken owners who cannot be assured of maintaining their permit from year to year may have less incentive to invest in coops that provide livable, healthy chicken environments, which also reduce nuisance issues that are a concern to neighboring residents.

Additionally, many cities do not address beekeeping. Home beekeeping can enhance vegetable and flower garden pollination, give residents access to local honey, and help develop an economic stream through individual sales to other community members.

**Arbors, Trellises, Pergolas, Planting Boxes, and Raised Beds**

Most municipalities did not include definitions for these types of gardening structures. These structures are generally too small to warrant any specific regulation or permit requirements. However, municipalities should ensure that any general restriction ordinances that prohibit any structures not specifically permitted do not inadvertently prohibit the use of these gardening structures.

**Greenhouses and Hoop Houses**

Greenhouses and hoop houses generally were either not addressed or addressed only as a commercial use. Small-scale hoop houses and greenhouses increase the growing season for individual or community gardeners and positively increase the amount of healthy food that a garden is able to produce. Municipalities that do not include specific regulations or direction about the use of commercial or private hoop houses or greenhouses may want to assess the interest in these gardening structures in their community and how local regulations can support these types of structures and the gardening activities they allow.

**Processing Food**

Food processing facilities can provide an important resource for local food producers to extend their market and provide new business enterprises and employment to local communities. No city in this research specifically identified food processing facilities within its code. While licensing of these types of facilities is generally done by the state, local zoning regulations can identify where these types of facilities may be located within a city. In addition, economic development policies can promote these types of facilities on a small as well as large scale.

**Getting Food**

**Seasonal Produce/Farm Stands**

Many cities did not define seasonal produce stands even though seasonal produce or farm stands are explicitly allowed or restricted in the code. In addition, licensing requirements for mobile food vendors can also impact the sale of seasonal produce. Some municipal codes reviewed limited the total number of licenses for mobile vendors without indicating if these limitations
applied to seasonal produce stands that may operate out of a vehicle. Municipalities may want to assess how their local code defines and regulates both seasonal produce stands and mobile food vendors. Some code regulations may create unintended barriers that inhibit the ability of local producers to sell their produce or negatively impact the ability of mobile food vendors from selling fresh produce and other healthy food items.

Farmers’ Markets

Farmers’ markets were addressed at least minimally by some cities. However, many municipal ordinances did not reflect the growing interest and success of farmers’ markets as a key healthy food source for local communities and the different ways that farmers’ markets are partnering with community organizations, such as churches, to increase access to fresh produce. For example, municipal ordinances that restrict the sale of goods on required off-street parking can create barriers to organizations or businesses that would like to host a farmers’ market, such as churches. Organizations or businesses hosting farmers’ markets in their parking lots do not need the parking spaces during the hours of the farmers’ market operations. Accordingly, restrictions against the use of these required parking spaces for the sale of goods from a farmers’ market is unnecessary. Municipalities may want to assess how their municipal code can support the expansion of farmers’ markets in different zones and on different types of properties.

Restaurants

The municipal codes reviewed for this project take widely different approaches to how restaurants are regulated. The definitions used by different municipalities for restaurants range from very general definitions covering all restaurants to extremely specific definitions identifying different types of restaurants. Specific restaurant definitions identified by this research include: drive-in, fast food, delivery or take-out, full-service, traditional, and cafeteria, amongst others. Many municipalities then use their zoning codes to determine where different types of restaurants can be located to schools, churches, or other community features within different zones.

Municipalities may want to assess how they define different types of restaurants and where a specific type of restaurant can operate. Creating regulations that encourage restaurants with healthier menus in areas community members frequent can greatly enhance the access community members have to healthier food and reduce access to unhealthy food.

Mobile Food Vendors

Mobile food vendors have been addressed to varying degrees within the cities assessed. Some cities identified specific zones where mobile food vendors can operate and also limit the number of licenses and times of operation for these vendors. While mobile food vendors are generally licensed by the state, cities that have not addressed mobile food vendors may want to assess how their local code can encourage mobile food vendors focused on healthy food options. For example, some social service agencies are exploring how to increase access to healthy food for low-income residents through mobile food shelves and mobile grocery stores. Municipal
ordinances that restrict sales or giveaways from vehicles parked on city streets or require off-street parking for food vendors can create obstacles to the ability of social service agencies to provide access to healthy food for low-income residents.

**Transient Merchants**

All municipal codes reviewed included some regulation of transient merchants. However, many municipalities did not specifically indicate how or if the regulations governing transient merchants impacted vendors or merchants selling fresh farm products or other healthy food items. At the same time, some municipal ordinances specifically applied the regulations governing transient merchants to those selling fresh farm products and other healthy food items. Municipalities may want to assess how regulations governing transient merchants impact seasonal produce vendors and determine if any changes need to be made to ensure that regulations governing transient merchants do not inadvertently burden vendors selling fresh farm produce or other healthy food items.

**Grocery Stores**

The municipal codes reviewed for this project take widely different approaches to how grocery stores are regulated. Many municipalities do not define grocery store, even though the municipal code may specify the zones in which a grocery store can operate. In addition, the municipal codes reviewed vary greatly in regards to where grocery stores could operate. Some municipal codes include very strict limitations on where a grocery store can operate. These types of restrictions can inhibit the ability of local neighborhoods to have access to healthy food retail options if grocery stores are only allowed in zones far from residential areas.

Municipalities may want to consider how they define and regulate grocery stores and other food retail, and create criteria for grocery stores and other food retail that emphasizes healthy food as part of the food retail operations. In addition, municipalities may want to assess any limitations on where grocery stores can operate to ensure that residential neighborhoods, including those with higher numbers of low-income housing, and other areas where community members frequent, such as business districts, have access to grocery stores and healthy food retail.

**Making Food**

While no city in this policy analysis addressed commercial kitchens, commercial kitchen space is needed for many types of food production. One way that cities may address this is by making for-rent commercial space available within community centers, allowing this type of use in community buildings and on public property, or even by identifying the zones where commercial kitchen incubators businesses are allowed.

**Disposing Food**

Overall, composting for food waste was not adequately addressed by most cities. When composting was addressed, it was typically only for yard waste. At the same time, many
municipalities only recognized food waste as garbage or refuse. Establishing regulations for how compost is defined and recognizing food waste as part of the definition of compost can improve the ability of residential, institutional, and commercial properties to reduce this type of waste from the municipal waste stream while also providing an important resource to gardeners and urban agriculture initiatives.

Research Process

The Public Health Law Center identified a list of relevant “search terms” in consultation with The Open Door and Dakota County Public Health that describe activities or structures likely to impact the growing, processing, and selling of food. (A list of those terms are included in Appendix A.) Researchers used the online edition of Apple Valley’s municipal code, available publicly at: http://www.amlegal.com/?s=apple+valley.

Each search term was entered into a “search” setting within the online municipal code for any potential matches. If a relevant match was found, the regulatory municipal code language is included. For some search results, the findings were deemed irrelevant. Researchers reviewed all search results and identified those relevant to the scope of this project.

Use of Definitions

The growing, processing, and selling of food encompasses a wide range of farming, agricultural, and business practices that may occur within a municipality. This brief presents the applicable definitions established by the City of Apple Valley at the beginning of each section. For example, at the beginning of the Restaurants sub-section, the definitions for “Restaurant” and “Fast Food” are included at the very top of the section. The use of definitions ensures the reader understands how the municipality describes certain activities and structures.

For example, the City of Apple Valley differentiates between fast food restaurants and general restaurants as follows:

★ Restaurant. (1) CLASS I.
   (a) CAFETERIA. A traditional restaurant, as defined below, except that food is selected by a customer while going through a serving line and taken to a table for consumption.
   (b) CASUAL RESTAURANT. An eating facility where some table service may be provided by waitstaff, food is prepared after an order is placed by a customer, reusable dinnerware such as utensils, plates and cups are used. Bussing of the tables is done by restaurant staff. No drive-thru service is provided.
   (c) TRADITIONAL RESTAURANT. An eating facility where full table service is provided at the table whereupon a customer orders food from printed menus and the main food course is served and consumed while seated at a single location. The restaurants also have dining areas with formal or semi-formal decor and appointments
utilizing traditional or reusable food utensils, plates, cups and glasses. This may provide
additional incidental services such as food delivery and retail over-the-counter prepared
food sales. In addition, the CLASS I RESTAURANT shall not be prohibited by law,
private restrictive covenant, or otherwise from obtaining a full liquor license.

(2) CLASS II.
(a) CARRY-OUT AND DELIVERY RESTAURANT. Food is prepared for
consumption off the premises only.
(b) FAST-FOOD RESTAURANT. An eating facility where a majority of the
customers order food and are served at a counter and then take their food to a table,
counter, outdoor seating area or off the premises for consumption. The food is either
pre-prepared or quickly prepared and served with non-reusable food packaging and
non-reusable utensils, plates and cups. Customers typically bus their own tables and
45% more of the floor area is devoted to food preparation. Any eating facility with drive-
thru service shall be deemed a fast food restaurant.

(3) CLASS III.
(a) NEIGHBORHOOD RESTAURANT. An eating facility, including bagel shop,
sandwich shop, coffee house, lunch counter, delicatessen, ice cream shop, where all of
the following exist:
1. Restaurant does not exceed 2,500 square feet in size; and
2. Hours of operation shall be limited to 6:00 a.m. to 11:00 p.m. daily.
(b) The restaurant does not serve foods that require the installation of a Type I
ventilation hood, grease and smoke removing, as defined in the Uniform Mechanical
Code.¹

★ Fast food. An eating facility where a majority of the customers order food and are
served at a counter and then take their food to a table, counter, outdoor seating area or
off the premises for consumption. The food is either pre-prepared or quickly prepared
and served with non-reusable food packaging and non-reusable utensils, plates and
cups. Customers typically bus their own tables and 45% more of the floor area is
devoted to food preparation. Any eating facility with drive-thru service shall be deemed
a fast food restaurant.²

It is important to note that many of the definitions established by the City of Apple Valley are
often narrower than how those terms may be understood by the general public or used outside of
a legal context. Additionally, the City has not defined all terms, even those used throughout the
municipal code. In that instance, the failure to define a term is highlighted in each section. One
unintended consequence of a municipality choosing not to “define” a certain term is that the
activity or structure may be captured in an unrelated or overly broad set of regulatory provisions.
For example, while food is sold at grocery stores, farmers markets, and restaurants, there could
be consequences for treating the sale of food at all three of these entities in the same way. At the
same time, a municipality may choose not to specifically define a certain term to allow for
greater flexibility in municipal governance. The decision to specifically define or regulate a
certain area of the food system is dependent on the specific needs and community characteristics
of an individual municipality.
Appendices

This policy brief has several appendices attached to the end of the document. The appendices provide additional context to a variety of topics, including:

- Appendix A: Search terms
- Appendix B: Regulations governing accessory buildings, structures, and uses
- Appendix C: Regulations governing the exterior of structures and buildings
- Appendix D: Landscape plan requirements
- Appendix E: General provisions governing zoning
- Appendix G: State Exemptions from State Food Handlers Licensing Requirements
GENERAL INFORMATION

Before analyzing specific activities or structures, this memo briefly discusses some general information providing context regarding and impacting access to healthy food in Apple Valley, including:

- The Minnesota Food Charter
- State Laws Impacting the Food System
- State and Local Agency Oversight
- Policy Levers Used by Local Governments

The Minnesota Food Charter

The Minnesota Food Charter is described as:

“[A] roadmap designed to guide policymakers and community leaders in providing Minnesotans with equal access to affordable, safe, and healthy food regardless of where they live.

The strategies for policy and systems change described in the Food Charter are designed to reduce the risk and cost of obesity and diet-related diseases, like diabetes and heart disease; conserve state resources; and boost economic prosperity.

The Food Charter is intended to guide planning, decision-making, and collaboration for agencies, organizations, policy-makers, and public and private entities across the state.”

The Minnesota Food Charter provides strategies for policy, systems, and environmental change to increase access to healthy food. The information included in the Minnesota Food Charter further informs the Center’s analysis of Apple Valley’s regulation of different components of the food system. The Public Health Law Center used the Minnesota Food Charter to structure the analysis of Apple Valley’s municipal code. The Food Charter breaks the food system into seven parts: (1) grow, (2) process, (3) distribute, (4) get, (5) make, (6) eat, and (7) dispose. The Center uses the broad categories of growing, processing, distributing, getting, making, and disposing to frame each section of this brief.†

† This analysis does not include the category of “eating” as local governments do not regulate this area as directly as the other areas identified.
For more information:

The Minnesota Food Charter is available online at [http://mnfoodcharter.com/](http://mnfoodcharter.com/).

**State Laws Impacting the Food System**

A number of Minnesota laws impact the food system and authority municipal governments have to regulate a certain area. Areas impacted by state law include, but are not limited to:

- Buildings and plumbing requirements,
- Sale of personally grown, unprocessed agricultural products,
- Licensing of food establishments,
- Food safety standards,
- Sale of products prepared in unlicensed kitchens, and
- Food sampling at farmers’ markets and other community events.

A discussion of state laws impacting the food system is beyond the scope of this project. Additional information on state laws impacting the local and regional food system can be obtained at:

- Starting a Food Business in Minnesota (2008), MINNESOTA DEPARTMENT OF AGRICULTURE, [http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx](http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx).

In addition, information about some recent changes to Minnesota state law not included in these resources has been provided in Appendix G, below.
State and Local Agency Oversight of Food System

Minnesota state and local government entities have varying degrees of authority to establish laws that directly or indirectly impact the local food system. Understanding the authority state and local governments have to regulate different aspects of the food system is important in order to identify opportunities to increase access to healthy food in local communities and around the state.

Minnesota State Agency Oversight of Food System

Minnesota law gives authority to regulate different components of the food system to a range of Minnesota state agencies. The most well-known include the Minnesota Departments of Health (MDH) and Agriculture (MDA). Specifically, these agencies have the power to create, implement, and enforce rules governing food safety through authority granted by the Minnesota legislature. The following table provides a brief overview of the different roles MDA and MDH have in regulating the food system.

<table>
<thead>
<tr>
<th>AGENCY</th>
<th>SOURCE OF FOOD</th>
<th>REGULATORY AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>MDH</td>
<td>Cafes&lt;br&gt;Restaurants&lt;br&gt;Bars&lt;br&gt;Hotels &amp; motels&lt;br&gt;Cafeterias</td>
<td>Licenses and inspects food establishments&lt;sup&gt;10&lt;/sup&gt;&lt;br&gt;Enforces Minnesota Food Code&lt;sup&gt;11&lt;/sup&gt;&lt;br&gt;Provides food safety and food handling education and training&lt;sup&gt;12&lt;/sup&gt;&lt;br&gt;Investigates outbreaks&lt;sup&gt;13&lt;/sup&gt;&lt;br&gt;Tracks and monitors foodborne illness&lt;sup&gt;14&lt;/sup&gt;&lt;br&gt;Operates the Minnesota Foodborne Illness Hotline&lt;sup&gt;15&lt;/sup&gt;&lt;br&gt;Releases reports and summaries of foodborne illness outbreaks in Minnesota&lt;sup&gt;16&lt;/sup&gt;&lt;br&gt;Coordinates response to foodborne illness outbreak with other state and local government agencies</td>
</tr>
<tr>
<td>MDA</td>
<td>Grocery stores&lt;br&gt;Bakeries&lt;br&gt;Egg handlers&lt;br&gt;Dairy farms&lt;br&gt;Delis&lt;br&gt;Food manufacturers&lt;br&gt;Wholesale food dealers&lt;br&gt;Meat &amp; poultry processors</td>
<td>Licenses and inspects certain food retailers, dairies, and meat processors&lt;br&gt;Licenses and inspects food manufacturers, wholesalers, and retailers&lt;sup&gt;17&lt;/sup&gt;&lt;br&gt;Enforces Minnesota Food Laws and the Minnesota Food Code&lt;sup&gt;18&lt;/sup&gt;&lt;br&gt;Enforces state standards relating to food quality, labeling, and advertising&lt;sup&gt;19&lt;/sup&gt;&lt;br&gt;Investigates complaints regarding questionable food products or food sales practices&lt;sup&gt;20&lt;/sup&gt;&lt;br&gt;Cooperates in foodborne illness outbreak investigation when involving MDA-regulated facilities or food that is commercially distributed in Minnesota&lt;br&gt;Tests food products and environmental samples for the presence of pathogens or deleterious substances</td>
</tr>
</tbody>
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Please note, there are a number of areas in which MDA is involved when responding to foodborne illness beyond those mentioned in this resource. Please see [http://www.mda.state.mn.us/](http://www.mda.state.mn.us/) for more information about the agency’s specific role.
Municipal Government Oversight of Food System

In Minnesota, there are several mechanisms through which a municipal government may be able to regulate the food system. For example, MDA and MDH have delegated some of their authority to regulate different aspects of the food system to specific municipalities, including the authority to license food establishments and oversee food safety requirements (this authority is referred to as “delegated authority,” because the Minnesota Department of Agricultures or Minnesota Department of Health must delegate powers to the specific municipality). Municipal governments also have the authority to establish zoning and permitting requirements through their municipal codes to impact different aspects of the food system.

At this time, the City of Apple Valley does not have delegated authority to regulate food safety practices within food establishments, retail establishments, or food facilities. As a result, this memorandum focuses on how Apple Valley regulates the food system through its municipal code.

Local Government Ordinances Regulating the Food System

Minnesota state law recognizes that local governments have the power to enact ordinances and other regulatory tools. An ordinance is generally defined as “a local law of a municipal corporation, duly enacted by the proper authorities, prescribing general, uniform, and permanent rules of conduct relating to the corporate affairs of the municipality.”

For many local municipalities, local ordinances can be an effective way to increase access to healthy, affordable food. Local governments can change zoning laws to make it easier to create new grocery stores, farmers’ markets, and community gardens. New regulations and incentives can help existing stores increase the number and variety of healthy products they sell. Local governments can also create food policy councils to give residents a voice in how best to improve access to healthy food.

Understanding the different types of legal tools used by local governments to regulate the food system is important. These tools, also called “official controls,” can be used to increase access to healthy food. Minnesota state law gives local governments a broad range of powers over different aspects of the local food environment. For example, the primary policy levers used by local governments impacting access to healthy food, discussed below, include:

- Licenses,
- Permits,
- Land use planning and zoning,
- Variances and conditional use permits, and
- Regulation of structures.

Minnesota state law explicitly gives local governments the power to regulate many activities impacting healthy food through ordinance. For those cities governed by a home rule charter, the cities can exercise any powers in their locally adopted charters as long as these powers do not
conflict with state laws. Minnesota state law gives statutory cities explicit authority to regulate a wide range of areas, including:

- Streets;
- Sidewalks;
- Public grounds;
- Buildings;
- Parks;
- Markets;
- Waterworks;
- Tourist camps;
- Transient commerce;
- Health;
- Haulers;
- Amusements, and
- Restaurants

While Minnesota state law identifies specific areas over which statutory cities have authority, this language is also non-exhaustive. Minnesota state law gives statutory cities additional power to promote “health, safety, order, convenience, and the general welfare.” This language acts almost as a catch-all, being very broad and allowing statutory cities to regulate further activities when reasonably classified within this general welfare provision.

**Licenses**

Generally, licensing is used as a regulatory mechanism through which “local governments promote the public welfare and protect public health, safety and welfare…”

Local governments can utilize licensing strategies to increase access to healthy food and limit access to unhealthy food. They may license certain types of food businesses while not requiring licenses for others. For example, local governments may require licenses for mobile food vendors but not for restaurants generally. Additionally, licensing schemes may limit where certain fast food businesses are allowed to operate, create or remove licensing requirements for certain food businesses, and/or create incentive or ratings programs for food businesses.

Alternatively, local governments may be using licensing (or other regulations) to reduce access to healthy foods such as by prohibiting the use of required parking lots for sale of products.

Apple Valley does not require general business licensing or registration for all businesses. However, Apple Valley has established business licensing requirements for vending carts and refuse haulers.

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‡ Generally, a “home rule charter” serves as the constitution of a local city choosing to use the home rule charter as its governing law rather than Minnesota state law governing statutory cities. Of the municipalities reviewed for this project, the following cities are governed by a home rule charter: Hastings, South St. Paul, and West St. Paul.

§ Under Minnesota law, a “statutory city” is any city which has not adopted a home rule charter pursuant to the Constitution and the Minnesota laws, including includes every city which was a village on January 1, 1974. Of the municipalities reviewed for this project, the following cities are statutory cities: Apple Valley, Burnsville, Eagan, Farmington, Inver Grove Heights, Lakeville, Mendota Heights, and Rosemount.
Permits

Permits are another policy tool used by local governments to regulate the food system and specifically certain types of food enterprises. Generally speaking, a permit is “a written license or warrant, issued by a governing body, to empower the permit holder the authority to take a specified action.” Similar to a license, local governments can tailor permitting provisions to support access to healthy food. Permits often used by local governments include:

1. building permits allowing for some sort of construction or structural repair,
2. zoning permits that allow for certain activities, such as farmers’ markets, to take place in a certain designated zone, and
3. special permits that can allow for residents to keep certain animals.

Apple Valley uses permits to govern a wide range of activities as found on their website at: http://www.ci.apple-valley.mn.us/index.aspx?NID=196.

Land Use Planning & Zoning

Land use planning and zoning are fundamental tools local governments use to guide and control the use of land and manage growth in the municipality. Local governments use different policy mechanisms to establish and implement plans for land use in the community, including comprehensive plans, land use agreements, and zoning regulations. Land use planning policies allow a local government to identify and develop goals and strategies for how the land within its jurisdiction is developed and used. The Planning and Zoning Chapter of Minnesota Statutes authorizes municipalities to conduct planning and zoning activities to guide improvements to the community and future development. This includes the authority to prepare, adopt and amend a comprehensive municipal plan as well as the official controls to implement that plan. Apple Valley has the authority to conduct planning and enact zoning ordinances.

Cities may adopt restrictive language which limits uses within specific zones to specifically defined uses included in the municipal ordinance. In addition, some municipalities may include a “catch-all” restriction against any uses not specifically allowed. Apple Valley’s code states:

“Whenver in any district a use is neither specifically permitted or denied, a property owner may request a study by the city to determine whether the particular use is compatible with the zoning district in which it is proposed to be located.”

Comprehensive Planning

In Minnesota, the Municipal Planning Act (“MPA”) of 1965 is the basis of the authority requiring municipalities in the metropolitan area to complete comprehensive planning. This Act reflects the Minnesota Legislature’s desire that cities use comprehensive planning for a three-fold purpose:
1. to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities,
2. to preserve agricultural and other open lands, and
3. to promote the **public health**, safety, and general welfare.\(^{34}\) (emphasis added)

The cities, townships, and counties that make up the 7-county metro-area are so interdependent, that the legislature determined that these local jurisdictions would be required to complete comprehensive planning and to coordinate those plans to “protect the health, safety, and welfare of residents” and also to ensure “orderly, and economic development.”\(^{35}\) Townships in Dakota County may choose to prepare comprehensive plans for their jurisdictions or delegate their planning authority to the county by agreement.\(^{36}\)

In the metropolitan development region, state law has placed most of the seven-county “metropolitan area”\(^{37}\) under the jurisdiction of the Metropolitan Council, a “public corporation and political subdivision of the state.”\(^{38}\) State law establishes several means for the Metropolitan Council to guide urban growth and development, and includes local-level procedures and requirements for land use planning.\(^{39}\)

The Metropolitan Land Planning Act requires every local government – counties, cities, and towns\(^{40}\) – in the “metropolitan area” to develop a comprehensive plan, and to systematically review it every ten years.\(^{41}\) This “decennial review” is a multilayered process, and begins several years before the actual deadline; the next review is due in 2018. Apple Valley is required to review its comprehensive plan under this law.

Comprehensive plans provide a vision and direction for future growth and development for a municipality. These plans guide the development of municipal “official controls” regulating activity and land use within the municipal boundaries and regionally. A review of Apple Valley’s comprehensive plan is outside the scope of this project. However, any effort to increase access to healthy food in Apple Valley and Dakota County should consider the impact of the current comprehensive plan review that will be completed in 2018. Coordinating comprehensive plan assessment and revisions with identified needs and opportunities to increase access to healthy food throughout Apple Valley’s municipal code is essential to ensure the comprehensive plan reflects the broader needs of the community to have access to healthy, affordable food. Apple Valley’s current comprehensive plan that is under review is available on the city’s website at: [http://www.ci.apple-valley.mn.us/index.aspx?nid=191](http://www.ci.apple-valley.mn.us/index.aspx?nid=191).

**Zoning**

Zoning is a tool through which cities can implement their comprehensive plans. Zoning allows cities to divide their boundaries into zoning districts, each of which have certain restrictions and/or characteristics. For more information on zoning, please see the League of Minnesota Cities informational memo Zoning Guide for Cities, available at: [http://www.lmc.org/media/document/1/zoning_guide.pdf?inline=true](http://www.lmc.org/media/document/1/zoning_guide.pdf?inline=true).\(^{42}\)

Apple Valley has established the following zoning districts:\(^{43}\)
### Variances and Conditional Use Permits

Local governments that have enacted zoning ordinances also use variances and conditional use permits as mechanisms for property owners to request deviations from land use policies. Under Minnesota statute, a variance can be used when the use would be a departure from the standard created by ordinance.\(^{44}\) In contrast, a conditional use permit can be requested for a use that is only permitted in a zone with certain conditional requirements on a case-by-case basis.\(^{45}\) Apple Valley provides additional clarification about variances and conditional use permits as follows.
Municipal Definitions

★ Variance. An exception granted by the City Council from the literal provisions of this chapter where unique conditions exist which do not apply to the area in general.46

★ Interim Use. A temporary use of property until a particular date, until the occurrence of a particular event or until zoning regulations no longer permit it.47

★ Conditional use permit. A permit specially and individually granted by the City Council after review thereof by the Planning Commission for any conditional use so permitted in any use district.48

Additional information: Variances

See League of Minnesota Cities information memo Zoning Guide for Cities for more information on variances.

See also League of Minnesota Cities information memo Land Use Variances.
http://www.lmc.org/media/document/1/landusevariances.pdf?inline=true

Additional information: Conditional Use Permits

See League of Minnesota Cities information memo, Land Use Conditional Use Permits.
http://www.lmc.org/media/document/1/conditionalusepermits.pdf?inline=true

Regulating Structures

A wide range of built structures are used throughout the food system, including both permanent and temporary structures, responding to the needs of a range of individuals and businesses involved in growing, processing, selling, and disposing food. These structures include, but are not limited to, sheds, hoop houses, greenhouses, fences, processing facilities, farm stands, composting facilities, and others. In Minnesota, structures are regulated by a range of Minnesota state laws and municipal codes, with Minnesota’s state laws creating minimum requirements for structures to protect healthy, safety and welfare. Municipal ordinances often address structural issues that the state building code did not address but are important to the municipality. State law and municipal codes often work together to create a comprehensive legal framework to govern different types of structures used throughout the food system.

For example, the State Building Code sets requirements for temporary and permanent structures to “establish reasonable safeguards for health, safety, welfare, comfort, and security.”49 Permanent and temporary structures are required to meet minimum structural requirements, and permanent structures must meet additional requirements including snow load requirements.50 At the same time, agricultural buildings on agricultural lands are exempted from certain provisions of the state building code.51 The Minnesota Building Code also exempts certain small-sized, one-
story accessory structures from permit requirements prior to being constructed, altered, or repaired.\textsuperscript{52}

While some structures are exempt from the state building code, in many circumstances municipalities retain the authority to apply more restrictive requirements in their municipal code.\textsuperscript{53} For example, a municipality may require a zoning permit for certain structures even if the structure is exempt from obtaining a building permit under the state building code.\textsuperscript{54} Local governments in Minnesota often adopt the state building code’s minimum requirements and also regulate structures that are not covered under the state building and plumbing codes, such as structures below the size threshold covered by the state building code. In addition, many local governments have set standards for structures within their boundaries on different types of properties. To illustrate, many cities establish standards for all structures considered “accessory” or that are on a property in addition to the “principal” structure (i.e., a chicken coop that is on the same property as a residential home or a community garden shed on the same property as a church). Often times, standards for accessory structures may vary depending on the zoning designation for that property.

Depending on the language in the municipal code, regulations governing different types of structures may burden certain activities impacting access to healthy food, especially if the regulations are overly broad and unintentionally capture inappropriate or unintended structures and activities.

Apple Valley has adopted the Minnesota Building Code,\textsuperscript{55} which governs “the construction, reconstruction, alteration, and repair of building and other structures to which the code is applicable.”\textsuperscript{56} In addition, Apple Valley additional municipal ordinances governing structures, distinguishing principle use buildings and/or structures from accessory buildings and/or structures as follows.

**Municipal Definitions**

- **Accessory use or structure.** A use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.\textsuperscript{57}

- **Structure.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

  (1) **PERMANENT STRUCTURE.** A structure built of materials in a manner that would commonly be expected to remain useful for a substantial period of time.

  (2) **TEMPORARY STRUCTURE.** A structure built of materials in a manner that would commonly be expected to have a relatively short useful life, is readily movable, and is not placed upon a foundation, footings or attached to a structure requiring a foundation or footings.\textsuperscript{58}
★ **Use.** The purpose or activity for which the land or building thereon is designated, arranged or intended, or for which it is occupied.

(1) **USE FOR ACCESSORY, SPECIAL or CONDITIONAL.** See definitions contained herein.

(2) **PERMITTED USE.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations and performance standards, if any, in the districts.

(3) **PRINCIPAL USE.** The main use of land or buildings as distinguished from subordinate or accessory uses. A PRINCIPAL USE may be either permitted or conditional.59

Apple Valley’s municipal code requires a building permit to construct or move a detached accessory structure larger than 120 square feet.60 The municipal code does not require zoning permits.

For more information:

- City specific information may be obtained from the city’s municipal building official

More information on Apple Valley’s regulation of accessory buildings and structures is discussed in Appendix B, below.
Subsections:

1. Gardening
2. Farming
3. Keeping Animals (including Bees, Chickens, and Chicken Coops)
4. Fences
5. Arbor, Trellises, Pergolas, Planting Boxes, and Raised Beds
6. Greenhouses and Hoop Houses
7. Shed

Local governments can encourage local food production by evaluating whether their municipal code supports or burdens activities and structures that are necessary to grow and cultivate food.
Gardening

Gardens increase access to fresh vegetables, provide opportunities for physical activity, teach both adults and children about the origins of their food, and promote healthier eating behaviors. As gardening opportunities increase, advocates must often address legal and policy issues that affect the development and maintenance of gardens in local communities. These issues include access to water, composting efforts, land use planning and zoning considerations, liability issues, and the organizational structure of the gardens.

Municipal Code Definitions

- **Community garden.** Not defined by municipal code as of May 29, 2015.
- **Personal garden.** Not defined by municipal code as of May 29, 2015.
- **Garden.** Not defined by municipal code as of May 29, 2015.
- **Horticulture.** *The production and storage of fruits and vegetables.*
- **Market garden.** Not defined by municipal code as of May 29, 2015.
- **Truck garden.** Not defined by municipal code as of May 29, 2015.

Does the municipal code require a permit or license?

The City does not require a permit or license to operate a garden.

What are the relevant regulations?

Gardens are likely a permitted use within the agricultural district and conditionally permitted within the sand and gravel district as an “agricultural pursuit.” Agricultural pursuit is not defined. The key language is:

> Within any agricultural district, no structure or land shall be used, except for one or more of the following uses or uses deemed similar by the City Council:

  (A) All types of agricultural pursuits including the keeping, raising or production of livestock and accessory farm residences;

> Within any SG district, no structure or land shall be used, except for one or more of the following uses:

  (A) Limited agricultural pursuits, including the raising of crops and other plant materials;

Gardens are a permitted accessory use in single-family residential zones R-1, R-2, and R-3 as long as there is no sale of the products on the premises. Gardens are similarly permitted as an accessory use in the two-family residential R-5 District and multi-family districts.
Gardens are a permitted use within Zone 2 of the Planned Development Zone Designation No. 681 as long as there is no sale of the products on the premises. 69

In addition to the above districts, gardens are a permitted accessory use within the following Planned Development Zones as long as no sale of products occurs on the premises. Those zones are: Zone Designation No. 138, No. 163, No. 170, No. 251, No. 144, No. 315, No. 341, No. 342, No. 400, No. 444, No. 507, No. 629, No. 632, No. 679, No. 681, No. 716. 70

Garden products may be sold without a peddler or transient merchant license.71 See Transient Merchant section.

Farming

Local farms and farmers are part of the local community by providing access to larger quantities of healthy foods. These products may be sold at farm stands on the farm itself, at farmers’ markets, or even through local grocers. Buying fresh fruits and vegetables that are in season, from local farmers, is often more economical than purchasing from a grocery or convenience store because these foods are usually available in large amounts and are perishable, so products are more likely priced to sell.

Municipal Code Definitions

★ Farm. A parcel of land having an area of ten acres or more or five acres for truck farms which is under cultivation or is fenced and utilized as pasture.72

★ Agriculture. Not defined by municipal code as of May 18, 2015.

★ Accessory use or structure. A use or structure subordinate to and serving the principal use or structure on the same lot and customarily incidental thereto.73

Does the municipal code require a permit or license for a farm?

No.

What are the relevant regulations?

Apple Valley allows farming in the agricultural district.74 In addition, stands used to sell products raised on the premises are a permitted use.75

Apple Valley established accessory structure standards for accessory buildings; however, accessory buildings and structures related to a farming operation and on a farm are exempt from certain set back requirements.76
Keeping Animals (including Bees, Chickens, and Chicken Coops)

Raising chickens and beekeeping are just two types of activity that allow community members to become more involved in and engaged with the production of their food. Local governments are increasingly allowing for beekeeping and keeping small farm animals for personal use or sale of animal products, such as meat, eggs, or honey, within a municipality. Amendments to zoning and animal ordinances allow residents to keep small farm animals and bees in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

Chicken coops protect chickens and other fowl from the elements and provide a space for the fowl to roam and exercise. Allowing chicken coops through city ordinances, amendments to zoning, and animal ordinances allow residents to keep poultry in a manner that prevents nuisances to occupants of nearby properties and prevents conditions that are unsanitary or unsafe.

Municipal Code Definitions

★ **Farm animals.** Any of the various species of domestic animals commonly kept for agricultural purposes such as, but not limited to, horses, cattle, goats, sheep, llamas, potbellied pigs, pigs, and bees.77

★ **Farm poultry.** Any of the various species of domestic animals commonly kept for agricultural purposes such as, but not limited to, chickens, ducks, geese, turkeys, pigeons, swans, and doves.78

★ **Animals.** Other than a human being or plant, any living thing of the kingdom of animalia, including mammals, birds, fish, amphibian insects, and reptiles.79

★ **Chicken.** See Farm Poultry.

★ **Rooster.** Not defined by municipal code as of May 29, 2015.

★ **Bee.** See Farm Animal.

★ **Domestic animals.** Any of the various animals domesticated so as to live in a tame condition as a work animal, food source, or household pet.80

★ **Chicken coop.** Not defined as of May 29, 2015.

★ **Chicken run.** Not defined as of May 29, 2015.

Does the municipal code require a permit or license?

Generally no. It is illegal for any person keep any farm animals or farm poultry within the city limits unless in an area zoned for agricultural uses.81
At the same time, the code indicates that a chicken coop is an accessory building and requires a building permit if the structure is greater than 120 square feet.\textsuperscript{82}

**What are the relevant regulations?**

In addition to the restriction against keeping farm poultry or animals outside of areas zoned for agricultural uses, the sale of farm animals or farm poultry within the city is prohibited.\textsuperscript{83} Possessing a farm animal or farm poultry for entertainment, exhibition, show or promotional purposes requires a permit from the city.\textsuperscript{84} This permit requirement is waived for accredited educational or research facilities.\textsuperscript{85}

Chicken coops are not addressed in the municipal code. See section “Farming” above for specifications of agricultural uses. See also “Appendix B” for specifications of accessory structures.

**Fences**

Many municipalities have established fence regulations that govern the height of the fence and the types of materials that may be used in the construction or repair of the fence. Fencing is often an integral component of many agricultural and gardening activities. For example, community gardens often install a fence to provide protection from animals, define the garden’s parameters, and minimize vandalism and trespassing on community garden property. Ordinances that allow community gardens to install permanent fencing may encourage gardens, promote community acceptance of local gardening efforts, and improve the long-term success of a community garden.

**Municipal Code Definitions**

- **Fence.** Any partition, structure, wall or gate erected as a dividing marker, barrier or enclosure and located along the boundary or within the required yard. A FENCE in excess of six feet in height shall be subject to a building permit as required by the Minnesota State Building Code.\textsuperscript{86}

- **Screening.** A strip of densely planted or natural growth with shrubs or trees at least four feet high at the time of planting, of a type that will form a year-round dense screen at least six feet high or an opaque wall or barrier or uniformly painted fence at least six feet high. Either planting or barrier shall be maintained in good condition at all times and may have no signs affixed to or hung in relation to the outside thereof.\textsuperscript{87}

- **Structure.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.
(1) **PERMANENT STRUCTURE.** A structure built of materials in a manner that would commonly be expected to remain useful for a substantial period of time.

(2) **TEMPORARY STRUCTURE.** A structure built of materials in a manner that would commonly be expected to have a relatively short useful life, is readily movable, and is not placed upon a foundation, footings or attached to a structure requiring a foundation or footings. 88

**Does the municipal code require a permit or license?**

A Building Permit is required for the construction or physical improvement of fences over 6 feet in height. 89

Please visit the following link for more information provided by the city: [http://www.ci.apple-valley.mn.us/DocumentCenter/Home/View/145](http://www.ci.apple-valley.mn.us/DocumentCenter/Home/View/145)

**What are the relevant regulations?**

Apple Valley has established several municipal provisions that apply to fences in residential zones, including:

- Fences may be up to eight (8) feet in height,
- In front yards, fences shall not exceed 3 ½ feet in height,
- Fences must be maintained so they are not unsightly or a hazard, and
- Barbed wire and electric fences are permitted only in agricultural zone. 90

More specific fencing specifications may be found in various zoning districts.

**Arbors, Trellises, Pergolas, Planting Boxes, and Raised Beds**

Arbors, pergolas, trellises, planting boxes, and raised beds are types of garden structures used to encourage climbing vegetables and flowering vines, as well as to create clearly defined gardening spaces that are generally easier to cultivate, weed, and maintain for the gardener. Planting boxes and raised beds can be used to develop beds with improved soils when the quality or safety of existing soil is questionable; they can also be used to make garden beds accessible to those in wheelchairs or who are otherwise physically not capable of working at ground level. Raised beds may also be allowed along public right of ways in residential areas, increasing the available area for garden production.

**Municipal Code Definitions**

- **Arbor.** Not defined by municipal code as of May 29, 2015.
- **Pergola.** Not defined by municipal code as of May 29, 2015.
★ **Trellis.** Not defined by municipal code as of May 29, 2015.
★ **Planting box.** Not defined by municipal code as of May 29, 2015.
★ **Raised plant bed.** Not defined by municipal code as of May 29, 2015.

**Does the municipal code require a permit or license?**

No.

**What are the relevant regulations?**

In residential zoning districts, decorative landscape features are considered an accessory use.\(^91\)

The City of Apple Valley uses “setback” requirements within all districts. A setback describes a distance that a house, building, structure, fence, or other built structure must be removed from a defined street, road, river, or other feature.\(^92\) Notably, Apple Valley has not exempted arbors, pergolas or trellises of any size from these setback requirements.

All new development in the City of Apple Valley must meet minimum standards that include landscaping requirement.\(^93\) While not specifically addressing these types of structures, certain yard spaces allow for no structures in landscaping.\(^94\)

Some of the planned development districts require a landscaping plan to be developed which may incorporate these features by reference. Those districts are: No. 703\(^95\), No. 856\(^96\), and No. 541.\(^97\)

The code does not address planting boxes on lots generally.

The code also does not specifically restrict planting boxes from being within a public right-of-way, however, no obstruction is allowed within the public right-of-ways except by permit.\(^98\)

See section on “Gardening” for applicable municipal code.
Greenhouses and Hoop Houses

Greenhouses and hoop houses (also called “high tunnels”) are structures that extend the growing season and protect plants from animals and inclement weather. (While hoop houses are generally a type of semi-permanent structure made up of several hoops or bows that are covered in a heavy plastic, some hoop houses may be a principal structure and be built as a permanent building.) These structures can be either an accessory or principal structure, depending on their use or the other uses of the property. If the greenhouse or hoop house is for personal use and is secondary to the main structure, it would likely fall into a category of a type of accessory structure. However, greenhouses and hoop houses that are for retail or commercial purposes could also be the principal structure on a property. Zoning and building regulations that allow for these types of buildings can support both personal gardening efforts as well as promote local business enterprises and the local food system by providing sources of plants and extending the growing season.

Municipal Code Definitions

★ Greenhouse. Not defined by municipal code as of May 29, 2015.
★ Hoop house. Not defined by municipal code as of May 29, 2015.
★ High tunnel. Not defined by municipal code as of May 29, 2015.

Does the municipal code require a permit or license?

Yes. The city code requires a building permit if it is more than 120 square feet.

(A) It shall be unlawful to install, construct, erect, alter, revise, reconstruct or move any outdoor accessory storage building which exceeds 120 square feet of enclosed area on a residentially zoned lot without first obtaining a building permit. If the roof of an accessory building or structure is projected beyond the walls or supports of the building or structure more than 24 inches in any direction and the total roof area exceeds 120 square feet, a building permit shall also be required.99

What are the relevant regulations?

Commercial greenhouses are permitted uses in the Agricultural District,100 the Sand and Gravel District,101 and the PD-703 District, Zone 8.102 In addition, these are also allowed as a conditional use in the Limited Business District,103 and the PD-507 District, Zone 2.104
The municipal code is silent concerning hoop houses.

Depending on the type and size of greenhouse or hoop house, municipal provisions governing accessory structures may apply. In addition, there may be some restrictions on the location of commercial greenhouses or hoop houses based on different zoning regulations.

Please see Appendix B for more information regarding regulations governing accessory structures.

For more information, contact the City’s Planning Department at (952) 953-2588.

See also a handout from the city concerning accessory structures online, here: http://mn-applevalley.civicplus.com/DocumentCenter/Home/View/159.

**Additional Resources:**

- University of Minnesota’s Minnesota High Tunnel webpage, http://hightunnels.cfans.umn.edu/
- The City of Minneapolis adopted regulations governing hoop houses and greenhouses in March 2012. The City of Minneapolis defined hoop house as “a temporary or permanent structure typically made of, but not limited to, piping or other material covered with translucent material for the purpose of growing food or ornamental crops. A hoop house is considered more temporary than a greenhouse.” For more information about those regulations, visit: http://www.minneapolismn.gov/sustainability/homegrown/WCMS1P-130152.

**Shed**

Sheds generally fall into a category of a type of accessory structure that is secondary to the primary building on a piece of property. Zoning and building regulations that allow for these types of structures allow gardeners to secure the tools that are necessary in cultivation while also providing the convenience of having tools and storage space on-site. The municipal zoning code should consider the beneficial impact of these permanent garden structures, while balancing that with the impact on adjacent residences, businesses and public spaces, as well as ensuring compatibility with existing architecture of the community.

**Municipal Code Definitions**

- **Structure.** That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

  - **PERMANENT STRUCTURE.** A structure built of materials in a manner that would commonly be expected to remain useful for a substantial period of time.
(2) **TEMPORARY STRUCTURE.** A structure built of materials in a manner that would commonly be expected to have a relatively short useful life, is readily movable, and is not placed upon a foundation, footings or attached to a structure requiring a foundation or footings.\(^{106}\)

★ **Shed.**

Within the meaning of property maintenance requirements, sheds are considered an accessory structure.

**ACCESSORY STRUCTURE.** Shall have the meaning stated in the zoning regulations of this code. Accessory buildings or structures include, but are not limited to: decks, porches, fences, retaining walls, and sheds.\(^{107}\)

Within the meaning of structures in floodplain controls, a shed is a structure.

**STRUCTURE.** Anything constructed or erected on the ground, or attached in or to the ground, including but not limited to: buildings, sheds, gazebos or pavilions, manufactured homes and recreational vehicles not meeting the exemption criteria set forth elsewhere in this chapter.\(^{108}\)

**Does the municipal code require a permit or license?**

Yes. The city code requires a building permit if the shed is more than 120 square feet.\(^{109}\)

If the accessory structure is located in a manufactured home park, then it is exempt from a building permit if it is less than 100 square feet and meets specific setback and park management approval requirements.\(^{110}\)

**What are the relevant regulations?**

There are two different types of regulations that apply to sheds – (1) the municipal building and zoning permit requirements for accessory structures and (2) the Minnesota Building Code’s regulations for temporary and permanent structures.

State regulations vary depending on whether a particular structure is temporary or permanent. The State Building Code sets requirements for temporary and permanent structures to “establish reasonable safeguards for health, safety, welfare, comfort, and security.” Permanent and temporary structures are required to meet minimal structural requirements, and permanent structures must meet additional requirements including snow load requirements.

For more information, contact the City’s Planning Department at (952) 953-2588.

See also a handout from the city concerning accessory structures online, here: [http://mn-applevalley.civicplus.com/DocumentCenter/Home/View/159](http://mn-applevalley.civicplus.com/DocumentCenter/Home/View/159).
PROCESSING FOOD

Food processing is an important part of the food system. Orange juice, bread, smoked and cured meat, cereal bars, and chips are just a few of the examples of the varying types of foods that require processing before reaching a final consumer.

Wholesale food processors are generally governed by Minnesota state law and regulated by the Minnesota Department of Agriculture.\textsuperscript{111} The Minnesota Department of Agriculture has issued rules governing a wide range of food processing activities.\textsuperscript{112} The Minnesota Department of Agriculture generally incorporates applicable regulations from the U.S. Food and Drug Administration’s regulations into Minnesota’s legal requirements. State law creates the minimum standards regulating food processing facilities in Minnesota. While some local Minnesota municipalities may have limited authority over food processing facilities in their jurisdiction, local authority is limited to those powers delegated to the local government by MDA.

State Law Definitions

\textbf{Food processing plant.} [A] commercial operation that manufactures, packages, labels, or stores food for human consumption and does not provide food directly to a consumer. Food processing plant does not include a food establishment as defined in subpart 35.\textsuperscript{113}

Municipal Code Definitions

\textbf{Food processor.} Not defined by municipal code as of May 29, 2015.

Does the municipal code require a permit or license?

No.

What are the relevant regulations?

While Apple Valley does not have any regulations specifically targeting food processing facilities, a food processing facility would likely fall into one of Apple Valley’s zoning districts, such as a commercial or industrial zoning districts.\textsuperscript{114}

Additional Resources

For more information about specific state laws impacting food processors and municipal zoning ordinances, please see:


GETTING FOOD

Subsections:
1. Selling Products of a Farm or Garden
2. Farmers’ Markets
3. Restaurants
4. Mobile Food Manufacturing and Vending Vehicles
5. Transient Merchants
6. Grocery Stores
7. Displaying Signs
8. Parking

Diets high in vegetables, fruits, whole grains, and lean proteins can help a person maintain a healthy weight and avoid chronic diseases such as diabetes, cancer, and heart disease. But for many people, eating a healthier diet is not as simple as choosing to eat healthier foods. Some neighborhoods do not have grocery stores or other food outlets that sell healthy foods and sometimes healthy foods are too expensive for people to buy. In order to eat healthier foods, people need better access to healthy, affordable food.

Minnesota law creates two general categories of businesses where Minnesotans purchase their food— food establishments and food and beverage service establishments. These categories encompass the vast majority of venues involved in providing food to consumers, including retail food sales and prepared food sold to customers to be consumed onsite. Minnesota state law gives authority to regulate different types of food establishments and food and beverage service establishments to the Minnesota Departments of Health and Agriculture, depending on different characteristics established by state law. Minnesota state law and Apple Valley’s ordinances have created general definitions for food establishments and food and beverage service establishments as follows:

State Law Definitions**

** Food Establishment. An operation that: (1) stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including a market, grocery store, convenience store, special event food stand, vending machine and vending location, and retail bakery (2) relinquishes possession of food to a consumer directly or indirectly through a delivery service, including the home delivery of grocery orders or restaurant takeout orders, and a delivery service that is provided by common carriers.**

** Please note: State law includes a wide range of legal definitions for different types of food establishments and food and beverage service establishments. The definitions included here are meant to highlight key definitions relevant to this discussion.
★ **Food and Beverage Service Establishment.** A building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.\textsuperscript{118}

**Municipal Code Definitions**

★ **Food Establishment.** Not defined by municipal code as of October 6, 2015.

★ **Food and Beverage Service Establishment.** Not defined by municipal code as of October 6, 2015.

For many communities, policies at the local level can help increase access to healthy, affordable food. For example, cities can change zoning and licensing laws to make it easier to establish and operate new grocery stores and farmer’s markets. This section provides a focused look at a range of food establishments and food and beverage service establishments to explore how state law and Apple Valley regulations impact different business models that can be used to increase access to healthy food.

Minnesota law requires that every person who handles food obtain a license and that “all producers, packagers, labelers, handlers, distributors and vendors of food, whether or not subject to licensing … be required to comply with the applicable rules.”\textsuperscript{119} Specifically, any person that engages in the business of manufacturing, processing, selling, handling, or storing of food must obtain a license, unless Minnesota law specifically exempts that person or activity from the general licensing requirement.

**Additional Resources**

Generally speaking, Minnesota law requires all food establishments and food and beverage service establishments to obtain a license. However, a few exceptions to the state’s licensing requirements exist. More information about some state exemptions from state licensing requirements is available in Appendix G, below. In addition, the following resources provide additional information about the range of exemptions from licensing requirements for food sales:

- Starting a Food Business in Minnesota (2008), MINNESOTA DEPARTMENT OF AGRICULTURE, [http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx](http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx).

See Table 1: *Oversight of Food System by Minnesota Departments of Health and Agriculture*, provided earlier, for additional information regarding the specific authority these agencies have over different types of food establishments and food and beverage service establishments.

**Selling Products of a Farm or Garden**

The Minnesota constitution and state law exempts those selling the products they have grown from a farm or garden from the requirement of obtaining a food license. This exemption does not extend to the sale of processed food or other products created from the garden or farm from licensing requirements. At the same time, local governments can regulate other components of the sale of farm or garden products, such as accessory structures or stands used to sell or display farm or garden products and parking requirements for areas where these products are sold. Local governments can eliminate other regulatory and administrative barriers so that these food sellers can become more accessible to local residents.

**Municipal Code Definitions**

- **Farm stand.** Not defined by municipal code as of October 7, 2015.
- **Stands for the sale of agricultural products.** Not defined by municipal code as of October 7, 2015.

**Does the municipal code require a permit or license?**

A person selling or attempting to sell “products of the farm or garden occupied and cultivated” by that person is exempt from this licensing requirement under state law. Please see “Exemption: The Sale of Farm or Garden Products” in Appendix G, below.

**What are the relevant regulations?**

Yes, the City requires a license to operate a mobile vending cart. The license is specific to the cart and the location of operation. A maximum of four licenses are available in the city. It is unclear if this requirement applies to stands allowed in the agriculture zone for products grown on a lot to be sold by the farmer.

“Stands for the sale of agricultural products provided the products are at least in part raised on the premises” are a permitted use only in the Agricultural District.

**Farmers’ Market**

Local governments regulate farmers’ markets in different ways. Some local governments use very specific language and regulatory provisions to address the unique attributes of farmers’
markets, while others regulate farmers’ markets in the same way that other types of food establishments or businesses are regulated. Notably, certain laws and regulations may strengthen and encourage the operation of farmers’ markets within a certain community, while others burden or hinder the prosperity of farmers’ markets.

Minnesota state law provides a framework for farmers’ markets by establishing a definition for farmers’ market and exempting some farmers’ market activities from licensing requirements for some activities, including the sale of agricultural products sold by the farmer or gardener, food sampling provided to farmers’ market customers, and certain products processed in unlicensed kitchens covered under the new Cottage Food Law. However, state regulation of farmers’ markets is fairly limited and local governments are generally more involved in regulating different aspects of farmers’ markets beyond this limited state involvement.

**Minnesota State Legal Definitions**

- **Farmers’ market.** (State law definition) An association of three or more persons who assemble at a defined location that is open to the public for the purpose of selling directly to the consumer the products of a farm or garden occupied and cultivated by the person selling the product.)

- **Food product sampling.** (State law definition) Distributing to individuals at a farmers' market or community event, for promotional or educational purposes, small portions of a food item that include as a main ingredient a product sold by the vendor at the farmers’ market or community event. For purposes of this subdivision, "small portion" means a portion that is no more than three ounces of food or beverage.

- **Food product demonstration.** (State law definition) Cooking or preparing food products to distribute to individuals at a farmers' market or community event for promotional or educational purposes.

**Municipal Code Definitions**

- **Farmers’ market.** Not defined by municipal code as of May 29, 2015.

- **Transient merchant.** A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.

**Does the municipal code require a permit or license?**

It depends. The city code is silent concerning farmers’ markets permits and licensing. However, Apple Valley’s City Council approved a License Agreement for 2015 Farmers’ Market at the
Municipal Center Parking Lot,\textsuperscript{130} indicating that farmers’ markets operating on municipal property are required to obtain a license.\textsuperscript{††}

Depending on the products sold, individual vendors may be subject to obtaining a permit as a transient merchant or peddler.\textsuperscript{131} See section “Transient Merchant” for more information.

**What are the relevant regulations?**

Currently, there are no farmers’ market-specific regulations in the Apple Valley municipal code. The City does exempt farmers selling product grown or raised on a farm from any licensing requirements.\textsuperscript{132}

**Additional Resources**

The following resources provide additional information about state law impacting farmers’ markets:


In addition, information about some recent changes to Minnesota state law not included in these resources has been provided in Appendix G, below.

**Restaurant**

Restaurants are a type of food and beverage service establishment as defined by Minnesota law. These can vary greatly—size, types of food products offered, and affordability. Some local governments use very specific language and regulatory provisions to address the unique attributes of a particular type of restaurant. For example, a municipal code may differentiate between a conventional bricks-and-mortar restaurant and a mobile food truck. Other local governments utilize broad regulatory language and regulate restaurants in a uniform manner. Notably, certain laws and regulations may strengthen and encourage different types of restaurants within a certain community, while others burden or hinder the prosperity of these initiatives. As indicated in Table 1: Oversight of Food System by Minnesota Departments of Health and Agriculture, provided earlier, the Minnesota Department of Health (MDH) generally regulates restaurants in Minnesota. While MDH can delegate some of its licensing and other

\textsuperscript{††} While the code does not address farmers’ market licensing, it is likely that License Agreement authorizing the currently operating market falls under Apple Valley municipal code section 95.03 (T) which allows sales under a park use permit.
regulatory authority over restaurants to specific local governments, Apple Valley does not have delegated authority from MDH. However, Apple Valley does regulate various aspects of restaurants, as discussed, below.

Minnesota State Legal Definitions

★ Restaurant. [ ] a food and beverage service establishment, whether the establishment serves alcoholic or nonalcoholic beverages, which operates from a location for more than 21 days annually. Restaurant does not include a food cart or a mobile food unit.133

Municipal Code Definitions

★ Restaurant.  (1) CLASS I.
   (a) CAFETERIA. A traditional restaurant, as defined below, except that food is selected by a customer while going through a serving line and taken to a table for consumption.
   (b) CASUAL RESTAURANT. An eating facility where some table service may be provided by waitstaff, food is prepared after an order is placed by a customer, reusable dinnerware such as utensils, plates and cups are used. Bussing of the tables is done by restaurant staff. No drive-thru service is provided.
   (c) TRADITIONAL RESTAURANT. An eating facility where full table service is provided at the table whereupon a customer orders food from printed menus and the main food course is served and consumed while seated at a single location. The restaurants also have dining areas with formal or semi-formal decor and appointments utilizing traditional or reusable food utensils, plates, cups and glasses. This may provide additional incidental services such as food delivery and retail over-the-counter prepared food sales. In addition, the CLASS I RESTAURANT shall not be prohibited by law, private restrictive covenant, or otherwise from obtaining a full liquor license.
   (2) CLASS II.
   (a) CARRY-OUT AND DELIVERY RESTAURANT. Food is prepared for consumption off the premises only.
   (b) FAST-FOOD RESTAURANT. An eating facility where a majority of the customers order food and are served at a counter and then take their food to a table, counter, outdoor seating area or off the premises for consumption. The food is either pre-prepared or quickly prepared and served with non-reusable food packaging and non-reusable utensils, plates and cups. Customers typically bus their own tables and 45% more of the floor area is devoted to food preparation. Any eating facility with drive-thru service shall be deemed a fast food restaurant.
   (3) CLASS III.
   (a) NEIGHBORHOOD RESTAURANT. An eating facility, including bagel shop, sandwich shop, coffee house, lunch counter, delicatessen, ice cream shop, where all of the following exist:
      1. Restaurant does not exceed 2,500 square feet in size; and
      2. Hours of operation shall be limited to 6:00 a.m. to 11:00 p.m. daily.
(b) The restaurant does not serve foods that require the installation of a Type I ventilation hood, grease and smoke removing, as defined in the Uniform Mechanical Code.  

Does the municipal code require a permit or license to operate?

No, the City does not require a license for restaurants.

What are the relevant regulations?

Apple Valley has established several sets of code provisions that apply to different food establishments, including:

- Parking space requirements.
- Drive-through signage, and
- Prepared food outlets.

Restaurants are currently only permitted in the following zoning districts:

- LB, Limited Business district, Class I only as a conditional use
- NCC, Neighborhood Convenience Center district, Class I and II
- GB, General Business district, conditional use only
- RB, Retail Business district, Class I and III only, Class II only as a conditional use
- RSC, Regional Shopping Center district, permitted, Fast food, carryout or drive-ins as conditional use only
- VB, Visitor Business district, Class I permitted, Class II as conditional use only
- LI, Limited Industrial district, Class I only
- BP, Business Park district, conditional use only
- PD-290, Planned Development Zone Designation No. 290 district, Zone 1, Class I only
- PD-168, Planned Development Zone Designation No. 168 district, Class I only
- PD-244, Planned Development Zone Designation No. 244 district, Zone 1 and 2, permitted and conditional uses
- PD-254, Planned Development Zone Designation No. 254 district, Zone 1, conditional only
- PD-144, Planned Development Zone Designation No. 144 district, Zone 5, permitted and conditional
- PD-341, Planned Development Zone Designation No. 341 district, Zone 4A and Zone 4B
- PD-507, Planned Development Zone Designation No. 507 district, Zone 1 and Zone 7b permitted, Zone 2 conditional use only
- PD-532, Planned Development Zone Designation No. 532 district, Zone 1 permitted and conditional uses
- PD-629, Planned Development Zone Designation No. 629 district, Zone 4
- PD-632, Planned Development Zone Designation No. 632 district, Zone 7
• PD-646, Planned Development Zone Designation No. 646 district, Zone 1 \textsuperscript{166} and Zone 2 \textsuperscript{166}
• PD-679, Planned Development Zone Designation No. 679 district, Zone 2 \textsuperscript{167} and Zone 3 \textsuperscript{168}
• PD-703, Planned Development Zone Designation No. 703 district, Zone 6 \textsuperscript{169}
• PD-716, Planned Development Zone Designation No. 716 district, Zone 3 \textsuperscript{170}
• PD-739, Planned Development Zone Designation No. 739 district, Zone 2 \textsuperscript{171} and Zone 4 \textsuperscript{172}

Restaurants are specifically *prohibited* in the following zoning district:

• PD-409, Planned Development Zone Designation No. 409 district, Zone 1 \textsuperscript{173}
• PD-646, Planned Development Zone Designation No. 646 district, Zone 2 \textsuperscript{174}

**Mobile, Temporary, and Seasonal Food and Beverage Service Establishments**

State and local laws often have different requirements for mobile, temporary, and seasonal food and beverage establishments. Local governments can support healthy food access by tailoring regulations governing different types of mobile, temporary, and seasonal food and beverage service establishments serving healthy food options. Many communities find that one-size-fits-all regulatory structure for food and beverage service establishment may not meet the needs of different types of business models and can sometimes prove to be burdensome for new and emerging businesses seeking to provide fresh, local foods.

**Minnesota State Legal Definitions‡‡**

★ **Food and Beverage Service Establishment.** A building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.\textsuperscript{175}

★ **Mobile food unit** means a food and beverage service establishment that is a vehicle mounted unit, either:

(1) motorized or trailered, operating no more than 21 days annually at any one place, or operating more than 21 days annually at any one place with the approval of the regulatory authority as defined in Minnesota Rules, part 4626.0020, subpart 70; or

\textsuperscript{‡‡} Please note: State law includes a wide range of legal definitions for different types of mobile, seasonal, and temporary food and beverage service establishments. The definitions included here are meant to highlight those key definitions related to food and beverage service establishments more likely to promote healthy food options.
(2) operated in conjunction with a permanent business licensed under this chapter or chapter 28A at the site of the permanent business by the same individual or company, and readily movable, without disassembling, for transport to another location.\textsuperscript{176}

★ **Food cart** means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.\textsuperscript{177}

★ **Seasonal permanent food stand** means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.\textsuperscript{178}

★ **Seasonal temporary food stand.** (a) "Seasonal temporary food stand" means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates for no more than 21 days annually at any one location, except as provided in paragraph (b).

(b) A seasonal temporary food stand may operate for more than 21 days annually at any one place with the approval of the regulatory authority, as defined in Minnesota Rules, part 4626.0020, subpart 70, that has jurisdiction over the seasonal temporary food stand.\textsuperscript{179}

★ **Special event food stand.** "Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates no more than three times annually for no more than ten total days.\textsuperscript{180}

**Municipal Code Definitions**

★ **Food cart.** Not defined by municipal code as of May 26, 2015.

★ **Food stand.** Not defined by municipal code as of May 26, 2015.

★ **Mobile food unit.** Not defined by municipal code as of May 26, 2015.

★ **Food truck.** Not defined by municipal code as of May 26, 2015.

★ **Vending cart.** The phrase “vending cart” shall mean any structure used for the purpose of selling or giving away food and beverages outdoors.\textsuperscript{181}

**Does the municipal code require a permit or license?**

Yes, the City requires a license to operate a mobile vending cart. The license is specific to the cart and the location of operation.\textsuperscript{182} A maximum of four licenses are available in the city.\textsuperscript{183}

The City may require a permit to construct, reconstruct, repair, or alter one of these structures, specifically if the structure is accessory to a principal use. Please see Appendix B for more information about accessory structures.
What are the relevant regulations?

Apple Valley has established general parking regulations. These restrictions may impact where a mobile food unit can legally park on the street and off the street.

Additional Resources

The state may require a license to sell food from one of these food and beverage service establishments and have other legal requirements. The following resources provide additional information regarding state legal requirements:


Transient Merchant

Anyone who engages in a temporary or transient business within Dakota County is required to obtain a Transient Merchant License. Many businesses may fall into this broad category, including different types of food establishments, food and beverage service establishments, and other vendors.

Minnesota State Legal Definitions

- **Transient merchant**, Includes any person, individual, copartnership, limited liability company, and corporation, both as principal and agent, who engage in, do, or transact any temporary and transient business in this state, either in one locality, or in traveling from place to place in this state, selling goods, wares, and merchandise; and who, for the purpose of carrying on such business, hire, lease, occupy, or use a building, structure, vacant lot, or railroad car for the exhibition and sale of such goods, wares, and merchandise. The term "transient merchant" does not include a seller or exhibitor in a firearms collector show involving two or more sellers or exhibitors.

Municipal Code Definitions

- **Transient merchant**, A person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling or attempting to sell, and delivering, goods, wares, products, merchandise or other personal property and who does not remain or intend to remain in any one location for more than 14 consecutive days.
Does the municipal code require a permit or license?

Yes, the municipal code makes it unlawful to conduct business as a transient merchant without first having obtained a license from the city. A license is not required to sell products grown, produced, cultivated or raised on any farm.

What are the relevant regulations?

Apple Valley has established a licensing scheme that regulates transient merchants, peddlers and solicitors, including:

- Permissible hours of operation, 9 a.m. – 9 p.m.
- Noise restrictions; and
- Restriction from selling or attempting to sell in a way that would obstruct the flow of vehicular or pedestrian on any street, alley, sidewalk, or other right of way.

Grocery Store

Grocery stores must comply with the Minnesota state food safety requirements established in Minnesota law and other legal requirements governing food establishments and food and beverage service establishments if the grocery store serves prepared food. As indicated in Table 1: Oversight of Food System by Minnesota Departments of Health and Agriculture, provided earlier, the Minnesota Departments of Health and Agriculture may share regulatory authority over different aspects of a grocery store, depending on what activities the grocery store includes. For example, MDH could have regulatory authority over restaurant service provided in a grocery store while MDA would have regulatory authority over the retail grocery operations.

Local governments can be instrumental in promoting access to healthy foods through grocery stores. For example, some localities have used zoning ordinances or variances to encourage developers, grocers, and other property owners to locate grocery stores in underserved areas known as “food deserts.”

Minnesota State Legal Definitions

- **Food establishment.**
A. “Food Establishment” means an operation that:

(1) stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, including a restaurant, satellite or catered feeding location, market, grocery store, convenience store, special event food stand, school, boarding establishment, vending machine and vending location, institution, and retail bakery; or

(2) relinquishes possession of food to a consumer directly or indirectly through a delivery service, including the home delivery of grocery orders or restaurant takeout orders, and a delivery service that is provided by common carriers.

Municipal Code Definitions

★ Grocery store. Not defined by municipal code as of May 29, 2015.

★ Retail establishment. Any place of business where tobacco, tobacco products or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.192

Does the municipal code require a permit or license?

No, the City currently only requires a license for the following business categories: adult entertainment, alcoholic beverages, amusements, peddlers and solicitors, tobacco, fuel dispensing, pawnbrokers and precious metal dealers, vending carts, consumer fireworks, residential rental housing, massage therapy, and kennel or cattery.193

What are the relevant regulations?

Grocery stores are currently only permitted in the following zoning district:

- NCC, Neighborhood Convenience Center District, not to exceed 5,000 square feet of floor area
- RB, Retail Business District195
- RSC, Regional Shopping Center district196
- PD-244, Planned Development Zone Designation No. 244 district, Zone 2197
- PD-144, Planned Development Zone Designation No. 144 district, Zone 5, not to exceed 3,500 square feet of floor area198
- PD-341, Planned Development Zone Designation No. 341 district, Zone 4A199 and Zone 4B200

*** FLOOR AREA. The area included within the surrounding exterior wall of a building or portion thereof, exclusive of vent shafts and courts. The FLOOR AREA of a building or portion thereof not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above. §155.003 “Definitions”.

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• PD-507, Planned Development Zone Designation No. 507 district, Zone 1, not to exceed 5,000 square feet of floor area

• PD-532, Planned Development Zone Designation No. 532 district, Zone 2, not to exceed 5,000 square feet of floor area

• PD-629, Planned Development Zone Designation No. 629 district, Zone 4, not to exceed 5,000 square feet of floor area

• PD-632, Planned Development Zone Designation No. 632 district, Zone not to exceed 5,000 square feet of floor area

• PD-646, Planned Development Zone Designation No. 646 district, Zone 1 and Zone 2, not to exceed 5,000 square feet of floor area

• PD-679, Planned Development Zone Designation No. 679 district, Zone 2 Zone 3, not to exceed 6,000 square feet of floor space and a density of 1/zone

• PD-739, Planned Development Zone Designation No. 739 district, Zone 2 and Zone 4

Grocery stores are specifically prohibited in the following zoning district:

• PD-409, Planned Development Zone Designation No. 409 district, Zone 1

• PD-646, Planned Development Zone Designation No. 646 district, Zone 3

Additional Resources

The following resources provide additional information regarding state legal requirements impacting grocery stores:


Displaying Signs

Many food establishments and vendors – big and small – rely on signage to advertise and communicate with the public. Signage is generally regulated by the city, and can include restrictions on where signs are allowed on certain property. These sign regulations can prove to be overly burdensome to small or alternative food retailers.

Municipal Code Definitions

★ **Sign.** A name, identification, description, display, illustration, structure, device which is affixed to, or painted, or represented directly or indirectly upon a building or other
outdoor surface or a piece of land, and which directs attention to an object, product, place, activity, person, institution, organization or business.\textsuperscript{213}

Does the municipal code require a license or permit?

Yes, a permit is required for commercial signage.\textsuperscript{214} A copy of the permanent sign permit application is available online, here: http://www.ci.apple-valley.mn.us/DocumentCenter/Home/View/116.

Temporary signs also require a permit.\textsuperscript{215} The application is available online, here: http://www.ci.apple-valley.mn.us/DocumentCenter/Home/View/123.

See also general information from the city about signs, here: http://www.ci.apple-valley.mn.us/DocumentCenter/Home/View/154.

What are the relevant regulations?\textsuperscript{216}

Permitted signs must meet specific maximum size regulations along with minimum setback and maximum height regulations.\textsuperscript{217}

Temporary signs, including promotional signs, must comply with specific size regulations.\textsuperscript{218}

Certain signs are prohibited from specific locations. Additionally, the restrictions may vary depending on zoning district such as in the following districts.

- PD-739, Planned Development Zone Designation No. 739 district\textsuperscript{219}
- PD-716, Planned Development Zone Designation No. 716 district\textsuperscript{220}
- PD-532, Planned Development Zone Designation No. 532 district\textsuperscript{221}
- PD-646, Planned Development Zone Designation No. 646 district\textsuperscript{222}
- PD-341, Planned Development Zone Designation No. 341 district\textsuperscript{223}
- PD-703, Planned Development Zone Designation No. 703 district\textsuperscript{224}
- PD-541, Planned Development Zone Designation No. 541 district\textsuperscript{225}
- PD-679, Planned Development Zone Designation No. 679 district\textsuperscript{226}
- PD-290, Planned Development Zone Designation No. 290 district\textsuperscript{227}

Parking

Many local governments require certain businesses to comply with parking requirements. By establishing parking requirements, the local government can ensure there is handicap

\textsuperscript{216} In 2015, the United States Supreme Court held in Reed v. Town of Gilbert, 135 S.Ct. 2218 (2015), that the Town of Gilbert, Arizona’s comprehensive sign code that exempted 23 categories of temporary signs resulted in Constitutionally prohibited content-based restrictions that favors some temporary signs over other types of temporary signs. Analyzing this case is outside of the scope of this review, however, this case may have relevance to local sign regulations in Dakota County.
accessibility, maintain access to emergency vehicles, and address traffic and overcrowding concerns. At the same time, parking requirements for small and unconventional businesses can be burdensome.

The municipal code should consider the beneficial impact of parking requirements, while balancing that with the impact on small or unconventional establishments, such as farmers’ markets.

Municipal Code Definitions

★ Parking. Not defined by municipal code as of June 2, 2015.

★ Parking space. A suitable surfaced or permanently maintained area of sufficient size to store one vehicle either within or outside of a building.228

★ Parking area or parking lot. The paved surface area on a lot for the purpose of temporary storage of vehicles, including any drive aisles or lanes. PARKING AREA or PARKING LOT does not include and is separate and distinct from the term driveway for purposes of parking spaces for single family and two-family dwellings.229

Does the municipal code require a license or permit?

No.

What are the relevant regulations?

Apple Valley has established parking regulations generally.230 These regulations include restriction to parking on streets during times of snow removal,231 parking on sidewalks or boulevard strips, parking in crosswalks or other places that obstruct the free flow of traffic.232 In addition, some zones may have additional minimal requirements for certain establishments, including convenience stores, fast food establishments, restaurants, wholesale stores, and retail stores. Please visit the applicable zoning regulations for additional considerations.233
**MAKING FOOD**

For new and growing food businesses making food for either retail food operations or for sales of prepared foods to serve to consumers, access to a licensed or commercial kitchen can be invaluable. Some local governments may have policies in place to allow community groups or others to use licensed kitchens in community facilities to promote food skills and other activities increasing access to healthy food. These policies can support efforts to teach community members how to cook and provide new and emerging food businesses with space to develop their business without having to make an initial investment in a commercial kitchen.

Under state law, kitchens used to prepare food for public consumption, including catering operations, meal service programs, school kitchens, and other food preparation sights, are recognized as “food establishments” and must comply with state laws, including licensing and food safety requirements. At the same time, Minnesota state law creates limited exceptions from the state licensing requirements for some types of food prepared in kitchens that have not been licensed or inspected. A discussion of these exemptions is outside the scope of this document. However, resources providing additional information about these exemptions are provided, below.

**Municipal Code Definitions**

- **Kitchen.** Not defined by municipal code as of June 2, 2015.

**Does the municipal code require a permit or a license?**

The City does not require a permit or license to use a kitchen. Depending on several factors, the state may require a permit or license to use a kitchen. These factors include: whether the kitchen is commercial in nature; what type of food is being prepared; whether the food will be sold or served to the public, amongst others. Please consult with MDA and/or MDH for more information.

**What are the relevant regulations?**

No municipal regulation is directly on point. If a food license is required to operate the kitchen, the Minnesota Food Code will govern the use of the kitchen.
Additional Resources

For more information about state laws impacting kitchens used to prepare food for sale or other regulated purposes, including licensing and inspection requirements, please see the following resources:

- Starting a Food Business in Minnesota (2008), MINNESOTA DEPARTMENT OF AGRICULTURE, 
  http://www.mda.state.mn.us/~media/Files/food/business/startingfoodbiz.ashx.

- A Guide to Regulations for Local Food Entrepreneurs (2015), MINNESOTA INSTITUTE FOR SUSTAINABLE AGRICULTURE, 

In addition, information about some recent changes to Minnesota state law allowing for some exemptions from state licensing requirements under the 2015 Cottage Food Law not included in these resources is provided in Appendix G.
DISPOSING FOOD

Subsections:

1. Composting
2. Recycling and Waste Disposal

Composting and recycling are both components of the local food system. Local governments can help reduce the amount of waste reaching landfills by removing barriers to composting and recycling. Additionally, local governments can encourage composting and recycling by maintaining composting and recycling centers and by providing areas throughout the community to compost or recycle. Local governments can also support local gardening efforts by providing free or reduced cost compost.

Composting

Composting provides an organic source of nutrients for garden soil, and makes great use of leaf litter, grass clippings, plant debris, certain food scraps, and other decomposed organic matter. Composting programs are used to reduce waste and create a resource of organic matter for farmers and gardeners. Both municipal and state laws may impact composting activities, depending on the type of composting activity. Composting can be an activity limited to an individual household, also known as backyard composting. However, composting can also involve a larger waste stream if a larger commercial facility or business composes waste for its individual business or industrial activities or consolidates compost from other businesses or facilities. Laws governing composting activities, at both the state and municipal level, generally depend on the type of composting activity – whether the composting is for an individual household or a larger facility.

Minnesota state law does not regulate permits or licenses for “backyard composting”. However, Minnesota state law does require a permit for facility composting (or commercial composting). Therefore, a distinction must be made between “backyard compost” and “facility compost.”

Compost generated by individual households, apartment buildings, or businesses would generally fall under the “Backyard composting” umbrella and is regulated largely by the City. All other categories are most likely to be considered “compost facilities” and are more heavily regulated by the Minnesota Pollution Control Agency.

Compost is regulated in part, by the Minnesota Pollution Control Agency. State regulations govern:

- Odors
- Design requirements
• Discharge and surface water drainage runoff
• Operation requirements (i.e., staff training) \(^{235}\)

**Minnesota State Law Definitions:**

★ **Backyard compost site.** (State Definition) A site used to compost food scraps, garden wastes, weeds, lawn cuttings, leaves, and prunings from a single family or household. \(^{236}\)

★ **Compost facility.** (State Definition) A site used to compost or cocompost solid waste, including all structures or processing equipment used to control drainage, collect and treat leachate, and storage areas for the incoming waste, the final product, and residuals resulting from the composting process. \(^{237}\)

★ **Composting.** (State Definition) The controlled microbial degradation of organic waste to yield a humus like product. \(^{238}\)

★ **Operator.** (State Definition) The person or persons responsible for the operation of a facility. \(^{239}\)

★ **Owner or facility owner.** (State Definition) The person or persons who own a facility or part of a facility. \(^{240}\)

**Municipal Code Definitions:**

★ **Garbage.** Every accumulation of animal, vegetable or other matter that attends the preparation, consumption, display, dealing in a storage of meat, fish, fowl, birds, fruit or vegetables, including the cans, containers or wrappers wasted along with the materials. \(^{241}\)

★ **Refuse.** All solid waste products or those having the character of solids rather than liquids; in that they will not flow readily without additional liquid and which are composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial solid waste or domestic solid waste; organic wastes or residue of animals sold as meat; fruit or other vegetable or animal matter from kitchen, dining room, market, food establishment of any place dealing in or handling meat, grain or vegetables; or offal, animal excreta or the carcasses of animals. \(^{242}\)

★ **Yard Waste.** Organic material consisting of grass clippings, leaves and other forms of organic garden waste, but excluding bushes, fibrous brush, woody materials or other materials that are not readily compostable within a calendar year. \(^{243}\)

★ **Swill.** That particular garbage which is wholly or nearly edible and usable as a food and has food value for animals or fowl, accumulating from animal, vegetable or other matter wasted from clubs, hotels, hospitals, restaurants and public eating places. \(^{244}\)

★ **Kitchen waste.** Not defined by municipal code as of June 2, 2015.
Does the municipal code require a permit or license?

Unclear. The City does not require a permit of license for “backyard composting” but does not address large-scale composting operations.

What are the relevant regulations?

Private composting of yard waste is permitted.\textsuperscript{245} However, the municipal code does not address composting of vegetable or other food matter, but includes this waste in the definition of “garbage” and identifies this compostable material as “refuse”. Accordingly it seems that Apple Valley does not recognize vegetable and other food waste as a viable composting material.

Additional Resources

Instructions for commercial/facility composting: The Minnesota Pollution Control Agency (MPCA) Yard Waste Compost Permit Program requires applicants (facility owners and operators) to:

1) Complete and submit the permit-by rule (PBR) permit application form below.
2) Operate in compliance with the yard waste rules in Minn. Rules 7035.2836.
3) Complete and submit an annual report below.

Recycling and Waste Disposal

The food system extends beyond the consumption of food and includes the disposal of food packaging and other non-compostable materials. Many materials can be used or reused through recycling, such as paper, glass, metal, and plastic. Local governments often address garbage disposal and recycling via their municipal codes. By making recycling an easier option, local governments can encourage residents to recycle and reduce waste throughout the city.

Municipal Code Definitions

\begin{itemize}
  \item \textbf{Garbage.} Every accumulation of animal, vegetable or other matter that attends the preparation, consumption, display, dealing in a storage of meat, fish, fowl, birds, fruit or vegetables, including the cans, containers or wrappers wasted along with the materials.\textsuperscript{246}
  \item \textbf{Refuse.} All solid waste products or those having the character of solids rather than liquids; in that they will not flow readily without additional liquid and which are
\end{itemize}
composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial solid waste or domestic solid waste; organic wastes or residue of animals sold as meat; fruit or other vegetable or animal matter from kitchen, dining room, market, food establishment of any place dealing in or handling meat, grain or vegetables; or offal, animal excreta or the carcasses of animals.  

★ **Recyclables.** Materials which can be separated from the mixed municipal solid waste stream for collection and preparation for reuse in their original form, or for other uses in manufacturing processes that do not cause the destruction of the recyclable materials in a manner that precludes further uses.  

★ **Yard wastes.** Organic material consisting of grass clippings, leaves and other forms of organic garden waste, but excluding bushes, fibrous brush, woody materials or other materials that are not readily compostable within a calendar year.  

★ **Swill.** That particular garbage which is wholly or nearly edible and usable as a food and has food value for animals or fowl, accumulating from animal, vegetable or other matter wasted from clubs, hotels, hospitals, restaurants and public eating places.  

★ **Single family-dwelling.** Any building used for residential purposes that consists of one dwelling unit.  

★ **Multiple dwellings.** Any building used for residential purposes consisting of more than one dwelling unit with individual kitchen facilities for each.  

★ **Targeted Recyclables.** Metal beverage containers, glass containers, newsprint or other materials that may be designated by the Council via resolution.  

**Does the municipal code require a permit or license?**

A permit or license is not required to dispose of garbage or to recycle at one’s residence or business property.  

A license is required to haul garbage, refuse, recyclables, yard waste or food waste.  

**What are the relevant regulations?**

The City has established several requirements regarding waste management in the city, including:

- Every household in residential and multi-dwelling districts and all commercial establishments shall have garbage and refuse collection.
- It is unlawful for any person to store garbage or refuse on residential dwelling premises for more than two weeks.
**APPENDIX A: SEARCH TERMS**

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<th>Market garden</th>
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<tr>
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<td>Plant bed</td>
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<td>Shed</td>
<td>Pantry</td>
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<td>Community garden</td>
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Apple Valley, Minnesota
APPENDIX B: REGULATIONS GOVERNING ACCESSORY BUILDING, STRUCTURES, AND USES

Those interested in constructing an accessory building or structure should be aware that the City has established some height and set back requirements. Further, the City prohibits what type of accessory structure can be located in a front yard in certain districts.\textsuperscript{257} Additionally, no structures can be on public rights-of-way without approval by the city.\textsuperscript{258}

Municipal Code of Ordinances:

Title XV, Chapter 155 – Land Usage, Zoning

§ 155.332 ACCESSORY BUILDINGS AND STRUCTURES.

(A) It shall be unlawful to install, construct, erect, alter, revise, reconstruct or move any outdoor accessory storage building which exceeds 120 square feet of enclosed area on a residentially zoned lot without first obtaining a building permit. If the roof of an accessory building or structure is projected beyond the walls or supports of the building or structure more than 24 inches in any direction and the total roof area exceeds 120 square feet, a building permit shall also be required.

(B) The application for a building permit for an accessory building or structure shall be made upon a form provided by the city and shall include:

(1) Drawings, plans and specifications in sufficient detail so that the city’s Building Inspector may review the same for compliance with all applicable building codes;

(2) Illustration of the method of anchoring the building to the ground which must be approved by the Building Inspector; and

(3) Other information as the city may require to ensure compliance with these regulations.

(C) No accessory building or structure other than a fence or a temporary construction office shall be permitted on any lot in an R district prior to the time of construction of the principal building to which it is accessory, except a residential garage, which prior to construction of the residence can be used only for storage purposes pertaining to and until completion of the main structure.

(D) Setbacks.

(1) All accessory buildings or structures 120 square feet in area or less, except those related to a farming operation shall be located in the side or rear yard and no closer than five feet to any property line or 20 feet to a side lot line, if adjacent to any public street right-of-way.

(2) All accessory buildings or structures exceeding 120 square feet in area, except those related to a farming operation, shall meet the minimum building setbacks of the appropriate
zoning district, except that in R districts the accessory building may be set back from rear lot lines a minimum of ten feet.

(3) Accessory buildings and structures related to a farming operation and on a farm, may be located anywhere on the lot except that a building for housing more than two animal units shall not be less than 50 feet from a lot line and all buildings shall otherwise conform to yard regulations for the district in which it is located.

(E) Any accessory building or structure not attached to a dwelling unit shall be set back a minimum of six feet from the dwelling unit. If the dwelling unit has an attached garage, the accessory building or structure may be placed directly adjacent to the garage provided it maintains the six-foot setback from the dwelling unit and any other applicable setbacks. A detached accessory building or structure may be placed closer than six feet to a dwelling unit if appropriate fire protection of the exterior wall(s) and roof is provided.

(F) All accessory buildings or structures shall be maintained and kept so as not be an eyesore or a nuisance. Any building which is not so maintained shall be removed by the property owner or upon due notice. The building may be removed by the city at the property owner's expense.

(G) An accessory building or structure shall not exceed 16 feet in height and 750 square feet in area.

(H) A portable or permanent accessory building or structure shall not be located in a public utility easement, except when approved by the city and/or any public utility holding the easement. Where any question arises as to the location or design of the accessory building, the Building Inspector may refer the matter to the City Council for final determination.

(I) All accessory buildings and structures shall be suitably anchored to the ground.

(J) Any accessory building or structure in excess of 120 square feet shall be constructed to the standards of the Minnesota State Building Code.

§ 155.333 REQUIRED YARDS AND OPEN SPACES.

(A) Whenever a park or play area is so located that it abuts on a public right-of-way or railroad right-of-way, either a landscaped yard area of at least 30 feet shall be maintained from the right-of-way and the nearest developed play space, or a fence or similar barrier shall be constructed and maintained. This section shall apply to all public and private parks, schools, churches and areas where parks and quasi-public play areas are provided.

(B) No yard or open space existing upon the effective date of this chapter shall be reduced in area or dimension so as to make the yard or other open space less than the minimum required by this chapter.

(C) The following shall not be considered as encroachments on yard or setback requirements:

(1) Projections. Chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, bays, gutters and other similar projections, provided they do not extend more than 30
inches into the required setback area and in no instance in the R districts nearer than three feet from a lot line.

(2) In front yards.

(a) Uncovered balconies that extend into the required setback area a distance of four feet or less, provided that they are seven feet or more above grade at the foundation line.

(b) Patios and decks that extend into the required setback area a distance of eight feet or less, provided that they are 18 inches or less above grade at the building line and have no railing.

(c) Ramps constructed for the purpose of providing handicap access which extend into the required setback area a distance of eight feet or less, provided that they are 18 inches or less above grade at the building line with a railing no higher than 36 inches.

(3) In side yards. Ramps constructed for the purpose of providing handicap access, terraces, steps, stoops and uncovered patios, porches or decks, none of which extend nearer than five feet to the side lot line.

(4) In rear yards.

(a) Patios or decks no more than 18 inches above grade at the building line, exclusive of any railing, ramps constructed for the purpose of providing handicap access, breezeways, detached picnic shelters, recreational equipment, constructed landscape features or retaining walls, driveways, steps, stoops and mechanical equipment, provided that none of these extend nearer than five feet to the rear lot line.

(b) Attached uncovered balconies or decks higher than 18 inches above building grade may extend up to 12 feet into the required setback area.

(5) Allowances. All of the preceding permitted setback encroachments shall not be construed to allow encroachment into an easement of record.

(D) The minimum required building setback for any building in any yard in all zoning districts along any interstate or state highway, principal or minor arterial and community collector, either existing or proposed as designated in the city’s comprehensive guide plan.

(E) The City Council may waive the required side yard setback requirement in all districts if two legal lots of record are held in one ownership and are combined by the Dakota County Assessor as one tax parcel.

(F) A building that met setback requirements at the time the building permit was issued may be replaced by a new building that is no larger than the existing building’s foundation footprint notwithstanding the setback requirements in effect at the time the new building is to be erected unless the setback distance for the lot as provided in this chapter has been amended since the issuance of the building permit for the existing building.  

§ 155.335 TRAFFIC VISIBILITY.
On all corner lots in all districts, no structure or planting in excess of 36 inches above the abutting curb line shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curb lines of two intersecting streets, thence 30 feet along one curb, thence diagonally to a point 30 feet from the point of beginning on the other curb line, thence to the point of beginning.  

Additional resources:

APPENDIX C: REGULATIONS GOVERNING THE EXTERIOR OF STRUCTURES AND BUILDINGS

The City of Apple Valley has established specific regulations governing exterior work that is authorized by a building permit. The most noteworthy requirement is that the exterior work of buildings must be completed within a specified time period.

Municipal Code of Ordinances:
Title XV, Chapter 150 – Land Usage, Zoning

§ 150.07 COMPLETION OF EXTERIOR WORK.
(A) Exterior work authorized by a building permit issued in accordance with the Minnesota State Building Code must be completed within the specified days set forth below from the date of issuance of the building permit, or within the timeframe set by the Building Official at the time the permit is issued, whichever is greater.

(1) EXTERIOR WORK includes work on all exterior parts of a structure or building, including but not limited to, roofs, doors, windows, siding, and stairs, and work on exterior structures, including but not limited to, retaining wall, accessory building ( sheds, detached garages), deck, and fence.

(2) Exterior work authorized by a building permit issued in accordance with the Minnesota State Building Code must be completed within the specified days from the date of issuance of the building permit as follows:
   (a) Buildings or structures on single-family residential property:
       • Roofs, siding, replacement doors and windows 180 days
       • Accessory structures 180 days
       • New construction 365 days
       • Additions to primary home 365 days
       • Retaining walls 180 days
   (b) Buildings or structures on multi-family residential property:
       • Twin-home exterior work same deadlines as single-family
       • Quad-home exterior work: 365 days
       • Building with more than four units: as determined by Building Official
   (c) Buildings or structures on commercial or industrial property:
       • Building exterior work as determined by Building Official
       • Exterior structures other than primary building 365 days

(B) Upon a showing by the permit holder or property owner that there has been an unavoidable delay in completion of the exterior work, the Building Official, at the Official’s reasonable discretion, may grant one extension for the completion of the exterior work for a period not to exceed 180 days.

(C) Failure to complete all exterior work authorized by a building permit within the specified timeframe, including any extension granted, is a violation of this chapter.
(D) Notwithstanding the completion deadlines, a permit shall expire 180 days from date of issuance if there is no substantial work completed under the permit, as provided in the Minnesota Building Code. If no work has been completed under a building permit as of its expiration date, then the completion deadline for the work under a new permit shall be as set forth above.

(E) This section shall apply to any exterior work for which a building permit was issued on or after the effective date of this section. Any exterior work for which a building permit was issued prior to the effective date of this section shall be completed by May 1, 2012, unless another time was set by the Building Official at or after the time of the issuance of the permit. If exterior work has been completed or in progress without the issuance of a building permit, the completion timeframe dates set forth herein do not apply and the Building Official shall have the sole authority to determine a completion and code compliance date.
APPENDIX D: LANDSCAPE PLAN REQUIREMENTS

The City requires certain urban and suburban developments to provide landscaping within the development. This requirement applies to open space areas not used for parking or storage.

Municipal Code of Ordinances:

Title XV, Chapter 155 – Land Usage, Zoning

§ 155.349 LANDSCAPING.

(A) A landscaped yard shall be installed and maintained along all public streets except on lots in agricultural districts, on through lots (not corner lots) in R-1 districts, or on lots abutting a public transportation facility. This yard shall be kept clear of all structures, storage and off-street parking, except for driveways. This yard shall be at least five feet in depth from the public right-of-way for all properties abutting Cedar Avenue south of 140th Street and for all properties abutting 150th Street west of Pilot Knob Road, but east of 147th Street. This yard shall be at least 15 feet in depth along all other streets, measured from the public right-of-way. The measurement shall be determined as of the time that the permit for construction or improvement is issued. Except for driveways, the yard shall extend along both streets in the case of a corner lot.

(B) An approved landscape plan shall be required for all new commercial, industrial, multiple residential and institutional developments. For developments having a construction value in excess of $1,000,000, the plan shall be prepared by a landscape architect registered and licensed in the state. To the maximum extent feasible, this site plan shall incorporate any existing vegetative features on the site; to the extent that the value of preserved vegetation can be demonstrated, a credit to the minimum expenditures following below may be allowed. The landscape plan shall include size, location, quantity and species of all plant materials and the method of maintenance. The minimum cost of landscaping materials for the plan shall be a percentage of the estimated building construction cost based on current means construction data as follows:

1. Multiple residential, 2½%.
2. Commercial, 2½%.
3. Institutional, 2½%; and
4. Industrial, 1½%.

(C) The City Council may require a landscape bond to ensure that all plant materials are planted and maintained for at least one year.

(D) Landscaped islands shall be provided in parking lots containing more than 25 parking stalls. Total area of islands shall be at least 2% of the parking lot area, except that no island shall be less than the size of a standard parking stall. Islands shall be surrounded by a concrete curb and provided with a weed retardant mesh or plastic sheeting. Islands shall be planted with a minimum 2½-inch diameter tree at the rate of one tree per 150 square feet of island area.
Zoning is a tool that allows cities to divide its boundaries into zoning districts, each of which have certain restrictions and/or characteristics. Apple Valley has established several zoning regulations – some general and others that are specific to a particular zoning district. The following information is not an extensive overview of the zoning regulations. Instead, this section is intended to give a general overview of the zoning regulations in Apple Valley.

Apple Valley has numerous zoning districts. Apple Valley’s municipal code holds that if there are other laws, code provisions, resolutions, or regulations that are more restrictive than the zoning regulations set forth, that the most restrictive rules shall prevail. Additionally, the municipal code outlines its procedure process, specifically allotting for public participation.

For more information, please visit Apple Valley’s zoning and planning website, http://www.ci.apple-valley.mn.us/index.aspx?NID=88

Municipal Code of Ordinances:

Title XV, Chapter 155 – Zoning Regulations, Title; Purpose; Interpretation

§ 155.001 INTENT AND PURPOSE.
This chapter is adopted for the purpose of:
(A) Protecting the public health, safety and general welfare;
(B) Dividing the city into zones and districts restricting and regulating therein the location, height, number of stories, size of buildings and other structures, and percentage of lot which may be occupied, the size of yards and other open spaces, and the density and distributions of population;
(C) Promoting orderly development of the residential, business, industrial, recreational and public areas;
(D) Providing adequate light, air and convenience of access to property;
(E) Limiting congestion in the public rights-of-way;
(F) Preventing the overcrowding of land and undue concentration of structures by regulating the use of the land and buildings and the bulk of building in relation to the land and buildings surrounding them;
(G) Providing for the compatibility of different land uses and the most appropriate use of land throughout the city;
(H) Providing for more orderly transition from a rural to an urban or suburban environment;
(I) Providing for the administration of this chapter and amendments thereto;
(J) Defining the powers and duties of the administrative officers and bodies, as provided hereinafter; and
(K) Prescribing penalties for the violation of the provisions of this chapter or any amendment thereto.

§ 155.004 APPLICATION.
(A) In interpretation and application, the provisions shall be held to be the minimum
requirements for the promotion of the public health, safety, morals and general welfare.

(B) Where the conditions imposed by any provision of this chapter are either more restrictive or less restrictive than comparable conditions imposed by any other law, ordinance, statute, resolution or regulation of any kind, the regulations which are more restrictive or which impose higher standards or requirements shall prevail.

(C) Except as specifically provided in this chapter, no structure shall be erected, converted, enlarged, reconstructed or altered and no structure or land shall be used for any purpose nor in any manner which is not in conformity with this chapter.265

§ 155.005 DIVISION AND ESTABLISHMENT OF DISTRICTS.

(A) In order to carry out the purpose and provisions of this chapter, the city is hereby divided into the following zoning districts and groups of districts:

1. A, an agricultural district;
2. RCL, a residential cluster district;
3. R-1, a one-family residential district;
4. R-2, a one-family residential district;
5. R-3, a one-family residential district;
6. R-4, a one-family residential district;
7. R-5, a two-family residential district;
8. M-1A, B and C, multiple-family districts;
9. M-2A, B and C, multiple-family districts;
10. M-3A, B and C, multiple-family districts;
11. M-4A, B and C, multiple-family districts;
12. M-5A, B and C, multiple-family districts;
13. M-6A, B and C, multiple-family districts;
14. M-7A, B and C, multiple-family districts;
15. M-8A, B and C, multiple-family districts;
16. LB, a limited business district;
17. LB-1, a limited business district;
18. NCC, a neighborhood convenience center district;
19. GB, a general business district;
20. GB-1, a general business district;
21. RB, a retail business district;
22. SC, a regional shopping center district;
23. VB, a visitor’s business district;
24. I-1, a limited industrial district;
25. I-2, a general industrial district;
26. P, an institutional district;
27. SG, a sand and gravel district;
28. SH, a shoreland overlay district; and
29. PD, a planned development district(s).

(B) Reference in this chapter to R districts shall include RCL, R-1, R-2, R-3, R-4, R-5, M-1A, B and C, M-2A, B and C, M-3A, B and C, M-4A, B and C, M-5A, B and C, M-6A, B and C, M-7A, B and C and M-8A, B and C; reference to B districts include LB, LB-1, NCC, GB, RB, SC and VB; and reference to I districts shall include I-1 and I-2.266
APPENDIX F: MUNICIPAL CODE PROVISIONS

Gardening

Title XV, Chapter 155 – Land Usage, Zoning, General Provisions

§ 155.053 PERMITTED ACCESSORY USES.

(F) Gardening and other horticultural uses where no sale of products is conducted on the premises;

Title XV, Article 26 – Land Usage, Zoning, Designation No. 681

§ A26-2 PERMITTED USES.

(B) Zone 2. Within this zone, no structure or land shall be used except for one or more of the following use or uses deemed similar by the City Council:

(2) Gardening or other horticultural uses where no sale of products is conducted on the premises;


Title XV, Chapter 156 – Land Usage, Zoning, Floodplain Control

§ 156.12 FLOODPLAIN (FP) DISTRICT.

(A) Permitted uses. The following uses shall be permitted uses within the Floodplain District as delineated on the city's FIRM, provided they are not prohibited by any other code provision:

(1) Agricultural uses not involving a structure, such as: general farming, pasture, grazing, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting.

(5) Residential uses not involving a structure, such as: lawns, gardens, parking areas and play areas.
Farming

§ 155.398 BUILDING PERMIT; CERTIFICATE OF OCCUPANCY.

No structure shall hereafter be erected or structurally altered until a building permit is issued by the city, except for farm buildings and dwellings as exempted by the Minnesota State Building Code. No structure, except one- or two-family dwellings shall hereafter be occupied after construction until a certificate of occupancy has been issued by the city.

Farm Animals

Title IX, Chapter 91 – General Regulations, Animals

§ 91.06 ANIMALS WITHIN CITY LIMITS.

(A) Keeping of animals. The keeping of animals within the city is subject to the provisions of this chapter and applicable state and federal statutes, rules and regulations, including but not limited to those addressing prevention of cruelty to animals, animal health, stray animals, companion animals, service animals and dangerous animals.

(B) Animals within the city. Except as otherwise provided elsewhere in the code, no person shall keep or harbor any animal other than a household pet or service animal within the city.

(C) Limitation on number.

(1) Purpose. The owning, harboring and keeping on any premise of a large number of pet animals within the city adversely affects the welfare of the entire city due to various noise, odor, health and safety problems resulting from the keeping of a large number of pet animals, which constitute a public nuisance.

(2) No person shall keep in any one dwelling unit, lot, or premise or portion thereof more than three service animals or three of each of the following household pets: dogs, ferrets, or cats over the age of four months of age, but not to exceed a combined total of six said animals. This provision shall not apply to veterinary clinics or hospitals, licensed kennels or catteries, pet stores, animal shelters, pet care facilities, or other similar uses permitted by the code.

(D) Keeping of certain animals prohibited.

(1) Prohibited animals. No person shall keep, maintain or harbor within the city any of the following animals:

(a) Any animal or species prohibited by Minnesota or federal law.

(b) Farm poultry or farm animals, except in the following cases:

1. Farm poultry or farm animals may be kept on property zoned for agricultural uses.

2. Horses may be kept on property zoned R-1 Single Family Residential (minimum lot size of 40,000 sq. ft.).

(c) Any animal or species not defined as a HOUSEHOLD PET. Examples of prohibited animals include, but are not limited to, the following:

1. All skunks, whether captured in the wild, domestically raised, descented or not descented, vaccinated against rabies or not vaccinated against rabies.
2. All large cats of the family Felidae, such as lions, tigers, jaguars, leopards, cougars and ocelots, except commonly accepted domesticated house cats.
3. All members of the family Canidae, such as wolves, foxes, coyotes, dingoes and jackals, except domesticated dogs.
4. All crossbreeds, such as crossbreeds between dogs and coyotes or dogs and wolves, but does not include crossbreeds between domesticated animals.
5. All poisonous snakes, such as rattlesnakes, coral snakes, water moccasins, cobras or copperheads.
6. All raccoons.
7. All piranhas, northern snakeheads, and similar aggressive carnivorous fish.
8. All apes and monkeys.

(2) Selling prohibited. No person shall offer for sale, within the city limits, any animal identified in divisions (D)(1)(a) and (c) of this section.

(3) Exceptions; permit required.
   (a) Any persons desiring to keep animals prohibited under division (D)(1) of this section for entertainment, exhibition, show or promotional purposes only may obtain a permit from the City Council. Such a permit shall be issued for a period not to exceed 30 days and shall specify further conditions under which such animals shall be kept. A public zoo or other institution engaged in a permanent display of animals may be issued a permanent permit, provided applicable zoning requirements are met. The Minnesota Zoological Gardens is exempt from this requirement.
   (b) Any accredited education or research institution or veterinary hospital are exempt from the permit requirement, provided protective devices adequate to prevent such animals from escaping or injuring the public are provided.

Chicken Coops

See Appendix B: REGULATIONS GOVERNING ACCESSORY BUILDING, STRUCTURES, AND USES

Title XV, Chapter 151 – Land Usage, Manufactures Homes and Home Parks

§ 151.31 PLACEMENT AND CONSTRUCTION STANDARDS.

(A) Permit required. Prior to the placement of any manufactured home, or construction of an addition or attachment thereto, or erection of any detached structure, a building permit application shall have been made to and a permit issued from the office of the City Building Official. Prior to the processing of the building permit, written permission from the park owner shall be supplied to the building official indicating that the manufactured home, addition or detached structure conforms to park rules or covenants.

(C) Accessory storage buildings and fences. Freestanding accessory storage buildings and fences shall be permitted as follows:
(2) Storage shed. A freestanding storage shed (one per manufactured home) may be permitted, provided that it does not exceed 100 square feet in area, does not exceed ten feet in height, is set back at least 30 feet from the face of any roadway curb line, is set back at least six feet from any manufactured home or attachment thereto (including permitted intrusions), and is suitably anchored to the ground. Prior to the issuance of a building permit, permission for the addition from the park management must be certified to the city on an approved form.

Fence

§ 155.351 FENCES; PERMITS AND LOCATION.

(A) Permit required. No person, firm or corporation, except on a farm and related to farming, shall hereafter construct or cause to be constructed or erected any fence, wall or similar barrier in excess of six feet in height, as measured from the ground to the top of the fence with an exception of a two-inch ground clearance, without first obtaining a permit from the city. Any fence, wall or similar barrier requiring a building permit shall be constructed or erected in accordance with the provisions of the Minnesota State Building Code.

(B) Locations. All boundary fences shall be located entirely upon the private property of the persons, firm or corporation constructing or causing the construction of the fence unless the owner of the property adjoining agrees, in writing, that the fence may be erected on the division line of the respective properties. The building inspector may require the property owner desiring to erect a fence for which a permit is required to establish the boundary lines of his or her property by a survey thereof to be made by any registered land surveyor.

(C) Fence regulations. A fence is a public nuisance and prohibited accordingly if it does not comply with the following requirements:

(1) The fence shall be firmly fastened and anchored in order that it is not leaning or otherwise in the stage of collapse.

(2) The fence shall be maintained in sound and good repair and free from deterioration, loose or rotting pieces, or holes, breaks, or gaps not otherwise intended in the original design of the fence. The fence shall be free from any defects or condition which makes the fence hazardous.

(3) All exterior wood surfaces of any fence, other than decay resistant woods, shall be protected from the elements by paint or other protective surface coating or treatment, which shall be maintained in good repair to provide the intended protection from the elements.

(4) No fence section shall have peeling, cracked, chipped or otherwise deteriorated surface finish, including but not limited to: paint or other protective coating or treatment, on more than 20% of any one linear ten-foot section of the fence.
(5) Any link fence, where permitted, shall be constructed and maintained in such a manner that no barbed ends be located at the top of the fence.

(6) No fence made of any material which is intended for the purpose of temporary fencing, such as snow fencing or erosion control or sedimentation fencing, shall be permitted on any property for a period in excess of 30 days within any twelve-month period, except in connection with a development, construction or land-disturbing activity project requiring such temporary fencing or as otherwise approved by the city for good cause.

(D) Residential district fences. In all areas of the city zoned residential and not a farm, no boundary line fence shall be erected or maintained more than 3½ feet in height except that:

(1) Fences on all corner lots erected within 30 feet of the intersecting curb line shall be subject to § 155.335.

(2) Fences may be constructed to a height of eight feet on the side property line from the rear lot line to the front setback line of the principal building.

(3) Fences along any rear property line which is also the rear property line of an abutting lot or which abuts a street right-of-way shall not exceed eight feet in height.

(4) Fences along a rear property line which constitutes the side lot line of an abutting lot shall not exceed eight feet in height and shall not exceed 3½ feet in height within a triangular area described as follows: beginning at the intersection of the common rear/side lot line and the abutting lot's front lot line; thence 17 feet along the common rear/side lot line; thence diagonally to a point 17 feet from the point of beginning along the side street lot line; thence to the point of beginning.

(5) Fences on side street lot lines shall not be more than eight feet in height and shall not extend toward the front lot line past a point on the lot line where the front building line of the principal building projected would intersect and, if the adjacent lot fronts on the same street as the aforementioned side street lot line, the fence shall not exceed 3½ feet in height within the triangular area described in subsection (4) above.

(E) Business, industrial and institutional district fences. Property line fences within all business, industrial or institutional districts shall not exceed eight feet in height unless otherwise permitted by the City Council.

(F) Barbed wire and electric fences. Barbed wire fences shall not be permitted in any district except agricultural unless specifically permitted under conditions set forth by the City Council. Electric fences shall not be permitted in any district except in agricultural and only when related to farming or in other districts in which a farm is located and only when related to farming and not used as a boundary fence. An underground electronic or electric boundary marker systems used for containment of domestic animals, such as “invisible fence,” shall not constitute an electric fence for purposes of this paragraph.
Special purpose fences. Fences for special purposes, such as the Zoological Garden perimeter fence, may be permitted in any use district by the City Council. Findings shall be made that the fence is necessary to protect, buffer or improve the premises for which the fence is intended.

§ 155.332 ACCESSORY BUILDINGS AND STRUCTURES.

(A) It shall be unlawful to install, construct, erect, alter, revise, reconstruct or move any outdoor accessory storage building which exceeds 120 square feet of enclosed area on a residentially zoned lot without first obtaining a building permit. If the roof of an accessory building or structure is projected beyond the walls or supports of the building or structure more than 24 inches in any direction and the total roof area exceeds 120 square feet, a building permit shall also be required.

Title XV, Chapter 156 – Land Usage, Floodplain (FP) Control

§ 156.05 PERMIT REQUIREMENTS.

(A) No person shall erect, construct, enlarge, alter, repair, improve, move, or demolish any building or structure without first obtaining a separate permit for each building or structure from the Building Inspection Division.

(B) No man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, fences, mining, dredging, filling, grading, paving, excavation or drilling operations, shall be commenced until a separate permit has been obtained from the Building Inspection Division for each change.

(C) No manufactured home shall be placed on improved or unimproved real estate within the floodplain.

(Ord. 710, passed 3-14-02; Am. Ord. 927, passed 10-27-11)

Title XV, Chapter 150 – Land Usage, Building; Construction

§ 150.07 COMPLETION OF EXTERIOR WORK.

(A) Exterior work authorized by a building permit issued in accordance with the Minnesota State Building Code must be completed within the specified days set forth below from the date of issuance of the building permit, or within the timeframe set by the Building Official at the time the permit is issued, whichever is greater.

1. EXTERIOR WORK includes work on all exterior parts of a structure or building, including but not limited to, roofs, doors, windows, siding, and stairs, and work on exterior structures, including but not limited to, retaining wall, accessory building (sheds, detached garages), deck, and fence.

2. Exterior work authorized by a building permit issued in accordance with the Minnesota State Building Code must be completed within the specified days from the date of issuance of the building permit as follows:

   (a) Buildings or structures on single-family residential property:
       • Roofs, siding, replacement doors and windows 180 days
       • Accessory structures 180 days
       • New construction 365 days
       • Additions to primary home 365 days
• Retaining walls  180 days
  
(b) Building or structures on multi-family residential property:
  • Twin-home exterior work  same deadlines as single-family
  • Quad-home exterior work:  365 days
  • Building with more than four units:  as determined by Building Official
  
(c) Buildings or structures on commercial or industrial property:
  • Building exterior work  as determined by Building Official
  • Exterior structures other than primary building  365 days

(B) Upon a showing by the permit holder or property owner that there has been an unavoidable delay in completion of the exterior work, the Building Official, at the Official’s reasonable discretion, may grant one extension for the completion of the exterior work for a period not to exceed 180 days.

(C) Failure to complete all exterior work authorized by a building permit within the specified timeframe, including any extension granted, is a violation of this chapter.

(D) Notwithstanding the completion deadlines, a permit shall expire 180 days from date of issuance if there is no substantial work completed under the permit, as provided in the Minnesota Building Code. If no work has been completed under a building permit as of its expiration date, then the completion deadline for the work under a new permit shall be as set forth above.

(E) This section shall apply to any exterior work for which a building permit was issued on or after the effective date of this section. Any exterior work for which a building permit was issued prior to the effective date of this section shall be completed by May 1, 2012, unless another time was set by the Building Official at or after the time of the issuance of the permit. If exterior work has been completed or in progress without the issuance of a building permit, the completion timeframe dates set forth herein do not apply and the Building Official shall have the sole authority to determine a completion and code compliance date.

Planting Boxes
Title XV, Chapter 155 – Land Usage, General Regulations

§ 155.338 STRUCTURES IN PUBLIC RIGHTS-OF-WAY.

No buildings, structures or uses may be located in or on any public lands or rights-of-way without approval by the City Council. 270

Title IX, Chapter 96 – General Regulations, Streets and Sidewalks

§ 96.06 OBSTRUCTIONS AND EXCAVATIONS IN PUBLIC RIGHT-OF-WAY OR PROPERTY.

(A) Application and scope. This section shall not apply to obstructions or excavations within public rights-of-way by a person or entity owning or controlling a utility service facility therein, which is regulated elsewhere in this code.

(B) Public nuisance declared. Any obstructions or excavations within a public right-of-way or public grounds, except under a permit issued by the city, constitutes a public nuisance. It shall be unlawful for any person to place or make any obstruction or to excavate within a public right-
of-way or public grounds without first obtaining a permit from the city. For purposes of this section, the term "obstruction" shall mean the placement or maintenance of any building, structure or object other than a lawfully registered motor vehicle pursuant to M.S. Chapter 168. This section shall not apply to excavations in the boulevard area of a public right-of-way in connection with installation of mailboxes or irrigation systems and planting of trees.

(C) Permit fee. A permit fee, as set forth in Chapter 35 of this Code, shall be required for any permit required for excavation under this section that is within any vehicular traffic roadway area including curb or gutter systems, or a public right-of-way, or any pedestrian circulation system, including, but not limited to any sidewalk or pathway.

Arbors, Trellises, and Pergolas

Title XV, Chapter 155 – Land Usage, General Regulations

§ 155.349 LANDSCAPING.

(A) A landscaped yard shall be installed and maintained along all public streets except on lots in agricultural districts, on through lots (not corner lots) in R-1 districts, or on lots abutting a public transportation facility. This yard shall be kept clear of all structures, storage and off-street parking, except for driveways. This yard shall be at least five feet in depth from the public right-of-way for all properties abutting Cedar Avenue south of 140th Street and for all properties abutting 150th Street west of Pilot Knob Road, but east of 147th Street. This yard shall be at least 15 feet in depth along all other streets, measured from the public right-of-way. The measurement shall be determined as of the time that the permit for construction or improvement is issued. Except for driveways, the yard shall extend along both streets in the case of a corner lot.

(B) An approved landscape plan shall be required for all new commercial, industrial, multiple residential and institutional developments. For developments having a construction value in excess of $1,000,000, the plan shall be prepared by a landscape architect registered and licensed in the state. To the maximum extent feasible, this site plan shall incorporate any existing vegetative features on the site; to the extent that the value of preserved vegetation can be demonstrated, a credit to the minimum expenditures following below may be allowed. The landscape plan shall include size, location, quantity and species of all plant materials and the method of maintenance. The minimum cost of landscaping materials for the plan shall be a percentage of the estimated building construction cost based on current means construction data as follows:

1. Multiple residential, 2½%;
2. Commercial, 2½%;
3. Institutional, 2½%; and
(4) Industrial, 1½%.

(C) The City Council may require a landscape bond to ensure that all plant materials are planted and maintained for at least one year.

(D) Landscaped islands shall be provided in parking lots containing more than 25 parking stalls. Total area of islands shall be at least 2% of the parking lot area, except that no island shall be less than the size of a standard parking stall. Islands shall be surrounded by a concrete curb and provided with a weed retardant mesh or plastic sheeting. Islands shall be planted with a minimum 2½-inch diameter tree at the rate of one tree per 150 square feet of island area.

Greenhouse

See Appendix B: Regulations Governing Accessory Buildings and Structures for potential considerations.

Shed

Please see Appendix B for more information regarding regulations governing accessory structures.

Title XV, Chapter 151 – Land Usage, Manufactures Homes and Home Parks

§ 151.31 PLACEMENT AND CONSTRUCTION STANDARDS.

(A) Permit required. Prior to the placement of any manufactured home, or construction of an addition or attachment thereto, or erection of any detached structure, a building permit application shall have been made to and a permit issued from the office of the City Building Official. Prior to the processing of the building permit, written permission from the park owner shall be supplied to the building official indicating that the manufactured home, addition or detached structure conforms to park rules or covenants.

(C) Accessory storage buildings and fences. Freestanding accessory storage buildings and fences shall be permitted as follows:

(2) Storage shed. A freestanding storage shed (one per manufactured home) may be permitted, provided that it does not exceed 100 square feet in area, does not exceed ten feet in height, is set back at least 30 feet from the face of any roadway curb line, is set back at least six feet from any manufactured home or attachment thereto (including permitted intrusions), and is suitably anchored to the ground. Prior to the issuance of a building permit, permission for the addition from the park management must be certified to the city on an approved form.
Farmers Markets

While the following code does not specifically reference farmer’s market, the activities of a farmers market likely apply.

Title XV, Chapter 155 – Land Usage, Zoning

§ 155.003 DEFINITIONS

OPEN SALES LOT. Land devoted to the display of goods for sale, rent, lease, advertising or trade, where the goods are not enclosed within a building.\(^{271}\)

§ 155.355 OPEN SALES LOTS.

Open sales lots shall be subject to the following standards:

(A) A minimum 20-foot wide yard abutting the public right-of-way shall be landscaped and the landscaping shall be separated from the usable portion of the lot by a curb. The 20-foot landscaped yard shall also be provided where the lot abuts a residential lot.

(B) All of the lot other than the portion occupied by a building or landscape treatment shall be surfaced to control dust and drainage.

(C) Lot shall be constructed according to a grading plan approved by the City Engineer.

(D) When a lot is adjacent to a lot located in a residential district, a fence of acceptable design shall be erected along that particular side.

(E) The outdoor lighting system for a sales lot shall be so designed that no direct source of light is visible from the public right-of-way or adjacent land.

(F) A site plan for the lot, showing ingress and egress, storage, parking, fencing and other necessary features required to understand the operation, shall be filed for approval by the City Council.

(‘81 Code, § A1-65) (Ord. 291, passed 4-21-83)

Food Establishments

Title XV, Chapter 155 – Land Usage, Zoning Regulations, Parking Requirements

§ 155.378 OFF-STREET PARKING; DESIGN AND MAINTENANCE.

(P) Restaurants and on-sale liquor establishments:

(1) Class I restaurants and other establishments with on-sale liquor licenses. Class I restaurants without liquor licenses and Class III restaurants: one space per 2.5 customer seats; and one space per five seats of outdoor eating area, excluding the first ten outdoor seats.
(2) Class II restaurants. One space per three customer seats; and six stacking spaces for each drive-in window.

(3) Any restaurant and on-sale liquor establishment lawfully existing on the effective date of this division shall not be subject to the parking requirements in this division and shall continue to be subject to one parking space for each three seats based on capacity design. The parking requirements in this division shall become applicable upon any expansion or alteration which results in more customer seating of said restaurant or on-sale liquor establishment.272

In addition, Planned Development Zone 716 incorporates specific parking performance standards.

Title XV, Chapter 154 – Land Usage, Sign Regulations

§ 154.04 SIGNS REQUIRING A PERMIT.

(J) Menu boards. Menu boards subject to the following conditions:

(1) A maximum of one menu board shall be permitted on a parcel of land with a restaurant providing drive-up window service. Restaurants providing drive-up through window service shall be permitted one menu board per drive-through lane up to a maximum two menu boards.

(2) When one menu board exists for a drive-through window service, the menu board shall be a maximum of 50 square feet in area; if more than one menu board exists, each menu board shall be a maximum of 36 square feet in area and may be in addition to any other signs permitted by this chapter.

(3) The menu board shall be single-sided and oriented in such a manner so that the signs provide information to the patrons using the drive-through facility only, and do not provide supplemental advertising to pass-by traffic.

(4) The menu board signage shall be completely enclosed within one sign area.

(5) Order confirmation signage no greater than one square foot and incorporated into the drive-through speaker pedestal shall not be calculated as part of the menu board signage area. Order confirmation signage greater than one square foot shall be incorporated into menu board and calculated as part of said board's sign area.

Title XV, Article 31 – Land Usage, Zoning, Designation No. 739

§ A31-9 SIGNAGE.

(C) Signs allowed without a permit. See also the Sign Code.

(4) Menu boards. Restaurant and cafe uses only may post one display case that features the actual menu of the restaurant used at the dining table. The display case, which may be lighted, shall not exceed two square feet and must be attached to the wall of the restaurant tenant space approximately five feet from grade.

(5) Sandwich boards. Restaurant and cafe uses only may place one sandwich board outside of the entrance of the restaurant or cafe. The sandwich board shall not exceed five square feet, shall be constructed of wood, chalkboard, or finished metal, and shall be located within four feet of the main entrance to the business provided it does not interfere with pedestrian or vehicle
traffic. The information displayed on the sandwich board shall be limited to daily specials and hours of operation, and must be removed at the end of the business day.

Title XV, Chapter 155 – Land Usage, Zoning

§ 155.357 PREPARED FOOD OUTLETS.

(A) Prepared food outlets, such as drive-ins, franchise food operations and quick-stop prepared food facilities, shall be subject to the following standards:

(1) The minimum 20-foot wide yard abutting the public right-of-way shall be landscaped and the landscaping shall be separated from the surfaced part of the lot by a concrete curb;

(2) Hours of operation shall be confined to the period between 10:00 a.m. and 1:00 a.m. except for those sites located 200 feet or more from any residential district;

(3) The entire site, other than the area occupied by a building or landscaping, shall be surfaced with concrete or asphalt;

(4) The outdoor lighting system shall be so designed that no direct source of light is visible from the public right-of-way or adjacent land;

(5) When prepared food is served to the customer in a carry-out container, a proposed system of trash containers and trash removal from the site shall be submitted to the city for approval. The system to include the pick-up of papers and other material upon and adjacent to the site;

(6) A proposed system of ingress, egress and parking shall be submitted for approval by the city. Curb cuts shall not be permitted within 50 feet from the curb line intersection on local or collector streets and 80 feet on principal or minor arterials; and

(7) The minimum required building setback shall relate to any canopy, weather protection or similar feature.

(‘81 Code, § A1-67) (Ord. 291, passed 4-21-83)

(B) All neighborhood restaurants shall be subject to the following standards:

(1) Traffic circulation patterns and ingress/egress to the site are designed so as to minimize impact to adjacent residential and institutional properties; and

(2) The applicant shall demonstrate the use’s generated traffic will not adversely affect any surrounding residential or institutional uses and shall submit, upon the city’s request, a traffic study. The city may require additional landscaping and/or screening to protect neighboring residential and institutional uses.

(Ord. 654, passed 12-10-98)

Food Carts, Mobile Food Units, and Food Stands

Title XV, Chapter 155 – Land Usage, Zoning, Agricultural District

§ 155.020 PERMITTED USES.

Within any agricultural district, no structure or land shall be used, except for one or more of the following uses or uses deemed similar by the City Council:
(C) Stands for the sale of agricultural products provided the products are at least in part raised on the premises;

Title XI, Chapter 118–Business Regulations, Vending Carts

§ 118.01 LICENSE REQUIRED.

No person shall operate a mobile vending cart without first obtaining a license from the city as provided in this chapter. Each vending cart must be separately licensed and a person may operate only at the location specified in the license.

§ 118.03 LICENSE APPLICATION.

(A) Choice of location. Applicant must determine the requested location for the vending cart in accordance with the standards described in § 118.09 hereof. No location which has been chosen in a previous application shall be available for selection. A list of previously chosen locations will be available from the office of the Community Development Director. A licensee currently holding a license for a specific location shall have until the end of the renewal period described in § 118.05 hereof to reapply for that location. Any license not renewed by January 15 shall cause that location to become available to other applicants.

(B) Fee. The fee for the annual license, except as provided in section § 118.07(D), shall be as provided in § 35.27 of this code.

(C) Application.

(1) Each applicant shall file an application with the Department of Community Development on forms provided by the department.

(2) The Community Development Director may require such information on the application as the Director deems reasonable and necessary. The application must be accompanied by:

(a) Plans and specifications for the vending cart;

(b) Proof that the plans and specifications for the vending cart have been approved by the Minnesota Department of Health; and

(c) Proof of application for a food distributor license from the Minnesota Department of Health.

(3) A vending cart license may be issued conditioned on the licensee obtaining a food distributor license from the Department of Health, upon subsequent inspection and approval of the vending cart by city staff, or upon such other conditions as imposed by the City Council.

(D) Inspection of vending cart. Unless the vending cart is available for inspection by the city within 60 days after the application is filed, the license shall be revoked and the applicant’s proposed operating location shall be available to other applicants.

§ 118.04 LICENSE IS NONTRANSFERABLE.
No license for a vending cart shall be transferable to any other person.

§ 118.05 LICENSE PERIOD AND RENEWAL.

A vending cart license is valid from February 1 through January 31 and may be renewed annually. Applications for renewal will be accepted January 1 through January 15. Any license not renewed by January 15 shall cause that location to become available to other applicants.273

§ 118.06 NUMBER OF AVAILABLE LICENSES.

A maximum of four vending cart licenses shall be granted. The City Council may alter this number at its sole discretion.

§ 118.07 CONDITIONS OF OPERATION OF VENDING CARTS.

A vending cart must be operated in accordance with the following conditions:

(A) Each vending cart must be separately licensed;

(B) A vending cart may only be operated at the location specified in the license but if a licensee holds licenses for more than one location, the licensee may place any of his or her licensed vending carts at any location for which the licensee holds a license;

(C) No licensee may trade vending carts or locations with another licensee of any other person;

(D) If a licensee is granted a different location for a vending cart during the licensing year, and the licensee surrenders the original location for the vending cart, the fee for the mid-season license shall be one-half the annual fee.

(E) Vending carts shall be operated only for the sale of food and nonalcoholic beverage items as listed in the license application. The sale of any other merchandise is expressly prohibited;

(F) Vendors may not use lights or noisemakers such as bells, horns or whistles, to attract customers. Lights with protective shielding may be used for the purpose of illuminating food, utensils and equipment;

(G) No vending cart shall be operated before 7:00 a.m. or after 10:00 p.m. on any day;

(H) No vending cart shall be operated or permitted to part, stand or stop in any street except to cross at designated street crossings;

(I) Operation of vending carts shall comply with relevant state and local health regulations and policies;

(J) Every licensee shall maintain a permanent location within the district of the Minnesota Department of Health or Department of Agriculture Inspector that inspects food or beverage facilities within Apple Valley. The permanent location shall be for the storage and preparation of food and beverages carried by the licensee’s vending carts, and for the cleaning and servicing of those vending carts. Such permanent location shall comply in all respects with the
requirements of the State of Minnesota food and beverage regulations, and shall be separately licensed as a food distributor. Each vending cart shall return to the permanent location at least once daily for cleaning and servicing;

(K) All waste liquids, garbage, litter and refuse shall be kept in leakproof, nonabsorbent containers which shall be kept covered with tightfitting lids and properly disposed of at the permanent location. No waste liquids, garbage, litter or refuse shall be dumped or drained into sidewalks, streets, gutters, drains, trash receptacles or any other place except at the permanent location. When leaving the sales area, the licensee or licensee’s employees shall pick up all litter resulting from the business and shall deposit such litter in an approved container located on the vending cart;

(L) No sale may be made to a person in a motor vehicle that is parked or stopped in a public street; and

(M) All persons involved in preparing, handling, or selling food or beverages must wear shirts.

§ 118.08 REQUIREMENTS FOR VENDING CARTS.

(A) No vending cart shall have dimensions exceeding four feet in width, eight feet in length and eight feet in height. However, a vending cart may be equipped with an awning which overhangs by not more than 12 inches in any direction. Each vending cart shall be capable of being moved and kept under control by one person traveling on foot.

(B) Each vending cart shall meet National Sanitation Foundation (NSF) standards for food storage, preparation and dispensing. Toilet facilities shall be required at the permanent location but not on each vending cart.

(C) Each vending cart shall carry adequate hand-washing facilities for the employees of the licensee. A waste retention tank with 15% larger capacity than water supply tank shall be provided.

(D) There shall be issued to each licensee a suitable decal for each licensed vending cart. Every vending cart licensed under this chapter shall at all times have the decal permanently and prominently fastened on the vending cart.

(E) Affixed permanently and prominently to each vending cart shall be a sign no smaller than 12 inches by 12 inches displaying the name, address and telephone number of the vending cart owner and the licensee.

§ 118.09 PERMITTED LOCATIONS FOR VENDING CARTS.

(A) The proposed location for a vending cart shall be referred to the Community Development Director for approval or disapproval.

(B) Vending carts shall be permitted only along the following streets: 147th Street from Galaxie to Pennock Avenues; Pennock Avenue from 147th to 153rd Streets; 153rd Street from
Pennock to Galaxie Avenues; and Galaxie Avenue from 153rd to 147th Streets. A vending cart may be operated on privately or publicly owned property within the boundaries described above with the express written consent of the private property owner and the approval of the Community Development Director.

(C) No vending cart shall be permitted to operate in a location that would substantially impair the movement of pedestrians, vehicles or handicap access, or pose a hazard to public safety. No vending cart shall be permitted to operate in a location within 50 feet of an intersection or driveway entrance, within three feet of a curb, directly in front of a commercial entryway, nor within 50 feet of another vending cart.

§ 118.10 LIABILITY INSURANCE.

No license or renewal shall be granted, nor be effective until the applicant files with the community development director, proof of a public liability insurance policy covering all operations of such applicant hereunder for the sum of at least $300,000 combined single limit coverage. Said policy shall provide that it may not be canceled by the insurer except after a 30-day written notice to the city, and if such insurance is so canceled and the licensee fails to replace the same with another policy conforming to the provisions of this section, the license shall be automatically suspended until such insurance shall have been replaced. The city shall be named an additional insured.

§ 118.11 OPERATION WITHOUT LICENSE; MISDEMEANOR.

Operating a vending cart without a license as required by this chapter or causing operation of a vending cart without a license as required by this chapter, is a misdemeanor.

§ 118.12 REVOCATION, SUSPENSION, NONRENEWAL.

(A) Reasons for revocation, suspension, nonrenewal. A license may be suspended, revoked or not renewed for the following reasons:

(1) Fraud, misrepresentation, or false statement contained in the application for license;

(2) Fraud, misrepresentation, or false statement made in the course of carrying on the licensee’s activity;

(3) Any violation of this article;

(4) Conducting the activity in an unlawful manner or in a manner so as to constitute a nuisance or to constitute a menace to the health, morals, safety, or general welfare of the public;

(5) Violation of any special conditions under which the license was granted;

(6) Violation of any state or federal law regulating the sale of food or beverages; or

(7) Decision by the City Council to discontinue granting vending cart licenses.

(B) Hearing. There shall be a hearing on the alleged violation or staff-recommended nonrenewal. The City Council shall conduct the hearing or the City Council may appoint a
hearing officer to hold the hearing. The hearing officer need not be an administrative law judge. Such hearing shall be held upon written notice to the licensee served by certified mail not less than 15 days before the hearing date, stating the date, time and purpose thereof. In all cases, only the City Council may determine the penalty.

(C) Penalties. If the City Council finds there has been a violation of the conditions of operation and decides license suspension is appropriate, the following penalties shall be imposed:

(1) First offense: license suspension for 15 days;
(2) Second offense within 24 months: license suspension for 30 days; and
(3) Three or more offenses within 24 months: license revocation.

Transient Merchant

Title XV, Chapter 155 – Land Usage, Zoning, Agricultural District

§ 114.02 EXCEPTIONS TO DEFINITIONS.

(A) For the purpose of the requirements of this chapter, the terms PEDDLER, SOLICITOR, and TRANSIENT MERCHANT shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise or other personal property to a retailer of the items being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, nor shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route.

(B) In addition, persons conducting the type of sales commonly known as garage sales, rummage sales or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of PEDDLERS, SOLICITORS, and TRANSIENT MERCHANTS, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court-ordered sale. Exemption from the definitions for the scope of this chapter shall not excuse any person from complying with any other applicable statutory provision or local ordinance.

(C) This chapter does not apply to the mere distribution of flyers or other advertising material from house to house or place to place where personal contact is not made.

§ 114.03 LICENSING; EXEMPTIONS.

(A) County license required. No person shall conduct business as a peddler, solicitor or transient merchant within the city limits without first having obtained the appropriate license from the county as required by M.S. Chapter 329 as amended.
(B) City license required. Except as otherwise provided for by this chapter, no person shall conduct business as either a peddler or a solicitor without first having obtained a license from the city. Solicitors for nonprofit organizations need not be licensed, but are still required to register pursuant to § 114.07.

(C) Application. Application for a city license to conduct business as a peddler or solicitor shall be made before the applicant desires to begin conducting business. Application for a license shall be made on a form available from the office of the City Clerk. All applications shall be signed by the applicant. All applications shall include the following information:

1. Applicant’s full legal name;

2. All other names under which the applicant conducts business or to which applicant officially answers;

3. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, and the like);

4. Full address of applicant’s permanent residence;

5. Telephone number of applicant’s permanent residence;

6. Full legal name of any and all business operations owned, managed or operated by applicant, or for which the applicant is an employee or agent;

7. Full address of applicant’s regular place of business (if any);

8. Any and all business related telephone numbers of the applicant;

9. The type of business for which the applicant is applying for a license;

10. Whether the applicant is applying for an annual or temporary license;

11. The dates during which the applicant intends to conduct business, and if the applicant is applying for a temporary license, the number of days he or she will be conducting business in the city (maximum 14 consecutive days);

12. Any and all addresses and telephone numbers where the applicant can be reached while conducting business within the city;

13. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violation of any state or federal statute or any local ordinance, other than traffic offenses;

14. A list of the three most recent locations where the applicant has conducted business as a peddler;

15. Proof of any required county license;

16. A general description of the items to be sold or services to be provided;
(17) All additional information deemed necessary by the City Council;

(18) The applicant’s driver’s license number or other acceptable form of identification; and

(19) The license plate number, registration information and vehicle identification number for any vehicle to be used in conjunction with the licensed business and a description of the vehicle.

(D) Fee. All applications for a license under this chapter shall be accompanied by the fee established in the city’s fee schedule as adopted from time to time by an ordinance passed by the City Council. Solicitors engaged in interstate commerce are exempt from payment of the fee, but are not exempt from other licensing requirements.

(E) Procedure. Upon receipt of the completed application and payment of the license fee, the City Clerk shall forward the application to the Chief of Police. An application shall be determined to be complete only if all required information is provided. If the City Clerk determines that the application is incomplete, the City Clerk shall inform the applicant of the required necessary information which is missing. The Chief of Police shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application.

(1) The license may be issued by the City Clerk when the foregoing investigation is completed or within seven business days of application, whichever is earlier.

(2) The license shall be denied if it appears that the applicant is ineligible for a license pursuant to § 114.04.

(F) Duration. An annual license granted under this chapter shall be valid until December 31 from the date of issue. All other licenses granted under this chapter shall be valid only during the time period indicated on the license.

(G) License exemptions.

(1) No license shall be required for any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm.

(2) No license shall be required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when the activity is for the purpose of exercising that person’s State or Federal Constitutional rights such as the freedom of speech, press, religion and the like, except that this exemption may be lost if the person’s exercise of Constitutional rights is merely incidental to a commercial activity.

(3) Professional fund raisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this chapter.

(4) Any canvassing, soliciting, or fund raising for the purpose of charitable organizations if such organization is registered with the attorney general pursuant to the provisions of M.S. § 309.52 as a charitable organization or exempted pursuant to the provisions of M.S. § 309.515 provided the organization registers as required by § 114.07.
(5) Transient merchants operating within a building in an area zoned for retail sales or where permitted by Chapter 155.

(6) Peddling, selling, or soliciting in a park as provided by § 95.03(T).

§ 114.08 PROHIBITED ACTIVITIES.

No peddler, solicitor or transient merchant shall conduct business in any of the following manners:

(A) Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure;

(B) Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk or other public right-of-way;

(C) Conducting business in a way as to create a threat to the health, safety and welfare of any individual or the general public;

(D) Conducting business before 9:00 a.m. or after 9:00 p.m.;

(E) Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person;

(F) Making any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor or transient merchant shall claim to have the endorsement of the city solely based on the city having issued a license or certificate of registration to that person;

(G) Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating or abusive.

Parking

Title VII, Chapter 71 – Traffic Code, Parking Regulations

§ 71.19 GENERAL PROHIBITIONS.

(A) It is unlawful for any person to stop, stand or park a motor vehicle, except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a traffic-control device or a person authorized under this code to direct traffic, in any of the following places:

(1) On a sidewalk or trailway or in the area between the sidewalk and roadway;

(2) In front of the access to a public or private driveway or trailway;
(3) Within an intersection;

(4) Within ten feet of a fire hydrant or mailbox;

(5) On any crosswalk;

(6) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(7) On any surface which does not comply with the zoning regulations of this code;

(8) At any place where official signs prohibit or restrict stopping, parking or both; or

(9) Within the vehicular travel portion of any public or private street or roadway; or

(10) Upon or on a public street or public property for more than a period of 48 hours, unless:

   (a) A permit therefor is first issued by the city; or

   (b) The driveway space of a residence, of which the owner of the motor vehicle is an occupant or visitor, does not have space available to park a motor vehicle with the maximum number of vehicles possible (without permitting the vehicle to extend into the sidewalk area) occupying the driveway; or

   (c) The off street parking area is under construction, repair, or reconstruction.

(B) Parking in all residential districts shall be subject to the following requirements:

(1) Required off-street parking in the residential districts shall be on the same lot as the principal building unless otherwise approved by the City Council;

(2) No commercial motor vehicle in excess of one ton capacity and no commercial trailer shall be parked or stored in a residential district except when loading, unloading or rendering a service. One commercial vehicle, not over one ton capacity, may be parked at the residence of the owner or operator of the vehicle. Under no circumstances shall parking facilities accessory to residential structures be used for open air storage of commercial vehicles and, in addition;

(3) The City Council may direct the removal or otherwise limit the parking of any large vehicles upon or adjacent to any residential use where it is determined that the parking has a detrimental effect upon residential use. The large vehicles shall include, but not be limited to, buses, motor homes, cruisers or large trucks; and

(4) No person shall cause, undertake, permit or allow the outside parking and storage of vehicles on residentially zoned property unless it complies with the following requirements:

   (a) For purposes of this section, a “vehicle” is defined as any passenger car or truck;

   (b) No more than four vehicles per lawful dwelling unit may be parked or stored anywhere outside on R-1, R-2, R-3, R-4 or R-5 zoned property;
(c) The City Council may approve an annual “on site parking permit” for exterior parking of more than four vehicles, but not to exceed six vehicles, on an R-1, R-2, R-3, R-4 or R-5 zoned site provided it meets the following standards:

1. The applicant’s property shall conform to the parking standards set forth in §155.378 hereof;

2. An affidavit shall be filed with the city, stating that all abutting property owners have been notified and given an opportunity to respond, in writing, if they have specific concerns regarding the request; and

3. The owner shall pay an administrative fee as established by the City Council by ordinance.

(C) Required off-street parking space in commercial or industrial districts, including those within a planned development district, shall not be utilized for open storage of goods, overnight parking of vehicles, storage of vehicles or for vehicles which are inoperable, or for lease, rent or sale, except where otherwise permitted.

(D) Violation. A violation of division (A) of this section is a petty misdemeanor.274

Title XV, Chapter 155 – Land Usage, Zoning

§ 155.358 SPECIAL PROMOTIONS.

Special outdoor promotions in commercial zoning districts such as, but not limited to, tires at service stations, carnivals at shopping centers, sidewalk sales or similar outdoor displays and sales at service stations or shopping centers, shall only be permitted as accessory uses when approved by the Zoning Administrator under the following conditions:

(A) The promotional sales approval shall only be given to the owner of a business or his or her duly appointed representative;

(B) The approval shall be valid for a period not to exceed ten days. Each business shall not be allowed more than one special promotion during any calendar year, except a permit for sidewalk sales which shall not be allowed more than two times during a calendar year;

(C) The promotional sales shall be conducted entirely upon the owner’s property in a manner that will not interfere with traffic circulation or otherwise create a nuisance or safety hazard as determined by the Zoning Administrator;

(D) Individual stores within a shopping center or a free-standing store may be given approval for sidewalk sales;

(E) Sidewalk sales shall be restricted to the area immediately adjacent to the front of the store on the sidewalk or parking lot. The sales or display shall permit a minimum four-foot wide open sidewalk area in front of each store at all times for pedestrians; and

(F) Failure to comply with these regulations shall be sufficient reason to immediately revoke the approval.275

§ 155.383 OUTDOOR DINING AREAS.
Purpose. Outdoor dining areas are permitted accessory uses in conjunction with a Class I, Class II, or Class III restaurant provided that the following requirements are met:

(A) Site plan review required. The use and proposed site plan shall be reviewed by the Planning Commission and City Council, pursuant to § 155.402(B).

(B) Performance standards.

(1) No portion of the outdoor dining area shall be located or occur within any public right-of-way, including sidewalks/trails, boulevard areas or streets.

(2) No portion of the outdoor dining area shall be located or occur closer than two feet from any property line.

(3) If the outdoor dining area is proposed to be within a city drainage and utility easement, then the property owner shall be required to execute a license agreement prepared by the City Attorney authorizing the use of the city’s easement.

(4) The City Council may restrict days, hours, nature and volume, and other aspects of entertainment in any outdoor dining area, including a prohibition against all forms of music, radio, television, and other entertainment, to protect the safety, repose, and welfare of residents, businesses and other uses near the establishment.

(5) The outdoor dining area shall be handicap accessible and not restrict accessibility in other areas inside or outside the restaurant or food establishment.

(6) If the outdoor dining area is located on a private sidewalk area abutting the restaurant building or within a parking area for the building, then the outdoor dining area shall not interfere with any pedestrian or vehicular traffic on the site. A minimum five-foot wide area of sidewalk shall remain clear for pedestrian travel.

(7) The outdoor dining area shall be subordinate to the principal restaurant building and shall not exceed 40% in area of the square footage of the principal restaurant building.

(8) The outdoor dining area shall be kept in a clean and orderly manner. No food or beverages may be stored outdoors, unless a suitable means for such storage has been reviewed and approved by the city.

(9) The City Council may restrict the hours of operation of an outdoor dining area based upon the proximity of the area to residential dwelling units, and upon considerations relating to the safety, repose, and welfare of residents, businesses, and other uses near the establishment.

(10) A fence surrounding an outdoor dining area shall be suitable for the intended use. If a fence is required, a fencing plan shall be submitted with the site plan for the outdoor dining area for review and approval by the city.

Signage

Title XV, Chapter 154– Land Usage, Sign Regulations

§ 154.04 SIGNS REQUIRING A PERMIT.

The following signs may be erected or maintained, as shown for each zoning district or land use, only after obtaining a permit from the city and payment of permit fees, providing the standards and restrictions in this section are met.

(A) Table of types of signs permitted. The types of signs permitted upon issuance of a permit shall be as detailed in Appendix C of this chapter.
(B) Building signs; location on building.

(1) Building signs shall be affixed to buildings according to the following requirements:

(a) Prior to issuance of a sign permit, the owner of the building shall designate a signage plan for all sides of single or multi-occupant buildings. The signage plan shall include the maximum height and width of signs, materials and colors to be used on signs and the location and dimensions of the sign band area. All building signs shall be affixed to a building wall, within the designated sign band area, and shall not exceed the allowable dimensions of this code. All signs proposed by building owners or tenants shall adhere to the requirements outlined in the signage plan for the building.

(b) The sign band area shall be located no higher than the top of the parapet walls or the overhang of the roof.

(c) In multi-story buildings, no signs shall be permitted above the ceiling of the first floor, except as provided in division (C) below.

(d) Primary signs shall be placed on the side of the building where the main entrance is located. In buildings with individual entrances, business identification signs shall be placed within ten feet of the main entrance to each business. Signs on the exterior of an enclosed mall shall be located near entrances closest to the business location. Sign locations for each tenant shall be assigned and identified in the signage plan.

(e) Additional building or business identification signs are permitted under the following conditions:

1. The owner/agent shall submit a master signage plan containing the following information:

   a. A dimensioned site plan and elevations of the building or buildings to be included in the master sign plan;

   b. Computation of the maximum total sign area, the maximum area for individual signs, the height of the signs, and the number of free-standing signs allowed in the plan under this ordinance; and

   c. An accurate indication on the site plan of the proposed location of each present and future sign of any type.

2. The maximum number of signs affixed to a building by each business within the building shall be controlled through the master sign plan.

3. Additional signs are allowed on a side of a building which abuts business or industrially zoned property or a public street, except where the side of the building faces an adjacent public street which abuts residentially zoned property. Additional signs shall not be installed on the same face of the building as the main entrance sign.

4. The wall of a building where additional signs are located shall have sign band, wall materials and/or exterior colors similar to the main entrance wall and all trash, storage, and loading facilities along the wall shall be screened from adjacent properties in the same materials and/or exterior colors.
5. In multi-occupant buildings, additional signs shall be affixed to the building sign band, which is identified in the master signage plan.

6. Additional building signs shall be identical to the main primary business sign, but shall not be considered as part of the total square footage allowed for that property or business.

(2) Common signage plan.

(a) If the owners of two or more contiguous (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (not including any accessory building) file with the city a common signage plan conforming with the provisions of this section, a 25% increase in the maximum total sign area shall be allowed for each building or lot included. This bonus shall be allocated as the owner(s) elect.

(b) The common signage plan shall contain all of the information required for a master signage plan and shall also specify standards for consistency among all signs on the lots affected by the plan with regard to color scheme, lettering or graphic style, lighting, location of each sign on the buildings, materials and sign proportions.

(c) Other provisions of a plan may contain other restrictions as the owners of the development or buildings may reasonably determine.

(d) The plan shall be signed by all owners or their authorized agents in form as required by the city.

(e) A signage plan shall be included with any building permit authorization, site plan review, nonresidential planned unit development, exterior remodel or other official plan required for the proposed development and shall be reviewed simultaneously with other plans.

(f) A signage plan may be amended by filing a new plan that conforms with all of the requirements of the city code in effect at that time.

(g) Existing signs not conforming to plan. If a new or amended signage plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into compliance, within three years, all signs not conforming to the proposed amended plan or requirements of this chapter in effect on the date of submission.

(h) After approval of a signage plan, no sign shall be erected, placed, painted or maintained, except in conformance with the plan, and the plan may be enforced in the same way as any provision of this code. In case of any conflict between the provisions of a plan and this code, the code shall control.

(C) Multi-story building signs. For multi-story buildings, in all zoning districts, no signs attached to the building, temporary or permanent, shall be permitted above the first floor except for the following:

(1) Building of four stories or more, located in a commercial or industrial district shall be permitted additional building signs in addition to any signs otherwise permitted by this chapter.

(2) The additional building signs shall be a maximum of two signs with each sign not to exceed two square feet of sign area for each 1,000 square feet of gross floor area of the building.
(3) The two additional building signs shall not be located upon the same side of the building.

(4) The two additional building signs shall be identical in all respects.

(5) The two additional building signs shall not extend above the highest outside wall or below the fourth floor of the building.

(6) The two additional building signs shall not extend across more than 40% of the width of the side of the building upon which it is located or 40% of the height for vertical signs.

(7) The additional building signs shall only be permitted after review by the city Planning Commission and approval by the City Council.

(D) Monument signs. A monument sign intended to permanently identify a multiple dwelling or single-family residential development shall be permitted under the following conditions:

(1) There shall be an entity established to the satisfaction of the city such as homeowners association, which shall be clearly responsible for the perpetual maintenance of the monument sign and its environs with corresponding powers to raise maintenance capital; or

(2) In the alternative, there shall be a $1,000 fee paid to the city and a ground easement surrounding the monument sign granted to the city in order that the city may remove the monument sign and its environs if it is not maintained or if it otherwise becomes necessary to remove the sign.

(3) The monument sign shall not exceed 40 square feet of copy area.

(4) The monument sign shall be a minimum of 30 feet from any existing or future residence.

(5) The city, at the discretion of the City Council, may deny a permit for a monument sign where it is determined that the monument sign may create an undue burden upon the city by virtue of its size, location, building materials or potential need for maintenance.

(E) Major anchor/center signs.

(1) Major anchor signage. One major anchor/center sign may be permitted to identify tenants or building occupants in excess of 50,000 square feet, subject to subsection (3) below.

(2) Shopping center signage. Two major anchor/center signs may be permitted for a center in excess of 150,000 square feet, subject to the provisions of subsection (3) below.

(3) Conditional use permit. All major anchor/center sign structures are subject to a conditional use permit, as provided in § 155.399 of the code, and site plan approval by the City Council. The following criteria shall apply to all major anchor/center signs:

(a) The property on which the sign is to be located shall be zoned “RB” or “SC” and the sign shall abut County Road 42 (150th Street), County Road 23 (Cedar Avenue), or a portion of the Downtown Ring Route.

(b) The major anchor/center sign(s) shall be the only freestanding sign(s) permitted for the business or center. Signs may be placed on any lot within the planned unit development or subdivision provided the sign applicant controls the land by easement or title.
(c) A maximum of 75% of the sign structure exterior face shall be encased in the same style and color brick, or other approved exterior material, used on the face of the principle building. A minimum of 25% of the exterior face of the sign structure shall be encased in a brick, tile, glass or steel rail similar in design and color to the city’s downtown streetscape improvements. This material shall be concentrated between the finished ground grade and 42 inches above the grade.

(d) The sign shall be set back a minimum of 13 feet from the property line, pathway easement or public street right-of-way line. Signs may be no closer than 300 feet to the nearest freestanding sign on the same side of the right-of-way, nor closer than 50 feet to a corner intersection of two right-of-way lines.

(e) The maximum height of the sign structure shall be 28 feet above finished grade. Architectural design details, similar to the design of the principle building, may extend five feet above the maximum height, 28 feet, of the sign. Sign area shall not exceed 180 square feet per side of the sign, two sides maximum.

(f) All signage shall have individual, internal backlit letters and symbols. Additional sign lighting may be ground lighting, the source of which is concealed from view.

(g) Landscaping plans for the area around the base of the sign shall be completed and reviewed as part of the conditional use permit/site plan approval process.

(F) Area identification sign. Area identification sign(s) shall be located in the following manner:

(1) Area identification sign(s) shall be located upon the property of the complex it is identifying.

(2) Area identification sign(s) shall be located along a public street frontage.

(3) Area identification signs shall be located a minimum of 50 feet apart from any other area identification sign or pylon sign.

(4) No more than one area identification sign for a particular complex shall be located along the same street frontage.

(G) Gasoline pump island signs.

(1) Gasoline pump island canopies shall be entitled to two signs in addition to those otherwise permitted on the principal structure.

(2) Canopy signs shall not exceed ten feet in length or 20 square feet each and shall not be placed on the same side of the canopy.

(3) Lettering on the signs shall not exceed two feet in height or the average height of the letters on the sign attached to the principal structure, whichever is less.

(4) Canopy signs shall be placed in a manner that will allow a six-inch minimum border between the top, bottom and sides of a canopy face. The sign area is determined by measuring the text only. Stripes or colors do not contribute to the sign area computation.
(H) Building sign substitution. A ground sign may be substituted for all permitted building signs when all of the following conditions are met.

1. The lot must be in a limited business zone (LB) or be a limited business use in a planned development zone.

2. The lot must be a through lot with double street frontage, but may not be a corner lot.

3. The building’s architecture must be of a style or character which does not lend itself to the use of a building sign.

4. Any existing building signs must be removed and no otherwise permitted building signs shall be erected.

5. The ground sign must be located on the side of the lot abutting the minor or interior roadway.

6. The ground sign must meet the size, height and setback requirements for the primary ground sign permitted on the site.

7. The ground sign shall be in addition to all other permitted ground signs.

(I) Other signs. The following additional signs are permitted under this section, subject to the restrictions thereof. Professionally manufactured banners, streamers and balloon signs are permitted, upon the issuance of a permit from the city therefor, in commercial, industrial and institutional zoning districts for the purposes of promoting special promotions, sales or events. Such temporary signs shall also be permitted on properties located in the “M-4” to “M-8” zoning districts that are used for multiple residential apartments or rental unit buildings under single ownership in order to advertise such properties or units for rent or lease. Any banner, streamer and balloon sign shall be located upon the site of the promotion, sale or event and shall be removed no later than 15 days after the first day of the special promotion, sale or event and will not be permitted in any one location more than 30 days per calendar year. Such temporary signs shall not include lit, portable, or handmade signs.

(J) Menu boards. Menu boards subject to the following conditions:

1. A maximum of one menu board shall be permitted on a parcel of land with a restaurant providing drive-up window service. Restaurants providing drive-up through window service shall be permitted one menu board per drive-through lane up to a maximum two menu boards.

2. When one menu board exists for a drive-through window service, the menu board shall be a maximum of 50 square feet in area; if more than one menu board exists, each menu board shall be a maximum of 36 square feet in area and may be in addition to any other signs permitted by this chapter.

3. The menu board shall be single-sided and oriented in such a manner so that the signs provide information to the patrons using the drive-through facility only, and do not provide supplemental advertising to pass-by traffic.

4. The menu board signage shall be completely enclosed within one sign area.
(5) Order confirmation signage no greater than one square foot and incorporated into the drive-through speaker pedestal shall not be calculated as part of the menu board signage area. Order confirmation signage greater than one square foot shall be incorporated into menu board and calculated as part of said board’s sign area.

(K) Digital or LED display sign for motor fuel sales price sign. A portion of an approved sign for a motor fuel sales use may include a digital or LED display sign, provided the following requirements are met:

(1) The display shall be steady, stationary, shielded artificial light sources that emanate directly from the interior of the sign.

(2) The digital or LED display depicts only the motor fuel sale price.

(3) The display does not cause glare for motorists, pedestrians or neighboring premises.

(4) The digital or LED copy may not exceed 16 inches in height.

(5) The digital or LED copy may not compromise more than 25% of the total area of the approved sign.

(L) Changeable signs subject to the following requirements:

(1) Only readerboard signs and electronic message signs are permitted;

(2) The sign and the structure on which it is located shall be permanently installed and shall not be a portable sign;

(3) The sign shall not be located within any residential or multiple family residential district;

(4) No graphic(s) or picture shall be present on the or as the background sign display area;

(5) If the changeable sign is an electronic message sign, the following requirements shall be met:

(a) The text or message on the sign shall be maintained as one color;

(b) The background of the display area shall be maintained as a solid, single color; and

(c) The message shall be static, but may be changed at 20-minute intervals, and the message text shall not scroll or ticker across the sign display area. The only exception to this provision shall be for time, date, and temperature information which may be considered one display message and may change every three seconds.

(6) There shall be no illuminated border around or within the display area;

(7) No changeable sign shall be affixed to the building; and

(8) Electronic message signs used in connection with public roadway operations by the state, county or city shall not be subject to the permit or permit fee required herein.

§ 154.03 SIGNS ALLOWED WITHOUT A PERMIT.
The following outdoor signs are permissible without a permit or payment of permit fees provided the standards and restrictions in this section are met.

(A) Development signs.

(1) On-site residential. One temporary on-site development sign shall be permitted for each subdivision in any residential zoning district (including multiple dwelling) under the following conditions:

(a) The sign shall only be permitted for a residential subdivision after a final plat has been filed;

(b) The sign shall be located at least 50 feet from any existing or to be occupied dwelling unit;

(c) The sign shall be removed when the residential subdivision is 95% sold out or the multiple dwelling project is 75% sold or rented; and

(d) Where more than one builder is involved in a residential subdivision, there still shall be only one sign as described above, which may list the builders for the subdivision.

(2) On-site commercial and industrial. One temporary on-site development sign shall be permitted in any commercial or industrial zoning district under the following conditions:

(a) The sign shall only be permitted after the final plat has been filed;

(b) The sign shall not be located upon a developed lot and shall be removed within three months after the lot upon which it is located is developed, whereupon it may be moved to another vacant lot within the subdivision without paying a new fee; and

(c) The sign shall be removed when 95% of the lots in the subdivision are built upon.

(3) Construction signs.

(a) One temporary construction sign shall be permitted upon each property, in any zoning district during construction, in addition to any development signs on site.

(b) This sign shall only be permitted after a building permit has been issued and shall be removed before the building or any part thereof is occupied.

(B) Informational signs.

(1) Informational signs, attached to a building, shall be permitted in order to locate building functions such as a car wash bay or drive-in window.

(2) Informational signs shall meet building sign requirements for maximum height, shall be allowed for each bay, door, or window at a size not to exceed six square feet in area each, and shall be in addition to any other business signs permitted by this chapter.

(C) Directional signs.

(1) On-site directional signs, not exceeding a maximum of two square feet per sign and a maximum number of four signs per site, shall be permitted in any commercial, industrial or
institutional zoning district for the purpose of directing vehicular or pedestrian traffic in a safe and convenient manner.

(2) Off-site directional signs may be permitted by the City Council to direct the public to emergency facilities.

(D) Real estate signs.

(1) One temporary sign per street frontage advertising buildings for rent and for sale shall be permitted in the front yard or front side of the building. The sign shall be removed within ten days after the property is rented or the closing of the sale.

(2) Open house signs, which state that a particular house will be open for inspection by the public for a limited number of hours on a specific day, may be placed in the city boulevard area only during the open house hours. Signs may be placed within a six block radius of the open house except as noted in division (D)(3). Signs must be set back a minimum of five feet from the curb and may not be placed on any sidewalk.

(3) Open house and for sale signs may not be placed on the following described street rights-of-way, easements, roadway surface, sidewalks, medians and decorative surfaces and are hereby determined to be in violation of the sign regulations. Any sign so placed, according to Appendix A, is a nuisance and traffic hazard.

(E) Promotional sign.

(1) Special civic promotions or events. In promotion of a special school, city or other civic event, celebration or festival, two ground signs not exceeding 32 square feet in area, for each sign, are permissible no more than 30 days before the first day of an event, celebration or festival and shall be removed immediately upon the completion of the event, celebration or festival. Signs permitted under this division may be located in any zoning district subject to the permission of the property owner.

(2) Christmas tree sale signs. Any signs in connection with Christmas tree sales shall be subject to the regulations thereof in Chapter 114.

(F) Pump island signs. A double faced or a single face sign with a single side not in excess of three square feet shall be permitted on each gasoline sales pump island, not to exceed ten feet in height.

(G) Pedestrian awning or canopy sign. A business sign, limited to one foot in height and six feet in length, may be located upon the front of a building or canvas awning provided the awning is attached to the building and meets the minimum building setbacks of the city’s zoning chapter. A pedestrian awning or canopy sign may be placed under the canopy, perpendicular to the pedestrian walkway, provided it is at least eight feet above the pedestrian walkway.

(H) Wall coverage. The total area of all signs on any side of a building shall not exceed 20% of the total area of that particular side of the building as measured from the ground to the bottom edge of the roof. Inside window signs shall be excluded from the wall coverage computation but shall not exceed 50% of the coverage of the window area along any side of a building.
(I) Rear entrance identification signs. Rear entrance identification signs not exceeding six square feet in copy area shall be permitted as building signs located adjacent to the rear entrance to individual businesses to clearly identify the location for “deliveries.” The identification sign shall not be considered in computing the maximum permitted sign area for a business.

(J) Political signs.

(1) Temporary political signs may be put up no earlier than 100 days prior to an election and shall be removed within ten days after the election for which they were applicable.

(2) Each sign shall show the name and address of the person responsible for the placement of the sign, who shall be deemed prima facie the person who placed the sign and is responsible for its removal.

(3) In all cases where campaign signs are not removed within the time limit allowed or after notice to be removed by the city, the city may cause the signs to be removed and the costs of removal shall be charged to the person named on the sign.

(4) The size is limited to 32 square feet, except as prescribed by state statutes.

(K) Non-commercial signs. In any residential district, one sign per lot, up to 32 square feet is allowed. This sign may be in addition to any real estate signs on the property.

(L) No trespass/no hunting signs. No trespass, no hunting and similar restrictive signs, not to exceed two square feet in area may be placed upon private property by the owner.

(M) Garage sale signs. Signs advertising garage sales shall be limited to a maximum of three days for each sale. There shall be no more than three sales each calendar year for a household and signs shall not exceed three square feet in area.

(N) Bench sign. Signs painted upon or otherwise attached to or a part of a sitting bench at an MTC or MVTA designated bus stop shall be permitted in any district.

(O) Signs erected by the city, county or state.

(P) Park and ride site sign(s). The Metropolitan Transit Commission or Minnesota Valley Transit Authority shall be permitted to erect on-site signs to identify park and ride site locations and bus stops with suitable signs provided permission for the signage has been obtained from the property owner.

(Q) Minnesota zoo signs. Signs within the Minnesota Zoological Garden that are not within 100 feet of a public street or road.

(R) Address numbers. Address numbers less than six square feet in total copy area shall not be subject to the maximum sign area provisions of this chapter.

(S) Public interest landmark signs. Public interest landmark signs (such as downtown entry gateways, park signs, plaza areas) may be erected on property which is owned or controlled by the city and must be approved by the City Council.
(T) Table of temporary sign size regulations. Regulation concerning size requirements shall be as detailed in Appendix B of this chapter.\textsuperscript{278}

§ 154.05 PROHIBITED SIGNS.

(A) Painting directly on exterior walls. Signs shall not be painted directly on any exterior building surface but shall be on a separate frame. Signs, letters and symbols may be attached directly to a wall by adhesive or mechanical means.

(B) Paper signs. There shall be no paper cardboard or similar signs, notices or flyers, pasted, tacked or otherwise affixed to the exterior wall or window of any building.

(C) Sequential flashing copy or display and flashing, rotating, strobe light. There shall be no use of sequential flashing (illuminated) copy or display or flashing, rotating, strobe lights or similar devices. This provision does not apply to:

(1) Electronic message signs for which a permit was issued hereunder subject to compliance of all the regulations thereof set forth in this chapter;

(2) Traffic control devices in connection with roadway operations by the state, county, or city; or

(3) Illuminating devices that are required to be installed pursuant to federal or state safety regulations.

(D) Portable or movable signs. There shall be no use of a sign so designed as to be movable from one location to another, such as, but not limited to, readerboards, semi-truck trailer or other device whose function is to serve as a sign.

(E) Overhanging signs. No permanent or temporary signs shall be upon or overhang the public right-of-way or the boundary of adjacent property except traffic signs erected by the city, county or state.

(F) Open house, for sale and the like. Open house, garage sale and for sale signs shall not be placed on the following described street rights-of-way, easements, roadway surface, sidewalks, medians and decorative surfaces. Any sign so placed, as detailed in Appendix A of this chapter, is hereby determined to be in violation of the sign regulations, a nuisance and a traffic hazard.

(G) Advertising or billboard signs; prohibited. No sign which directs attention to a business, commodity, service or entertainment shall be placed or located within any street rights-of-way. No sign shall be on property other than the premises on which the business, commodity, service or entertainment is located.

(H) Independent or imitating signs. Any sign, signal, marking or device existing independently or with a sign or any illumination on any sign which purports to be or is an imitation of or resembles any official traffic control device or railroad sign or signal, or emergency vehicle signs is prohibited.

(I) Interfering signs. Any sign, signal, marking, or device existing independently or with a sign or any illumination on any sign which attempts to direct the movement of traffic or which obstructs from view or interferes with the effectiveness of any official traffic control device, street sign, or railroad sign or signal is prohibited.
(J) Electronic graphic display sign. Electronic graphic display signs are prohibited.

§ 154.06 PERFORMANCE STANDARDS.
(A) Lighting regulations.
   (1) All illuminated signs shall have an indirect or diffused light source and be designed so as not to direct rays of light onto public streets or adjacent property creating a public nuisance or safety hazard.
   (2) There shall be no flashing signs permitted in any district, except for signs or traffic control devices in connection with roadway operations by the state, county or city.
   (3) No illuminated sign shall change in either color or intensity of light except for signs or traffic control devices in connection with roadway operations by the state, county or city.
   (4) Lighted, revolving signs shall be permitted, but the bottom of the sign surface shall be a minimum of 12 feet above the street grade and a minimum of 100 feet from the center of any public street intersection.
   (5) Between sunrise and sunset, the maximum luminance of all illuminated signs shall be 7,500 nits, and between sunset and sunrise, the maximum luminance shall be 500 nits. Additionally, the sign shall not exceed 0.3 foot candles above ambient light levels 100 feet from the sign face. All signs with an electronic message or electronic graphic display must be equipped with an automatic dimmer control or other mechanism that automatically controls the sign’s brightness to comply with this requirement. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must immediately turn off the sign or lighting when notified by the city that it is not complying with the standards in this section.
(B) Changeable copy. A maximum of two-thirds of the total area of sign allowed for a freestanding sign may be a changeable sign as permitted herein.
(C) Placement of signs on driveway island or entrance. No permanent or temporary sign shall be located upon a driveway median for a distance of a minimum of 30 feet from a public street right-of-way.
(D) Change of sign. Upon any change or replacement of a sign or any portion thereof, including the sign’s structure, a new permit shall be required. If the sign does not exceed the size requirement as provided in this chapter and the change is in copy only, an application and drawings must be submitted, but the permit fee will not be required. This provision does not apply to the changing of copy on a changeable sign, but does apply to a changeable sign if the sign structure, design or method of changing copy is revised or replaced.
(E) Nonconforming signs; continuation of previously permitted signs. Existing signs, other than temporary signs, which were permitted under sign regulations in effect prior to enactment of the ordinance from which this chapter is derived, may be kept as and where they were then located, even though they may not conform to these regulations. Upon replacement of the sign, there must be compliance with these regulations, unless the replacement is 100% identical to the original.
(F) Illegal sign. When an illegal sign(s) exists upon a parcel of land or business property, the city may refuse to issue a permit for any other sign on that property until the illegal sign(s) is removed.
(G) Exposed structural components; preventing adverse effect upon adjacent property. Exposed backs of all signs and the sign structure must be painted a neutral color and otherwise be maintained so as not to have an adverse effect upon the adjacent property.
(H) Signs which interfere with traffic signs, signals or devices. No sign shall be installed, which, by reason of position, shape, color or wording would interfere with the proper functioning of any official traffic sign, signal or device.

(I) Maintenance; refuse and removal.

(1) All signs shall be maintained in good condition and the areas around them kept free from debris, bushes, high weeds and from anything else which would be a nuisance.

(2) All business signs shall be removed from the building and property by the owner of the property within ten days after business or use is terminated except for framework that is expected to be used for a future business sign.

(3) All signs shall contain current information. Outdated signs or signs with outdated information shall be removed by the owner.

(4) When any sign is removed, the enforcing officer shall be notified and the entire surrounding area shall be cleared of all debris and unsightly projections and protrusions.

(5) Signs not in compliance with code.

(a) When a sign placed on private property is not in compliance with this code and has not been removed by the owner or operator of a business, the city shall have the right to remove the sign, after ten days written notice and charge the cost of removal to the owner or operator. Where a safety hazard exists, the city may remove the sign without notice.

(b) When a sign placed on public property is not in compliance with this code, the city shall have the right to remove the sign immediately and store the sign for not less than 60 days, whereupon the city may dispose of the sign in a manner similar to other abandoned property.

(J) Table of setback and height requirements. The minimum setbacks and maximum heights shall be required for all signs, as detailed in Appendix D. 280

867, sec. 40, 5-17-2010)

Composting

Title V, Chapter 50 – Public Works, Garbage

§ 50.02 CONTAINERS; STORAGE AND LOCATION.

(A) Specifications for keeping refuse in containers. The occupant of any private dwelling, the keeper or manager of any hotel, motel, restaurant, eating house or boarding house, or any building where meals are served, the owner of any flat or apartment house, trailer camp or auto court, and any other person having refuse or yard waste as herein defined, shall provide and keep on the premises sufficient containers for the storage of all refuse or yard waste accumulated on the premises between collections. Each container shall be watertight and shall be impervious to insects, rodents, vermin and absorption of moisture. All refuse and yard waste on any premises shall be stored in the required containers, except as the same may be consumed or disposed of on the premises as permitted. (‘81 Code, § 11-2)

(B) Storage of containers.

(1) When not placed for collection as specified in division (C) below, the containers, as relates to single-family dwellings, may be stored in the rear of the premises, may be stored in the sideyard setback if screened from the street and adjoining properties, or may be stored
within any structure located on the premises. Containers stored outside shall be maintained in such a manner as not to permit entry of or harborage for animals, insects, or other vermin.

(2) All compost material must be confined to a container. Containers, used for the purpose of composting yard and compostable household waste, shall be located in the rear yard between the rear property line and the rear of the main structure and be no closer than five feet to any property line or 20 feet to a side lot line if adjacent to any public street right-of-way. (‘81 Code, § 11-3) (Am. Ord. 519, passed 9-12-91)

§ 50.03 REQUIRED COLLECTION.

(A) Every residential dwelling as defined in § 50.01 and commercial/industrial establishment in the city must be under a contract for the collection of garbage and refuse with a licensed collector by July 1, 1992. A multiple-dwelling, as defined in § 50.01, is considered to be under a garbage collection contract if the owner, association or management entity has a contract with a licensed garbage collector.

(B) Any residential or multiple dwelling and commercial/industrial establishment may be exempt from the requirements of division (A) provided that a dwelling or commercial/industrial establishment hauls garbage or refuse from its own residence or business property and disposes of such in an environmentally sound manner by meeting the following conditions:

(1) Garbage, refuse and recyclables are hauled in a timely manner such that they do not accumulate and become a nuisance as defined under § 50.01;

(2) Garbage, refuse and recyclables are hauled in containers equipped with tight-fitting covers which are also watertight on all sides and the bottom;

(3) Garbage, refuse and recyclables are hauled in a manner that prevents leakage or any possibility of a loss of cargo;

(4) Garbage and refuse are dumped, disposed or otherwise unloaded only at a designated sanitary landfill, municipal solid waste composting facility, resource recovery facility or other facility authorized by Dakota County;

(5) Recyclables are dumped, disposed or otherwise unloaded only at a recycling facility, an organized recycling collection drive, or through licensed collectors;

(6) Yard waste is privately composted, or is only dumped, disposed or otherwise unloaded at a compost facility or through licensed collectors; and . . . .

See Garbage Disposal & Recycling

Garbage Disposal & Recycling

Title V, Chapter 50 – Public Works, Garbage

§ 50.02 CONTAINERS; STORAGE AND LOCATION.
(2) All compost material must be confined to a container. Containers, used for the purpose of composting yard and compostable household waste, shall be located in the rear yard between the rear property line and the rear of the main structure and be no closer than five feet to any property line or 20 feet to a side lot line if adjacent to any public street right-of-way. (‘81 Code, § 11-3) (Am. Ord. 519, passed 9-12-91)

§ 50.07 REFUSE ACCUMULATION; NUISANCE. Any accumulation of refuse, recyclables or yard waste on any premises not stored in containers which comply with this chapter or any accumulation of refuse, recyclables or yard waste on any premises which has remained thereon for more than two weeks, is hereby declared to be a nuisance and the city, through its authorized employees, shall have the right to remove the materials from the premises, and to abate other nuisances mentioned in this chapter, to bill the owner or occupant of the premises for the cost of the removal and abatement and upon failure of the bill to be paid within 30 days, shall have the right to add the amount of the bill to the real estate taxes on the premises in the same manner as other unpaid charges for municipal utilities and services.
APPENDIX G: STATE EXEMPTIONS FROM STATE FOOD HANDLERS LICENSING REQUIREMENTS

Minnesota state law requires that “every person who handles food… obtain a license” further indicating that “all producers, packagers, labelers, handlers, distributors and vendors of food, whether or not subject to licensing, shall be required to comply with the applicable rules.” Specifically, any person that engages in the business of manufacturing, processing, selling, handling, or storing of food must obtain a license. At the same time, a few exceptions to this licensing requirement exist discussed, below. Please note, this is not meant to be an exhaustive list and state law includes additional exemptions.

Minnesota Constitution

Exception: The Sale of Farm and Garden Products

The Minnesota Constitution exempts “growers” from obtaining a license to sell their farm and garden products. The Minnesota Constitution, indicates that “Any person may sell or peddle the products of the farm or garden occupied and cultivated by him without obtaining a license therefor.”

Therefore, the City of Apple Valley cannot require a grower to apply for a food license if that person falls under this constitutional provision.

This provision means:

- A farmer can sell his/her crops without a food license.
- A gardener or other grower can sell his/her produce without a food license.
- A farmer or individual can sell eggs directly from his/her farm or home to an individual customer with no licensing, registration, or inspection.

This Constitutional provision has been interpreted in the following ways:

- Provision of state constitution allowing any person to sell or peddle products of farm or garden occupied and cultivated by him without obtaining license therefor does not exempt a farmer from health and safety regulations that prohibit the sale of uninspected meat. (*State v. Hartmann*, 2005, 700 N.W.2d 449).

- The sale of “related products” are not exempt from a peddling license. (Farmer who grows broom corn from which he makes brooms and sells them to merchants and at private houses was required to have a peddler’s license to sell the brooms, and is not exempt therefrom by Constitution.  (Op.Atty.Gen., 1928, No. 250, p. 231).

- Meats from animals and turkeys and chickens raised on land occupied by a farmer who sells such meat in city constitutes “products of the farm or garden”, therefore city could
not require farmer to be licensed in order to sell such product. (Op. Atty. Gen., 1940, No. 213, p. 263).

The constitutional provision does not cover (and therefore, these farmers and growers would still likely need some sort of food license in order to sell their products):

- Processed foods
- Products cultivated on land NOT occupied by the grower

To date, there is no clear legal ruling that interprets what exactly is meant when the constitutional provision requires the garden or farm be “occupied” by the grower/farmer/seller.

Exemption: Small Scale Production & Minnesota’s Cottage Food Law (formerly known as Minnesota’s “Pickle Bill”)

Minnesota state law creates an exemption from the state licensing requirements for individuals selling “home-processed” and “home-canned” foods, so long as the sale of these products meets certain statutory requirements. This law, formerly referred to as the “Pickle Bill”, was amended in 2015 to the current “Cottage Foods Exemption”.\(^{283}\) The 2015 Cottage Foods Exemption identifies certain circumstances under which an individual preparing and selling certain foods is exempt from obtaining a food handlers license.\(^{284}\)

Minnesota Statutes Chapter 28A. Licensing Food Handlers

[28A.152] COTTAGE FOODS EXEMPTION

Subdivision 1. Licensing provisions applicability.

(a) The licensing provisions of sections 28A.01 to 28A.16 do not apply to the following:

(1) an individual who prepares and sells food that is not potentially hazardous food, as defined in Minnesota Rules, part 4626.0020, subpart 62, if the following requirements are met:

   (i) the prepared food offered for sale under this clause is labeled to accurately reflect the name and address of the individual preparing and selling the food, the date on which the food was prepared, and the ingredients and any possible allergens; and

   (ii) the individual displays at the point of sale a clearly legible sign or placard stating: “These products are homemade and not subject to state inspection.”; and

(2) an individual who prepares and sells home-processed and home-canned food products if the following requirements are met:

   (i) the products are pickles, vegetables, or fruits having an equilibrium pH value of 4.6 or lower;
(ii) the products are home-processed and home-canned in Minnesota;

(iii) the individual displays at the point of sale a clearly legible sign or placard stating: "These canned goods are homemade and not subject to state inspection."; and

(iv) each container of the product sold or offered for sale under this clause is accurately labeled to provide the name and address of the individual who processed and canned the goods, the date on which the goods were processed and canned, and ingredients and any possible allergens.

(b) An individual who qualifies for an exemption under paragraph (a), clause (2), is also exempt from the provisions of sections 31.31 and 31.392.

Subd. 2. Direct sales to consumers.

(a) An individual qualifying for an exemption under subdivision 1 may sell the exempt food:

(1) directly to the ultimate consumer;

(2) at a community event or farmers’ market; or

(3) directly from the individual’s home to the consumer, to the extent allowed by local ordinance.

(b) If an exempt food product will be delivered to the ultimate consumer upon sale of the food product, the individual who prepared the food product must be the person who delivers the food product to the ultimate consumer.

(c) Food products exempt under subdivision 1, paragraph (a), clause (2), may not be sold outside of Minnesota.

(d) Food products exempt under subdivision 1 may be sold over the Internet but must be delivered directly to the ultimate consumer by the individual who prepared the food product. The statement “These products are homemade and not subject to state inspection.” must be displayed on the Web site that offers the exempt foods for purchase.

Subd. 3. Limitation on sales.

An individual selling exempt foods under this section is limited to total sales with gross receipts of $18,000 or less in a calendar year.

Subd. 4. Registration.

An individual who prepares and sells exempt food under subdivision 1 must register annually with the commissioner. The annual registration fee is $50. An individual with $5,000 or less in annual gross receipts from the sale of exempt food under this section is not required to pay the registration fee.

Subd. 5. Training.
(a) An individual with gross receipts between $5,000 and $18,000 in a calendar year from the sale of exempt food under this section must complete a safe food handling training course that is approved by the commissioner before registering under subdivision 4. The training shall not exceed eight hours and must be completed every three years while the individual is registered under subdivision 4.

(b) An individual with gross receipts of less than $5,000 in a calendar year from the sale of exempt food under this section must satisfactorily complete an online course and exam as approved by the commissioner before registering under subdivision 4. The commissioner shall offer the online course and exam under this paragraph at no cost to the individual.

Subd. 6. Local ordinances.

This section does not preempt the application of any business licensing requirement or sanitation, public health, or zoning ordinance of a political subdivision.

Subd. 7. Account established.

A cottage foods account is created as a separate account in the agricultural fund in the state treasury for depositing money received by the commissioner under this section. Money in the account, including interest, is appropriated to the commissioner for purposes of this section.

Exemption: Minnesota’s Farmers’ Market or Community Event Food Product Sampling and Demonstration Law

In 2014, the Minnesota Legislature passed the “Farmers’ Market or Community Event; Food Product Sampling and Demonstration” Law. This law allows farmers’ market vendors and individuals selling items at a community event to provide a small portion of a food item that includes as a main ingredient a product sold by the vendor at the farmers’ market or community event for promotional or educational purposes free of charge without obtaining a food handlers license.285

Minnesota Statutes Chapter 28A. Licensing Food Handlers

28A.151 FARMERS' MARKET OR COMMUNITY EVENT; FOOD PRODUCT SAMPLING AND DEMONSTRATION.

Subdivision 1. Definitions.

(a) For purposes of this section, the following terms have the meanings given them.

(b) "Farmers' market" means an association of three or more persons who assemble at a defined location that is open to the public for the purpose of selling directly to the consumer the products of a farm or garden occupied and cultivated by the person selling the product.

(c) "Food product sampling" means distributing to individuals at a farmers' market or community event, for promotional or educational purposes, small portions of a food item that include as a main ingredient a product sold by the vendor at the farmers' market or community
event. For purposes of this subdivision, "small portion" means a portion that is no more than three ounces of food or beverage.

(d) "Food product demonstration" means cooking or preparing food products to distribute to individuals at a farmers' market or community event for promotional or educational purposes.

Subd. 2. Food sampling and demonstration.

The licensing provisions of [the Minnesota Consolidated Food Licensing Law] shall not apply to persons engaged in food product sampling or food product demonstrations.

Subd. 3. Food required to be provided at no cost.

Food provided through food product sampling or food product demonstrations must be provided at no cost to the individual.

Subd. 4. Regulatory authority oversight.

Any person conducting food product sampling or food product demonstrations shall provide to the regulatory authority upon request the following information related to the food product sampling or food product demonstration conducted by the person:

(1) the source of the food used in the sampling or demonstration and whether or not the food was produced at the person's farm or garden;

(2) the type and volume of food to be served, held, prepared, packaged, or otherwise provided for human consumption;

(3) the equipment used to serve, hold, prepare, package, or otherwise provide food for human consumption;

(4) the time period and location of the food product sampling or food product demonstration;

(5) the availability of facilities for hand washing by persons conducting the food product sampling or food product demonstrations;

(6) information on facilities available for ware washing of multiuse utensils and equipment;

(7) the available source of water; and

(8) methods of liquid and solid waste disposal.

Subd. 5. Food safety and equipment standards.

Any person conducting food product sampling or food product demonstrations shall meet the same food safety and equipment standards that are required of a special event food stand in Minnesota Rules, parts 4626.1855, items B to O, Q, and R; and 4626.0330.

Subd. 6. Definition exception.
The definition of farmers' market in subdivision 1, paragraph (b), does not prohibit a farmers' market association from establishing a definition of farmers' market that applies to its membership that is more restrictive than the definition in subdivision 1, paragraph (b).
ENDNOTES

1 Apple Valley, Minn., Code, § 155.003 (2014).
5 Minn. Const., art. 13, § 7.
6 Minn. Stat. §§ 157.16, 28A.04; Minn. R. Ch. 4626.
7 Minn. Rules Ch. 4626.
10 Minn. Stat. § 28A.04.
11 Minn. Rules 4626.
13 Minn. Rules 4626.0017; Minn. Stat. § 144.05.
14 Minn. Rules 4626.0017; Minn Stat. § 144.05.
17 Minn. Rules 4626.1785.
18 Minn. Stat. §§ 31.101; 31.11.
19 Minn. Rules 4626.1785.
20 See generally Food, Dairy, Meat & Eggs, Minn. Dep’t of Agric., http://www.mda.state.mn.us/licensing/inspections.aspx (last visited May 19, 2015); See also, Food & Feed Quality Complaint Form, Minn. Dep’t of Agric., http://www.mda.state.mn.us/en/food/safety/foodcomplaint.aspx (providing an example of the different types of food products that MDA regulates) (last visited Aug. 3, 2015).
21 See generally, Minn. Stat. Ch. 410 (home rule charter cities) and Minn. Stat. Ch. 412 (statutory cities).
23 Minn. Stat. § 462.352, subd. 15 (2014); see also Minn. Stat. § 394.22, subd. 6 (2014); Minn. Stat. § 473.582, subd. 9 (2014).
27 Apple Valley, Minn., Code, § 11-118.01 et seq. (2014).
29 Black’s Law Dictionary (2nd ed.) (“Permit”).
30 Minn. Stat. Ch. 462.
31 Minn. Stat. § 462.351.
37 Minn. Stat. § 473.121, subd. 2 (2014) (“the area over which the Metropolitan Council has jurisdiction, including only the counties of Anoka; Carver; Dakota excluding the city of Northfield; Hennepin excluding the cities of Hanover and Rockford; Ramsey; Scott excluding the city of New Prague; and Washington”).
40 Minn. Stat. § 473.852, Subd. 7 (2014).
Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013).

MINN. STAT. § 326B.101.
MINN. STAT. § 326B, et seq; MINN. Rules Ch. 1303.
MINN. STAT. § 326B.121, MINN. RULES 1300.0030 Subp. 2; 1300.0120 Subp. 4
MINN. RULES 1300.0120, subpart 4.
Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), http://www.dli.mn.gov/ccld/OpinionStaffAgriculture.asp?
Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), http://www.dli.mn.gov/ccld/OpinionStaffAgriculture.asp.
MINNESOTA BUILDING CODE, § 326B.101.
APPLE VALLEY, MINN., CODE, § Title 15 (2014).
APPLE VALLEY, MINN., CODE, § 9-91.01 (2014).
APPLE VALLEY, MINN., CODE, § 9-91.01 (2014).
APPLE VALLEY, MINN., CODE, § 9-91.01 (2014).
APPLE VALLEY, MINN., CODE, § 9-91.01 (2014).
APPLE VALLEY, MINN., CODE, § 9-91.06 (2014).
APPLE VALLEY, MINN., CODE, § 9-91.06(D)(2) (2014).
APPLE VALLEY, MINN., CODE, § 9-91.06 (2014).
APPLE VALLEY, MINN., CODE, § 9-91.06 (2014).
APPLE VALLEY, MINN., CODE, § 15-155.051(G) (2014).
APPLE VALLEY, MINN., CODE, § 15-155.051(G) (2014).
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League of Minnesota Cities, Information memo: Zoning Guides for Cities (2015),


Minn. Stat. § 28A.02.

Minn. Const., art. 13, § 7.

Apple Valley, Minn., Code, § 114.02 (2014).

City Council Informational Meeting Tentative Discussion Items, May 14, 2015, http://www.ci.apple-

valley.mn.us/ArchiveCenter/ViewFile/Item/808 (viewed May 29, 2015).

Apple Valley, Minn., Code, § 11-114.001 et seq. (2014).

Apple Valley, Minn., Code, § 114.03 (2014).

Minn. Stat. § 157.15, Subd. 12


Apple Valley, Minn., Code, Title 1 (2014).


Apple Valley, Minn., Code, § 155.106(B) (2014).

Apple Valley, Minn., Code, § 155.127(C) (2014).

Apple Valley, Minn., Code, § 155.156(C) (2014).


Apple Valley, Minn., Code, § 155.171(B) & (C)(5) (2014).

Apple Valley, Minn., Code, § 155.172(C) (2014).

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