BURNSVILLE

FOOD SYSTEMS POLICY ANALYSIS
This publication was prepared by the Public Health Law Center at William Mitchell College of Law, St. Paul, Minnesota, through a contract with the Open Door that was funded by the Dakota County Public Health Department through a grant from the Minnesota Department of Health’s Statewide Health Improvement Program.

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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 Burnsville, current as of May 2015, that may directly or indirectly impact access to healthy food in Burnsville. While this policy brief focuses primarily on Burnsville’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.

This brief divides the material into the following sections:

- growing,
- processing,
- distributing,
- getting,
- making,
- eating, 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

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.
Each section is divided into subsections focused on key areas of interest within each section. Within each subsection, relevant state law and municipal code definitions are provided (if a definition exists).

This policy brief addresses the following questions regarding each section and subsection:

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

This brief 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 brief 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.

**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 county and 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 statewide 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 are allowed, including some with restrictions on how close 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 Burnsville’s municipal code, available publicly at: http://www.sterlingcodifiers.com/codebook/index.php?book_id=468

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 Burnsville at the beginning of each section. For example, at the beginning of the Restaurants sub-section, the definitions for “Restaurant, Standard” and “Restaurant, 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 Burnsville differentiates between fast food restaurants and general restaurants as follows:

★ **Restaurant, Standard.** An establishment whose principal business is the sale of food and/or beverages to customers in a ready to consume state, and whose principal method of operation includes one or both of the following characteristics: a) customers, normally provided with an individual menu, are served their foods and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed; b) a cafeteria type operation where food and beverages generally are consumed within the restaurant building.1

★ **Restaurant, Fast Food.** An establishment whose principal business is the sale of food and/or beverages in a ready to consume state for consumption: a) within the restaurant building, b) within a motor vehicle parked on the premises, or c) off the premises as carryout orders, and whose principal method of operation includes the following characteristics: food and/or beverages are usually served in paper, plastic or other disposable containers.2
★ **Restaurant (Convenience).** *An establishment that serves food and/or beverages, in or on disposable or edible containers, for consumption on or off premises, including drive-in restaurants, and including drive-through facilities.*

★ **Restaurant (General).** *An establishment which serves food in or on nondisposable dishes to be consumed primarily while seated at tables or booths within the building.*

It is important to note that many of the definitions established by the City of Burnsville 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 a 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 reviewing specific local ordinances impacting the food system, this memo briefly discusses some general concepts providing context regarding and impacting access to healthy food in Burnsville, 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 Burnsville’s regulation of different components of the food system. The Public Health Law Center used the Minnesota Food Charter to structure the analysis of Burnsville’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 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>
</table>
| MDH    | • Cafes  
        • Restaurants  
        • Bars  
        • Hotels & motels  
        • Cafeterias | • Licenses and inspects food establishments\(^{12}\)  
• Enforces Minnesota Food Code\(^{13}\)  
• Provides food safety and food handling education and training\(^{14}\)  
• Investigates outbreaks\(^{15}\)  
• Tracks and monitors foodborne illness\(^{16}\)  
• Operates the Minnesota Foodborne Illness Hotline\(^{17}\)  
• Releases reports and summaries of foodborne illness outbreaks in Minnesota\(^{18}\)  
• Coordinates response to foodborne illness outbreak with other state and local government agencies\(^{19}\) |
| MDA    | • Grocery stores  
        • Bakeries  
        • Egg handlers  
        • Dairy farms  
        • Delis  
        • Food manufacturers  
        • Wholesale food dealers  
        • Meat & poultry processors | • Licenses and inspects certain food retailers, dairies, and meat processors  
• Licenses and inspects food manufacturers, wholesalers, and retailers\(^{20}\)  
• Enforces Minnesota Food Laws and the Minnesota Food Code\(^{21}\)  
• Enforces state standards relating to food quality, labeling, and advertising\(^{22}\)  
• Investigates complaints regarding questionable food products or food sales practices\(^{23}\)  
• Cooperates in foodborne illness outbreak investigation when involving MDA-regulated facilities or food that is commercially distributed in Minnesota\(^{24}\)  
• Tests food products and environmental samples for the presence of pathogens or deleterious substances |

Please note, there are a number of areas that MDA is involved in 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 a limited number of 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 Agriculture 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 code to impact different aspects of the food system.

At this time, the City of Burnsville 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 Burnsville 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: 28

- 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.” 29 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…” 30 Local governments generally have power to license through state law giving local governments the power to exercise police powers to protect and promote the public welfare. "When a city official proposes local licensing of any activity or occupation, the city must determine whether the state already licenses that activity and, if so, whether the law forbids or allows that local license. . . Cities have adequate legislative authority for any licensing ordinance, as long as it is constitutional, reasonable, and not pre-empted by state regulation." 31

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.

‡ 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.
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.

Burnsville does not require general business licensing or registration for all businesses. However, Burnsville has established business licensing requirements for peddlers, solicitors, transient merchants, and mobile vendors.\textsuperscript{32}

**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.”\textsuperscript{33} 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.


**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.\textsuperscript{34} This includes the authority to prepare, adopt and amend a comprehensive municipal plan as well as the official controls to implement that plan. Burnsville has the authority to conduct planning and enact zoning ordinances.\textsuperscript{35}

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. Burnsville’s municipal code states:
“Whenever in any zoning district a use is neither specifically allowed nor specifically prohibited, the use shall be considered prohibited unless the City Council determines that the proposed use is very similar to an allowed use in which case the proposed use shall be deemed allowed.”

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.

The cities, townships, and counties that make up the seven-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.” Townships in Dakota County may choose to prepare comprehensive plans for their jurisdictions or delegate their planning authority to the county by agreement.

In the metropolitan development region, state law has placed most of the seven-county “metropolitan area” under the jurisdiction of the Metropolitan Council, a “public corporation and political subdivision of the state.” 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.

The Metropolitan Land Planning Act requires local governments – counties, cities, and towns – in the “metropolitan area” to develop a comprehensive plan, and to systematically review it every ten years. This “decennial review” is a multilayered process, and begins several years before the actual deadline; the next review is due in 2018. Burnsville 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 Burnsville’s comprehensive plan is outside the scope of this project. However, any effort to increase access to healthy food in Burnsville 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 Burnsville’s municipal code is essential to ensure the comprehensive plan
reflects the broader needs of the community to have access to healthy, affordable food. Burnsville’s current comprehensive plan that is under review is available on the city’s website at: http://www.ci.burnsville.mn.us/index.aspx?NID=434.

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.46

Burnsville has established the following zoning districts:47

<table>
<thead>
<tr>
<th>Residence Districts</th>
<th>Business Districts</th>
<th>“I” Industrial Districts</th>
<th>Special and Environmental Overlay Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1 One-family residential district</td>
<td>B-1 Office business district</td>
<td>I-1 Industrial park district</td>
<td>Mixed use district</td>
</tr>
<tr>
<td>R-1A One-family rural residential district</td>
<td>B-2 Neighborhood business district</td>
<td>I-2 General industry district</td>
<td>Environmental overlay districts</td>
</tr>
<tr>
<td>R-2 Two-family residential district</td>
<td>B-3 General business district</td>
<td>I-3 Office and industrial park district</td>
<td>Floodplain overlay districts</td>
</tr>
<tr>
<td>R-3A Medium density residential district</td>
<td>B-4 Highway commercial district</td>
<td>C-1 Industrial park district</td>
<td>P Park district</td>
</tr>
<tr>
<td>R-3B High density residential district</td>
<td>CRD Commercial recreation district</td>
<td>GIM Gateway industrial medium district</td>
<td>GW Gateway district</td>
</tr>
<tr>
<td>R-3D Manufactured housing district</td>
<td>HOC-1 Heart of the city district</td>
<td>GIH Gateway industrial heavy district</td>
<td>PUD Planned unit development district</td>
</tr>
</tbody>
</table>

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.48 In contrast, a conditional use permit can be requested for a use that is
Burnsville provides additional clarification about variances and conditional uses as follows.

**Municipal Definitions**

★ **Variance.** Permission to depart from the requirements of this [zoning] title.  

★ **Use, temporary.** One established for a fixed period of time with the intent to discontinue such use upon the expiration of such time.

★ **Conditional use.** A land or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that: a) certain conditions as detailed in the zoning ordinance exist, and b) the use or development conforms to the comprehensive land use plan of the city, and c) is compatible with the existing neighborhood.

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 is 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.”  
Permanent and temporary structures are required to meet minimal structural requirements, and
permanent structures must meet additional requirements including snow load requirements. At the same time, agricultural buildings on agricultural lands are exempted from certain provisions of the state building code. The Minnesota Building Code also exempts certain small-sized, one-story accessory structures from permit requirements prior to being constructed, altered, or repaired.

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. 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. 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 place 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.

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

**Municipal Definitions**

- **Accessory use.** Not defined by municipal code as of August 1, 2014.
- **Accessory structure.** A structure adjunct of and in subordination to another structure.
- **Use, Principal.** The main use of land or buildings as distinguished from accessory uses. A "principal use" may be either permitted or conditional.

Burnsville’s municipal code requires a building permit for all accessory structure. The municipal code requires a zoning permit for buildings between 50 and 120 square feet. How a specific structure is regulated depends on whether the structure falls into one of those categories.
For more information:

- City specific information may be obtained from the city’s municipal building official
- *Explanation of the Agricultural Building Exemption in the State Building Code* by the Minnesota Department of Labor and Industry
- More information on Burnville’s regulation of accessory buildings and structures is discussed in Appendix B, below.
GROWING FOOD

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.** An area of land that is managed and maintained by a group of individuals to grow and harvest food crops and/or nonfood ornamental crops such as flowers for personal or group use, consumption or donation. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.65

- **Market garden.** Not defined by municipal code as of June 3, 2015

- **Truck Farm/Garden.** An area of land typically less than five (5) acres in size used for the small scale production of vegetables, fruits, sod, grains and flowers that are grown primarily for cash sales to consumers, restaurants and independent stores.66

- **Weeds.** Shall be construed to mean and include all noxious weeds as defined by the statutes of the state of Minnesota to include, but not be limited to: buffalobur, burdock, common cocklebur, crabgrass, dandelions, jimsonweed, quackgrass, common and giant ragweed, field sandbur, velvetleaf, and wild sunflower, and all such useless and troublesome plants as are commonly known as weeds to the general public. Weeds also include anything that is horticulturally out of place. For example, a tree seedling is a weed in a vegetable garden.67

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?

Burnsville has established regulations governing urban agriculture within the city.68 Existing farms are permitted but restrictions are placed on new building locations and the sale of products on the premises.69 In addition, community gardens are permitted while various aspects are regulated such as fences, parking, signs, and accessory buildings.70
Community gardens are allowed in all zones, except the conservancy zone, as either a principle use or as an accessory use, which allows community gardens to be established on vacant lots as the primary use.  

Additionally, in the occurrence of a water shortage, the city may limit the times and hours during which water may be used from the city water system for lawn and gardening sprinkling.

Gardening is permitted in the following zones:

<table>
<thead>
<tr>
<th>Zone</th>
<th>Accessory Use</th>
</tr>
</thead>
<tbody>
<tr>
<td>R-1 Residential</td>
<td>Gardening uses and incidental sale of plants. The infrequent, temporary display and sale of plants is permitted by the occupant(s) of the premises.</td>
</tr>
<tr>
<td>R-1A One-Family Rural Residential</td>
<td>Accessory uses permitted in the R-1 district excluding farmers' markets.</td>
</tr>
<tr>
<td>R-2 Two-Family Residential</td>
<td>Accessory uses permitted in the R-1 district excluding farmers' markets.</td>
</tr>
<tr>
<td>R-3A Medium Density Residential</td>
<td>Accessory uses permitted in the R-2 district with the following exceptions.</td>
</tr>
<tr>
<td></td>
<td>(B) Exceptions: Farmers' markets.</td>
</tr>
<tr>
<td>R-3B High Density Residential</td>
<td>Accessory uses permitted in the R-3A district.</td>
</tr>
<tr>
<td>R-3D Manufactured Housing</td>
<td>Within any R-3D manufactured housing district, no structure or land shall be used as an accessory use except for those accessory uses permitted in an R-1 district and except farmers' markets.</td>
</tr>
</tbody>
</table>
| Floodway District (FW)         | 1. Agricultural uses:  
|                               | Forestry.  
|                               | General farming.  
|                               | Grazing.  
|                               | Horticulture.  
|                               | Outdoor plant nurseries.  
|                               | Pasture.  
|                               | Sod farming.  
|                               | Truck farming.  
|                               | Wild crop harvesting.  
|                               | 4. Residential uses:  
|                               | Gardens.                                                    |

**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.** An area of land devoted primarily to the practice of producing and managing food such as produce and grain but not including commercial animal farms, fur farms, kennels and poultry farms.\(^8^0\)

★ **Produce.** Farm products that are planted, maintained, and harvested by a producer or vendor.\(^8^1\)

★ **Producer.** A person(s) (vendor) who owns or rents land, and plants, maintains and harvests produce.\(^8^2\)

★ **Building, accessory.** A building adjunct of and in subordination to another building.\(^8^3\)

★ **Accessory structure.** A structure adjunct of and in subordination to another structure.\(^8^4\)

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

No.

What are the relevant regulations?

Burnsville has allowed existing farms to continue operations as long as certain setback requirements are met for buildings that may house animals.\(^8^5\) The limited sale of produce on the farm is also allowed, however any roadside stand must meet certain building height and square feet maximum limits.\(^8^6\)

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 with and engaged in 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.** Not defined by municipal code as of June 3, 2015
- **Animals.** Not defined by municipal code as of June 3, 2015
- **Chicken.** *A domesticated fowl of the genus Gallus and species G. gallus.*
- **Domestic animals.** Not defined by municipal code as of June 3, 2015
- **Chicken coop.** Any structure used for the housing of chickens.
- **Chicken run.** A fenced outside yard for the keeping and exercising of chickens.

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

Yes. The City requires a permit to keep hen chickens over four months. The “chicken license” allows for the keeping of up to four (4) chickens at any given time and does not permit the keeping of roosters.

In addition, a chicken coop is an accessory building and Burnsville requires a building permit for all accessory structures. In addition if the coop is between 50 and 120 square feet it requires a zoning permit.

**What are the relevant regulations?**

The municipal code prohibits the keeping of chickens, except pursuant to a permit. It will be considered a nuisance for chickens to habitually or frequently cluck. Roosters are not permitted. Chickens must be confined to a coop or a run.

Chicken coops must meet specific setback, maximum size per chicken and height requirements. In addition, all coops and runs must be screened from view and elevated.

While there are specific provisions governing the keeping of chickens, the municipal code does not have specific provisions for honey bees or other farm animals.

**Additional resources**

- [Information](#) from the City of Burnsville about Burnsville’s code concerning the keeping of chickens.
- [Burnsville’s Chicken Permit Application form](#)
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 use fences 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**, Not defined by municipal code as of June 3, 2015.
- **Fence height**, Not defined by municipal code as of June 3, 2015.
- **Screening**, A method of obstructing one hundred percent (100%) of the view of one abutting or nearby structure or use from another by solid fencing, walls, berms, buildings, grade change or densely planted evergreen vegetation.

- **Accessory structure**, A structure adjunct of and in subordination to another structure.

Does the municipal code require a permit or license?

A Zoning Permit is required for the construction or physical improvement of fences over six (6) feet in height.

Please visit the following link for a copy of the permit application: http://www.burnsville.org/DocumentCenter/View/367

What are the relevant regulations?

Burnsville has established several municipal provisions that apply to fences, including:

- Both sides of the fence need to be maintained,
- In residential front yards, fences shall not exceed 42 inches in height,
- Electric fences are permitted for agricultural purposes and to control deer in residential gardens, and
- Barbed wire fences are generally only allowed on farms.

Burnsville has established landscaping requirements in residential districts, multi-family residential, business, mixed-use and industrial districts. Fence requirements are part of these provisions. Specifically in residential zones, no building permit will be issued for a new home or
a change to the footprint of the home unless the landscaping requirements are met. Please see Appendix D: Landscape Plan Requirements for applicable regulations.

In addition, residential yards and open space requirements may have implication on the location of fences on residential lots.\textsuperscript{105}

\textbf{Additional Resources}

[Handout] from the city outlining residential fence requirements, including: permit, height, and setbacks.

\textbf{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 used 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.

\textbf{Municipal Code Definitions}

\begin{itemize}
  \item \textbf{Arbor.} Not defined by municipal code as of June 3, 2015.
  \item \textbf{Pergola.} Not defined by municipal code as of June 3, 2015.
  \item \textbf{Trellis.} Not defined by municipal code as of June 3, 2015.
  \item \textbf{Planting box.} Not defined by municipal code as of June 3, 2015.
  \item \textbf{Raised plant bed.} Not defined by municipal code as of June 3, 2015.
\end{itemize}

\textbf{Does the municipal code require a permit or license?}

No, a permit is not required for these types of structures on private property.

Yes, a permit is required to plant a tree, shrub or other plants on public property.\textsuperscript{106}

\textbf{What are the relevant regulations?}

Structures must be kept in good repair.\textsuperscript{107}

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 privately owned structures can be on a public right of way.108

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 June 3, 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 requires a building permit for all accessory structures109 and the state building code requires a building permit if it is more than 120 square feet. In addition, if the structure is between 50-120 square feet, a zoning permit is required.110

**What are the relevant regulations?**

Commercial greenhouses are permitted uses in the B-3 General Business District111 and the B-4 Highway Commercial District.112
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, please see the City’s website, http://www.burnsville.org/DocumentCenter/View/351, or contact Building Inspections at 952-895-4444.

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 those growing food 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 permanent sheds on local food production, 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

- **Building.** Any structure having a roof which may provide shelter or enclosure of persons, animals or chattels, and when said structure is divided by party walls without opening, each portion of such building so separated shall be deemed a separate building.114

- **Building, accessory.** A building adjunct of and in subordination to another building.113
**Building, height.** The vertical distance from: a) the average elevation of the adjoining ground level, or b) the established grade, whichever is lower, to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point of a round or other arch type roof, to the mean distance of the highest gable on a pitched or hip roof.\(^{116}\)

**Shed.** Not defined by municipal code as of June 3, 2015.

Does the municipal code require a permit or license?

Yes. The city requires a building permit for all accessory structures\(^{117}\) and the state building code requires a building permit if it is more than 120 square feet. In addition, if the structure is between 50-120 square feet, a zoning permit is required.\(^{118}\)

What are the relevant regulations?

Depending on the type and size of shed municipal provisions governing accessory structures may apply.

Additionally, the municipal code requires that exterior work authorized by a building permit must be completed within a set amount of time. Sheds are treated like accessory structures, and must be completed within one year from the date of issuance of the building permit.\(^{119}\)

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.
PROCESSING FOOD

Food processing is an important part of the food system. Apple 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. The Minnesota Department of Agriculture has issued rules governing a wide range of food processing activities. 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

**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.

Municipal Code Definitions

**Food processor.** Not defined by municipal code as of June 3, 2015.

Does the municipal code require a permit or license?

No.

What are the relevant regulations?

While Burnsville does not have any regulations specifically targeting food processing facilities, a food processing facility would likely fall into one of Burnsville’s zoning districts, such as Burnsville’s commercial or industrial zoning districts.

Additional Resources

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

- 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).

GETTING FOOD

Subsections:
1. Selling Products of a Farm or Garden
2. Farmers’ Markets
3. Restaurants
4. Mobile, Temporary, and Seasonal Food and Beverage Service Establishments
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 Burnsville 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.126

** 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.127

**Municipal Code Definitions**

★ **Retail Food Establishment.** Any fixed facility in which food or drink is offered or prepared primarily for retail sale.128

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 farmers’ 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 Burnsville 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.”129 Specifically, any person that engages in the business of manufacturing, processing, selling, handling, or storing food must obtain a license, unless Minnesota law specifically exempts that person or activity from the general licensing requirement.

**Additional Resources**

As mentioned, above a few exceptions to the state’s licensing requirement 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).


In addition, information about some recent changes to Minnesota state law not included in these resources has been provided in Appendix G: State Exemptions from State Food Handlers Licensing Requirements, below.
See Table 1: *Oversight of Food System by Minnesota Departments of Health and Agriculture*, provided earlier, for additional information regarding the specific authority the Minnesota Departments of Agriculture and Health 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 products from a farm or garden that they have grown from the requirement of obtaining a food license.\(^{130}\) 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 July 2, 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.\(^{131}\) Please see Appendix G for more information.

**What are the relevant regulations?**

Burnsville allows stands for the sale of agricultural products on a farm where the produce was raised.\(^{132}\) In zones where gardening is permitted, the infrequent, temporary display and sale of the plants is permitted by the occupant of the property.\(^{133}\)

**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, 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. 134

- **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. 135

- **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. 136

**Municipal Code Definitions**

- **Farmers’ market.** Outdoor sales of fruits, vegetables, honey, flowers, plants, homemade bakery goods, cheeses, and soaps. 137

- **Transient merchant.** A person, firm or corporation who engages temporarily in the business of selling and delivering food, goods, wares or merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any private property, vacant lot, parking lot, motor vehicle, trailer, structure, tent or temporary or portable shelter. 138

- **Open Sales Lot.** Land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building. 139

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

Yes, the City requires a farmers’ market to obtain a temporary/seasonal outdoor sales permit. 140
What are the relevant regulations?

The City of Burnsville regulates farmers’ markets through specific regulations for these types of markets in the municipal code. Regulations include specific zoning districts and where farmers’ markets can operate. A minimum of 20 vendors must be in the market. Parking is required with 1½ stalls per vendor. Signs are limited in size and scope. Markets are only allowed to operate one day a week from April to November.141

Exempt from the permit requirement, while still being required to meet all the regulations for farmers’ markets, are civic, religious and charitable organizations.142

Open sales lots are allowed but have screening requirements and lots used must also have a principle structure on the lot.143

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 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 regulatory authority over restaurants to specific local governments, Burnsville does not have
delegated authority from MDH. However, Burnsville 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.¹⁴⁴

Municipal Code Definitions

**Restaurant, Standard.** An establishment whose principal business is the sale of food
and/or beverages to customers in a ready to consume state, and whose principal method
of operation includes one or both of the following characteristics: a) customers, normally
provided with an individual menu, are served their foods and beverages by a restaurant
employee at the same table or counter at which food and beverages are consumed; b) a
cafeteria type operation where food and beverages generally are consumed within the
restaurant building.¹⁴⁵

**Restaurant, Fast Food.** An establishment whose principal business is the sale of food
and/or beverages in a ready to consume state for consumption: a) within the restaurant
building, b) within a motor vehicle parked on the premises, or c) off the premises as
carryout orders, and whose principal method of operation includes the following
characteristics: food and/or beverages are usually served in paper, plastic or other
disposable containers.¹⁴⁶

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

No, the City does not require a license for restaurants.¹⁴⁷

What are the relevant regulations?

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

- New Restaurants that are developed require at least one and one-half acre of land with at
  least 30% set aside for landscaped space,¹⁴⁸
- Outdoor seating,¹⁴⁹
- Parking space requirements,¹⁵⁰ and
- Sign requirements.¹⁵¹

See entire chapter 30 for additional provisions that may be applicable to restaurant signs.

Restaurants are permitted in the following zones:
| Neighborhood Business District | Permitted Accessory Uses: Restaurant within a building having a principal use other than a restaurant subject to subsection 10-19-3(B) of this title. (Ord. 1196, 4-6-2010) 
152 |
| Highway Commercial District | Permitted Accessory Uses: Restaurant within a building having a principal use other than a restaurant 
153 |
| Commercial Recreation District | Permitted Uses: Restaurant complementary to the recreation business as regulated by subsection 10-19-3(B) of this title. 
154 |
| Mixed Use District | Restaurant within a building having a principal use other than a restaurant subject to subsection 10-19-3(B) of this title. 
155 |
| Industrial Park District | Permitted Accessory Uses: Restaurant or cafeteria accessory to a permitted or conditional use intended to serve only employees of the facility. 
Conditional Uses: Restaurant (freestanding), subject to subsection 10-19-3(B) of this title. 
156 |
| Gateway Industrial Heavy District | Conditional Uses: Restaurant - freestanding - minimum five thousand (5,000) square feet. Restaurant within a building having a principal use other than a restaurant. Tenant restaurants, cafeterias and retail service limited to tenants of the building, provided that they be essentially limited to providing service to the users of the permitted use, and that no signs or other evidence of these uses are visible from the exterior of the building. 
157 |

### 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††

★ 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

(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.159

★ Food cart means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.160

★ 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.161

★ 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.162

★ 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.163

Municipal Code Definitions

★ Food cart. Not defined by municipal code as of June 4, 2015.

★ Food stand. Not defined by municipal code as of June 4, 2015.

★ Mobile vendor. A person, firm or corporation in the business of selling food, goods, wares or merchandise from a vehicle, trailer, or cart within the city, and who, in

†† 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.
furtherance of such purpose, temporarily or periodically hires, leases, uses or occupies any street or right of way.\textsuperscript{164}

\textbf{Food truck.} Not defined by municipal code as of June 4 2015.

\textbf{Does the municipal code require a permit or license?}

Yes, the City requires a license for mobile vendors.\textsuperscript{165}

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.

\textbf{What are the relevant regulations?}

Burnsville has established specific regulations for mobile vending in the city. Included in these regulations are:

- Restrictions on the location of vending,
- Requirements for restrooms for food vendors,
- Hours of operation, and
- Requirements for collection of wastes.\textsuperscript{166}

\textbf{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:

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

\textbf{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.** The term "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.\(^{167}\)

Municipal Code Definitions

★ **Transient merchant.** A person, firm or corporation who engages temporarily in the business of selling and delivering food, goods, wares or merchandise within the city, and who, in furtherance of such purpose, hires, leases, uses or occupies any private property, vacant lot, parking lot, motor vehicle, trailer, structure, tent or temporary or portable shelter.\(^{168}\)

Does the municipal code require a permit or license?

Yes, the municipal code makes it unlawful to conduct business as a peddler, solicitor, or transient merchant without first registering with the police department.\(^ {169}\) A person who is selling product grown, produced, cultivated, or raised on a farm or in a garden occupied and cultivated by that person is exempt from this requirement.\(^ {170}\) A person selling goods at a farmers’ market, is also exempt from this requirement.\(^ {171}\)

What are the relevant regulations?

Burnsville has established a licensing scheme that regulates transient merchants, including:

- Permissible hours of operation, 9 a.m. – 8 p.m.;
- Noise restrictions; and
- Restriction from selling or attempting to sell in public right-of-ways except as permitted by mobile vendors.\(^ {172}\)

Grocery Store

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.”
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.\textsuperscript{173} 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 a restaurant service provided in a grocery store while MDA would have regulatory authority over the retail grocery operations.

\textbf{Minnesota State Legal Definitions}\textsuperscript{‡‡}

\textbf{★ Food establishment}\textsuperscript{174}

\textit{A. “Food Establishment” means an operation that:}

\begin{itemize}
  \item[(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
  \item[(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.
\end{itemize}

\textbf{Municipal Code Definitions}

\textbf{★ Grocery store.} Not defined by municipal code as of June 3, 2015.

\textbf{★ Retail Food Establishment.} \textit{Any fixed facility in which food or drink is offered or prepared primarily for retail sale.}\textsuperscript{175}

\textbf{Does the municipal code require a permit or license?}

No, the City does not require a permit for grocery stores.\textsuperscript{176}

\textsuperscript{‡‡} Please note: State law includes a wide range of legal definitions for different types of food establishments governed by the Minnesota Food Code, including grocery stores. 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. As indicated by this definition, a grocery store is included in the definition of a “food establishment” governed by the Minnesota Food Code. However, a grocery store is not recognized as a type of “food and beverage service establishment” even though a restaurant within a grocery store may fall within the definition of a “food and beverage service establishment”, discussed earlier.
What are the relevant regulations?

Four zoning districts permit grocery stores. The Neighborhood Business District\(^{177}\), Highway Commercial District,\(^{178}\) Heart of City District 1,\(^{179}\) and Mixed Use District\(^{180}\) permits grocery stores, and fruit or vegetable stores.

The Gateway Industrial Heavy District may allow grocery, fruit or vegetable stores as a conditional use.\(^{181}\)

Additional Resources

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

- 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).

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.** Any written announcement, declaration, demonstration, display, illustration, insignia or illumination used to advertise or promote the interest of any person or persons when the same is displayed or placed out of doors in view of the general public, or inside of a building within three feet (3’) of a transparent window. A sign shall be considered as a structure or a part of a structure for the purpose of applying yard and height regulations except as herein provided.\(^{182}\)

Does the municipal code require a license or permit?

What are the relevant regulations?§§

The City allows signs for community gardens and temporary/seasonal outdoor sales. Additionally it has established numerous restrictions on signage, including:

- Signs that obstruct the sight of drivers or pedestrians;
- Limits on the size of signs for transient merchants;
- Maintaining a sign or advertisement on public property without obtaining a conditional use permit from the council.

Restrictions may vary depending on zoning district such as in the Heart of the City District.  

Parking

Many local governments require certain businesses to comply with parking requirements. By establishing parking requirements, the local government can ensure there is handicap 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 7, 2015
- **Impervious Surface.** The portion of the buildable parcel which has a covering which does not permit water to percolate into the natural soil. Impervious surface shall include, but not be limited to, buildings, all driveways and parking areas (whether paved or not), sidewalks, patios, swimming pools, tennis and basketball courts, covered decks, porches, and other structures. Open, uncovered decks are not considered impervious for the purposes of this chapter. The use of patio blocks, paver bricks or class 5 gravel material

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§§ 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 favor 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 within Dakota County and local municipalities.
are considered impervious surfaces as a majority of water runs off the surface rather than being absorbed into natural soils underneath.\textsuperscript{190}

Does the municipal code require a license or permit?

No.

What are the relevant regulations?

Burnsville has established parking regulations generally.\textsuperscript{191} In addition, Burnsville does not allow the sale of goods on parking areas that are required as off street parking.\textsuperscript{192} Please visit the applicable zoning regulations for additional considerations.\textsuperscript{193}


**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. Minnesota state law does create 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; and 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?**

Notably, Burnsville requires kitchens to have at least one electrical fixture.¹⁹⁴

No other municipal regulations are 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:


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 are regulated largely by the City. All other categories are most like to be considered “compost facilities” and are more heavily regulated by the Minnesota Pollution Control Agency. Regulations of compost by the state may include:

- Odors
- Design requirements
- Discharge and surface water drainage runoff
- Operation requirements (i.e., staff training)
**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, apartment building, or a single commercial office, a member of which is the owner, occupant, or lessee of the property.197

- **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.198

- **Composting.** *(State Definition)* The controlled microbial degradation of organic waste to yield a humus like product.199

- **Operator.** *(State Definition)* The person or persons responsible for the operation of a facility.200

- **Owner or facility owner.** *(State Definition)* The person or persons who own a facility or part of a facility.201

**Municipal Code Definitions:**

- **Composting.** Not defined by municipal code as of June 7, 2015.

- **Kitchen waste.** Not defined by municipal code as of June 7, 2015.

- **Garbage.** Animal, vegetable, or other putrescible wastes, but excluding human excreta, sewage, or other forms of water carried wastes.202

- **Yard waste.** Organic material consisting of grass clippings, leaves and other forms of organic garden waste, prunings, and fresh cut Christmas trees and boughs, but excluding garden vegetables, and materials that are not readily compostable within a calendar year.203

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

Unclear. The City does not require a permit of license for “composting” but does not define composting.

A license is required to commercially haul garbage, refuse, recyclables, yard waste or food waste.204

**What are the relevant regulations?**

Composting is permitted in Burnsville as long as it meets the standards of the composting chapter.205 This chapter includes requirements for bin locations with a maximum of three bins per lot206 and permitted compostable materials.207
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.

   o Yard waste compost facility annual report,  
   o Yard waste compost facility permit-by-rule notification,  

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, 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

★ **Garbage.** Animal, vegetable, or other putrescible wastes, but excluding human excreta, sewage, or other forms of water carried wastes. 208

★ **Refuse.** Nonputrescible solid wastes such as nonrecyclable glass, crockery, cans, paper, boxes, rags, but excluding ashes, sand, earth, brick, stone, concrete, trees, tree branches and wood. 209

★ **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 use. 210

★ **Yard waste.** Organic material consisting of grass clippings, leaves and other forms of organic garden waste, prunings, and fresh cut Christmas trees and boughs, but excluding garden vegetables, and materials that are not readily compostable within a calendar year. 211
★ Commercial/Industrial establishment. Any premises not primarily used for residential purposes and wherein a commercial or industrial enterprise of any kind is undertaken, including restaurants, clubs, churches, and schools. 212

★ Household. An individual or two (2) or more persons related by blood, marriage, guardianship or adoption living together as a single housekeeping unit; or a group of not more than four (4) persons not so related, maintaining a common housekeeping unit and using common cooking and kitchen facilities; or a residential program (group home) for six (6) or fewer persons as defined and licensed by the state of Minnesota department of human services. 213

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. 214

A license is required to commercially haul garbage, refuse, recyclables, yard waste or food waste. 215

Every household must have the opportunity to recycle. 216

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. 217
- Garbage or refuse on residential dwelling premises must not be allowed to accumulate. 218
**APPENDIX A: SEARCH TERMS**

<table>
<thead>
<tr>
<th>Fence</th>
<th>Market garden</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arbor</td>
<td>Garden</td>
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<tr>
<td>Trellis</td>
<td>Farmers’ market</td>
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<td>Pergola</td>
<td>Grocery store</td>
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<td>Plant bed</td>
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<td>Greenhouse</td>
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<td>Hoop house</td>
<td>Food truck</td>
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<tr>
<td>High tunnel</td>
<td>Mobile food unit</td>
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<td>Farm animal</td>
<td>Compost</td>
</tr>
<tr>
<td>Domestic animal</td>
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</tr>
<tr>
<td>Chicken</td>
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</tr>
<tr>
<td>Bee</td>
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</tr>
<tr>
<td>Chicken coop</td>
<td>Kitchen</td>
</tr>
<tr>
<td>Shed</td>
<td>Pantry</td>
</tr>
<tr>
<td>Community garden</td>
<td></td>
</tr>
</tbody>
</table>
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. Additionally, no structures can be on public rights-of-way without approval by the city.

Municipal Code of Ordinances:

Title 10, Chapter 4 – Zoning, General Provisions

Section 10-4-4: Accessory Buildings and Structures

(A) No accessory building or structure shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory. (Ord. 244, 11-15-1982)

(B) No accessory building or structure shall exceed the height of the principal building or structure. However, in no case shall such accessory building exceed fifteen feet (15') in height with ten foot (10') side walls in the R-1 district, and twenty feet (20') in height in the R-1A district. (Ord. 790, 4-17-2000)

(C) In the R-1 district accessory buildings and structures identified in subsection (L) of this section and not exceeding five hundred (500) square feet of floor area each are allowed as follows:

1. Accessory buildings and structures may not exceed five hundred (500) square feet of floor area each, except for swimming pools and sport courts which may not exceed one thousand (1,000) square feet. An accessory building on a lot with an existing garage, and swimming pool or sport court may not exceed two hundred twenty five (225) square feet.

2. If a lot has a home with an attached garage, one gazebo and one additional accessory building, and one swimming pool or sport court is permitted.

3. If a lot has a home with a detached garage, one gazebo and one additional accessory building, or one swimming pool or sport court in addition to the existing detached garage is permitted.

4. If a lot has a home without an attached garage or detached garage, one garage, one gazebo and one additional accessory building, or one swimming pool or sport court is permitted.

(D) In the R-1A district, accessory buildings or structures identified in subsection (L) of this section shall be allowed as follows:

1. Lots less than two (2) acres in size shall follow the same requirements as in the R-1 district.
2. Lots of two (2) acres in size and greater shall be limited to one per acre and no accessory building or structure shall exceed one thousand (1,000) square feet of floor area. (Ord. 1196, 4-6-2010)

(E) Accessory buildings exceeding the number and square footage permitted in the R-1 and R-1A districts shall require a conditional use permit. (Ord. 1092, 9-17-2007)

(F) No accessory structure or building except detached garages and flagpoles shall be located nearer to the front lot line than the principal building or structure on that lot. This includes portable recreational structures such as trampolines and play sets. (Ord. 1265, 5-22-2012)

(G) All accessory buildings on through lots located in R districts shall satisfy the principal structure front yard setback requirements.

(H) No cellar, basement, tent, trailer or accessory building shall at any time be used as an occupied dwelling.

(I) No accessory building or structure, unless an integral part of the principal building, shall be erected, altered or moved within five feet (5’) of the principal building.

(J) Carports when added to the principal building shall comply with the setback requirements for the principal structure and when freestanding shall comply with the setbacks and size requirements for accessory buildings. Carports must be constructed of materials to match the principal building and may not be constructed of temporary materials such as canvas and/or plastic, etc.

(K) A zoning permit is required for the construction of an accessory building or structure less than one hundred twenty (120) square feet in floor area and more than fifty (50) square feet in floor area. (Ord. 1092, 9-17-2007)

(L) For purposes of subsections (C) and (D) of this section, the following are considered accessory structures and accessory buildings:

<table>
<thead>
<tr>
<th>Accessory Structures</th>
<th>Accessory Buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gazebo</td>
<td>Detached garage</td>
</tr>
<tr>
<td>Sport court</td>
<td>Pool house</td>
</tr>
<tr>
<td>Swimming pools</td>
<td>Shed</td>
</tr>
<tr>
<td>Trampoline</td>
<td></td>
</tr>
</tbody>
</table>

(Ord. 1196, 4-6-2010)

(M) Flagpoles are permitted in any district subject to the following:

1. The maximum height shall not exceed fifty percent (50%) of the maximum height standard for the zoning district within which the flagpole is located.

2. Flags and/or flagpoles are not permitted on a roof or top of a building.
3. Flagpoles shall be set back from the right of way line a distance equal to the flagpole height.

4. Private flagpoles are not permitted within the right of way.

5. Flags and flagpoles shall be constructed in a permanent fashion and maintained in good repair.

6. Flagpoles with broken halyards shall not be used and flags which are torn or frayed shall not be displayed.

7. No more than three (3) flags may be displayed outside of a building. This number may, however, be increased to a total of six (6) flags provided the following standards are met:

   a. No two (2) pairs of flags may be the same.

   b. Where multiple flagpoles are used, there shall be a maximum spacing of twenty feet (20') allowed between the poles. (Ord. 1265, 5-22-2012)

For more information:

Handout by the city outlining requirements for Accessory Buildings.
APPENDIX C: REGULATIONS GOVERNING THE EXTERIOR OF STRUCTURES AND BUILDINGS

The City of Burnsville 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.²²²

Municipal Code of Ordinances:

Title 4, Chapter 1 – Building Regulation, Building Code

Section 4-1-2: COMPLETION TIME

Any residence for which a building permit has been issued for exterior work shall be completed and ready for occupancy according to the approved plans and specifications within one year following issuance of said permit, unless within that time an extension is granted by the council. (Ord. 1230, 2-22-2011)
APPENDIX D: LANDSCAPE PLAN REQUIREMENTS

The City requires certain properties to submit a landscape plan to the city, and have that plan approved, as part of its construction process. The landscape plan requirements specifically apply to: any new development or new building construction, and any existing principle building to be expanded beyond its existing footprint, where an approved landscape plan is not on file with the city.

Municipal Code of Ordinances:

Title 10, Chapter 30A – Zoning, Landscape Requirements

Section 10-30A-3: GENERAL LANDSCAPE REQUIREMENTS:

General requirements shall apply to all zoning districts and include the following:

(A) Landscape Plan: Prior to the commencement of turf removal, digging, grading or planting, a landscape plan shall be submitted to the city providing all information required in this chapter. Color renderings that are drawn to scale shall be provided illustrating the appearance of landscaping and screening at the time of installation. All underground and overhead utilities and other mechanical equipment must be shown on the plan. The contractor is responsible for all damage, repairs and delay of service as a result of damage to any above or below ground utilities.

(B) Areas Disturbed By Grading: All areas disturbed by grading which are not built upon, paved or retained as a natural area shall be sodded, hydroseeded, and/or landscaped, unless specifically approved as part of the overall landscape plan.

(C) Nursery Stock Sizing: The following nursery stock standards shall be required at the time of planting. All measurements shall conform to the standards set forth in the current edition of the "American Standard For Nursery Stock". Larger plants may be used or specified at any time. Trunk diameter shall be measured six inches (6") above ground level for four inch (4") caliper trees or less and measured twelve inches (12") above ground level for four inch (4") caliper trees or more.

<table>
<thead>
<tr>
<th>Overstory (shade) trees</th>
<th>2 1/2 inch diameter</th>
<th>2 1/2 inch diameter</th>
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</thead>
<tbody>
<tr>
<td>Ornamental trees</td>
<td>6 to 7 feet</td>
<td>2 inch diameter</td>
</tr>
</tbody>
</table>

Potted Or Balled And Burlapped
| Evergreen trees                              |       | 6 feet |
| Tall shrubs and hedge material (evergreen or deciduous) | 3 to 4 feet | 3 to 4 feet |
| Low shrubs, deciduous                        | 18 to 24 inches | 24 to 30 inches |
| Evergreen                                   | 18 to 24 inches | 24 to 30 inches |
| Spreading evergreens                         | 18 to 24 inches | 18 to 24 inches |

(D) Prohibited Species: Prohibited species that shall not be planted within the city are identified in the Burnsville woodland protection and evaluation packet.

(E) Topsoil: When topsoil or planting soil is required, the soil shall have a pH range of 5.00 to 8.00 unless otherwise specified. All soil shall be decompacted and free of sticks, stones, and other debris. Soil shall contain no less than five percent (5%) organic compost and twenty five percent (25%) sand. For planting of shrubs, perennials and ornamental grass, a minimum depth of six inches (6”) of topsoil shall be placed on the affected areas before installation. For establishment of turf, a minimum depth of four inches (4”) of topsoil shall be placed on the affected areas before installation of sod or seed.

(F) Planting Schedules: All plants to be installed shall be identified and approved by the city prior to installation. Plants shall be identified by a planting schedule which includes:

1. Quantity of plants to be installed,
2. Common name,
3. Botanical name,
4. Plant size at installation and at full growth,
5. Root type (balled and burlapped, container).

(G) Plant Location:

1. No plants except for flowers, ground covers, or vines shall be placed within two feet (2’) of any building, driveway or parking area unless specifically noted on the landscape plan.
2. Trees shall be planted at least five feet (5’) from the property line and shall not encroach within easements.
3. The landscape and screening location requirements of this chapter may be modified where existing conditions such as easements, underground pipelines or other circumstance would not
allow required landscaping or screening to be installed. In these cases, the required plant or screening materials may be installed elsewhere on site as approved by the development review committee (DRC).

(H) Staking Of Trees: The owner is responsible for keeping trees in a plumb position. When staking or guying is required, it shall occur so as not to create any hazards or unsightly obstacles. All wires shall be encased in hose to prevent tree damage.

(I) Plant Hardiness: All plants specified and installed must be nursery grown and identified as hardy plants which are appropriate for all seasonal conditions. Plants must be sound, healthy, vigorous, and free of disease, insect eggs and larvae.

(J) Plant Diversity: To promote diversity for areas of a site where vegetative screening is required or proposed, no single variety of plants shall be allowed to constitute more than twenty five percent (25%) of the screening materials and the complement of plants used shall provide year round visual interest.

(K) Pervious Pavement Systems: In lieu of sod, seed, or other plant materials, pervious pavement systems may be installed up to a maximum of ten percent (10%) of the required green space standard for each zoning district subject to:

1. The applicant shall demonstrate to the satisfaction of the development review committee (DRC) that proposed construction techniques, materials, soil conditions and the location and proposed use of said systems are appropriate for the specific site conditions, and

2. The landowner shall enter into a maintenance agreement with the city.

If the applicant and the development review committee (DRC) cannot agree on the proposed pervious pavement system, the applicant shall be required to make an application for a conditional use permit (CUP) for approval to use the system.

(L) Irrigation Requirements: All properties abutting or across the street from residential districts and uses shall provide inground irrigation systems to all landscaped and vegetated screening areas.

(M) Irrigation Controls: Where irrigation systems are installed, said systems shall have water sensor devices to avoid overwatering and timing devices to ensure irrigation is conducted during the hours permitted by the city watering restriction requirements.

(N) Coverage: All landscaped areas shall contain sod, be seeded or defined as a landscape planting bed with approved native vegetation, ground covers, shrubbery and trees with a mulch cover.

(O) Maintenance: All landscaped areas shall be maintained by the property owner and kept neat, clear and uncluttered, and where landscaping is required as part of city approvals, any plant material which is diseased or dies shall be replaced with like kind of the original size by the property owner. No landscaped area shall be used for the parking of vehicles or for the
storage or display of materials, supplies or merchandise, unless specifically approved by the city.

1. Replacement of landscape materials, plantings and screening shall be consistent with the original landscape/screen design or as approved by the city.

2. All repair or replacement shall be done within forty five (45) days of written notification from the city.

3. The responsibility for tree and plant growth and maintenance rests upon the property owner. (Ord. 1142, 11-18-2008)
APPENDIX E: GENERAL PROVISIONS GOVERNING ZONING

Zoning is a tool that allows cities to divide its boundaries into zoning districts, each of which have certain restrictions and/or characteristics. Burnsville 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 Burnsville.

Burnsville has twenty-five zoning districts. Burnsville’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 Burnsville’s zoning and planning website, http://www.burnsville.org/index.aspx?nid=139

Municipal Code of Ordinances:

Title 10 – Zoning

Section 10-1-2: APPLICATION:

(A) Where the conditions imposed by any provision of this Title are either more or less restrictive than comparable conditions imposed by other ordinance, rule or regulation of the City, the ordinance, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail.

(B) Except as herein provided, no building, structure or premises shall hereafter be used or occupied and no building permit shall be granted and no plat approved that does not conform to the requirements of this Title.

(C) No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose which is not in conformity with the provisions of this Title.

(D) Whenever in any zoning district a use is neither specifically allowed nor specifically prohibited, the use shall be considered prohibited unless the City Council determines that the proposed use is very similar to an allowed use in which case the proposed use shall be deemed allowed.

(E) The City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if a use which is neither allowed nor prohibited is acceptable and if so, what zoning district would be most appropriate and the conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, if
appropriate, shall initiate an amendment to the Zoning Title to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.

(F) This Title is a comprehensive revision to Title 10 of the City Code. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Title is not affected by its enactment.

Section 10-2-1: LEGISLATIVE PURPOSE AND INTENT:

The purpose and intent of this Title is to implement the Burnsville Comprehensive Plan and to promote the general health, safety and the welfare of Burnsville’s present and future inhabitants by:

(A) Giving effect to the goals and policies of the Burnsville Comprehensive Plan.

(B) Dividing the City into districts according to the use of land and buildings, the intensity of such use including bulk and height.

(C) Providing methods to implement the environmental goals and policies of the Burnsville Comprehensive Plan to maintain a healthful environment for the benefit of present and future generations by establishing standards to control the amount of open space, impervious surfaces and the intensity of development in areas of sensitive natural resources or natural features in order to reduce or eliminate adverse environmental impacts.

(D) Controlling and regulating the growth and development of Burnsville to concentrate development in areas where adequate public sewer and other public services are provided, and to limit the development of areas where such facilities are not available.

(E) Providing standards for all types of dwelling units, access to decent, sound and sanitary housing including the provision for adequate zoning to meet a fair share of the region’s housing needs.

(F) Lessening the danger and congestion of traffic on the roads and highways, limiting excessive numbers of intersections, driveways and other friction points, minimizing other hazards, and insuring the continued usefulness and function of all elements of the City’s street system.

(G) Securing safety from fire, panic, flood and other dangers.

(H) Providing adequate privacy, light and air.

(I) Protecting Burnsville’s tax base by promoting cost-effective development within the City.

(J) Conserving the values of property throughout Burnsville.

(K) Protecting landowners from adverse impacts of adjoining development.

(L) Providing an aesthetically attractive community. (Ord. 244, 11-15-82)
Section 10-6-1: ESTABLISHMENT OF DISTRICTS:

The following zoning classifications are hereby established within the city:

(A) Residential Districts:
- R-1 One-family residential district
- R-1A One-family rural residential district
- R-2 Two-family residential district
- R-3A Medium density residential district
- R-3B High density residential district
- R-3D Manufactured housing district (Ord. 1277, 9-18-2012)

(B) Business Districts:
- B-1 Office business district
- B-2 Neighborhood business district
- B-3 General business district
- B-4 Highway commercial district
- CRD Commercial recreation district (Ord. 1316, 4-8-2014)

(C) Heart Of The City Districts:
- HOC-1 Heart of the city district
- HOC-2 Heart of the city district (Ord. 764, 8-18-1999)

(D) MIX Districts:
- Mixed use district

(E) Industrial Districts:
- I-1 Industrial park district
- I-2 General industry district
- I-3 Office and industrial park district
- GIM Gateway industrial medium district
- GIH Gateway industrial heavy district

(F) Special Districts:
Environmental overlay districts
Floodplain overlay districts
P Park district
GW Gateway district
PUD Planned unit development district
CD Conservancy district (Ord. 1316, 4-8-2014)
APPENDIX F: MUNICIPAL CODE PROVISIONS

Gardening

Title 10, Chapter 7 – Zoning, General Provisions

Section 10-7-8 Urban Agriculture

(A) Existing Farms: All farms currently in existence will be permitted to continue operation subject to the following conditions:

1. Any new private stable or other building in which farm animals are kept shall be set back a minimum distance of one hundred feet (100’) from any other lot.

2. Limited sales of products produced on a farm or truck farm/garden may be conducted on the premises. To utilize a roadside stand, such stand shall not exceed twelve feet (12’) in height or five hundred (500) square feet in floor area, and no portion of any such stand shall be located or erected nearer than fifty feet (50’) to any public right of way or adjacent lot line.

(B) Farming Uses In Floodplains: Farming uses are permitted in federal emergency management agency (FEMA) floodplains subject to the requirements of chapter 10 of this title.

(C) Community Gardens: Community gardens are permitted in all zoning districts except the CD, conservancy district, and shall be subject to the following requirements:

1. Use: Community gardens may be the principal or accessory use on a parcel.

2. Excavation: No excavation for the garden shall occur until after the property owner has had all underground utilities located on the site and has clearly marked the area where gardening may occur without disturbance to utilities.

3. Location: Community gardens may not be located within any easement without the property owner obtaining written permission from the easement holder.

4. Signs: One community garden identification sign shall be displayed as regulated by section 10-30-4 of this title.

5. Accessory Buildings: Accessory buildings for community gardens are not permitted on vacant parcels. Developed parcels may have accessory buildings as allowed in the underlying zoning district.

6. Fences: Fences are allowed as permitted by section 10-7-19 of this chapter and provided they are made of sturdy, rust resistant woven wire and/or rot resistant wood, are well maintained and neat in appearance.

7. Trees: No living trees that are two and one-half inches (2.5”) or greater in caliper shall be removed for the community garden.
8. Parking: Parking for the garden shall be provided on streets where parking is permitted or on an existing parking surface with the written permission of the owner of the parking surface. (Ord. 1225, 1-18-2011)

9. Private Trash And Recycling Containers: Private trash containers may be placed on site provided they meet accessory structure setbacks for the underlying zoning district and are one hundred percent (100%) screened by a solid fence, wall, berm or densely planted evergreen vegetation of sufficient height to screen the containers from view from adjacent properties and right of way. All trash shall be removed from the site at least once per week. (Ord. 1316, 4-8-2014)

10. Compost Bins: Compost bins are permitted as regulated by title 7, chapter 10 of this code.

11. Setbacks: The garden shall be set back a minimum of twenty feet (20') from all property lines in order to provide a vegetated buffer of grass or other plants to minimize the transfer of sediment and to delineate the edges of the garden.

12. Access: Paths may be installed to access the garden and individual garden plots provided the paths are constructed using natural landscape materials including wood chips, mulch, landscape rock or pea gravel.

13. Negative Impacts: The site shall be designed and maintained to prevent negative impacts to adjacent properties from individual gardeners and gardening activities including, but not limited to, irrigation, fertilizer, soils, stormwater, cultivated areas, trespassing and garden debris.

14. Maintenance: Community gardens shall be maintained in a neat and orderly manner. Trash, weeds, dirt piles and debris of any sort shall not be allowed to accumulate on site. Dead garden plants shall be regularly removed and, in any instance, by no later than October 31 of each year.

15. Site Restoration: Upon cessation of the community garden, the site shall be fully restored to the pregarden status. All aboveground remains of the garden shall be promptly removed and the ground leveled and restored so it can be utilized for uses permitted in the zoning district.

Title 7, Chapter 2 – Health and Sanitation, Water and Sewer

Sec. 7-2-17. – Water Use Restrictions; Penalties:

In order to protect the health, safety, and general welfare of the residents of Burnsville, the following regulations shall apply:

(A) Permanent Restrictions On Sprinkling:

1. Use of the city water supply system for lawn or garden sprinkling or other irrigation shall be limited to an odd-even schedule. Odd numbered addresses shall water only on odd numbered days. Even numbered addresses shall water only on even numbered days. Multi-family residences, businesses with multiple addresses, and properties without an apparent address shall water on odd numbered days. Whenever there are thirty one (31) days in a month, the thirty first day is a day that both odd and even properties can water.
2. No lawn or garden sprinkling or other irrigation shall occur between the hours of eleven o'clock (11:00) A.M. and three o'clock (3:00) P.M. daily from April 1 to September 30.

3. These permanent restrictions on sprinkling shall not apply to the watering of new seed or sod; new landscaping; or any other plant materials that require daily watering, including, but not limited to, golf greens and tees, and athletic fields with special soil conditions, plantings in pots and baskets, and vegetable gardens.

(C) Water Shortage Determination: The city council shall determine from time to time by resolution when there is a water shortage within the city's municipal water system. In case of emergency, the city manager may determine a water shortage exists and institute restrictions without a council resolution; provided, that such a determination and restrictions shall only be effective until the manager determines the emergency has ended or the next council meeting, whichever occurs first. Depending upon the cause and severity of the shortage, additional limitations may be placed on the use of water from the city water supply system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses of water as specified by the city manager's notification.

Title 10: Zoning

<table>
<thead>
<tr>
<th>Zone</th>
<th>Accessory Use</th>
</tr>
</thead>
<tbody>
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<td>Gardening uses and incidental sale of plants. The infrequent, temporary display and sale of plants is permitted by the occupant(s) of the premises. 224</td>
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<tr>
<td>R-1A One-Family Rural</td>
<td>Accessory uses permitted in the R-1 district excluding farmers’ markets. 225</td>
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<td>R-2 Two-Family Residential</td>
<td>Accessory uses permitted in the R-1 district excluding farmers’ markets. 226</td>
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<tr>
<td>R-3A Medium Density</td>
<td>Accessory uses permitted in the R-2 district with the following exceptions.</td>
</tr>
<tr>
<td>Residential</td>
<td>(B) Exceptions: Farmers' markets. 227</td>
</tr>
<tr>
<td>R-3B High Density Residential</td>
<td>Accessory uses permitted in the R-3A district. 228</td>
</tr>
<tr>
<td>R-3D Manufactured Housing</td>
<td>Within any R-3D manufactured housing district, no structure or land shall be used as an accessory use except for those accessory uses permitted in an R-1 district and except farmers' markets. 229</td>
</tr>
<tr>
<td>Floodway District (FW)</td>
<td>2. Agricultural uses:</td>
</tr>
<tr>
<td></td>
<td>Forestry.</td>
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<tr>
<td></td>
<td>General farming.</td>
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<tr>
<td></td>
<td>Grazing.</td>
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<td></td>
<td>Horticulture.</td>
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<tr>
<td></td>
<td>Outdoor plant nurseries.</td>
</tr>
<tr>
<td></td>
<td>Pasture.</td>
</tr>
</tbody>
</table>
Farming

Title 10, Chapter 7 – Zoning, General Provisions

Sec. 10-7-8. – Urban Agriculture

(A) Existing Farms: All farms currently in existence will be permitted to continue operation subject to the following conditions:

1. Any new private stable or other building in which farm animals are kept shall be set back a minimum distance of one hundred feet (100’) from any other lot.

2. Limited sales of products produced on a farm or truck farm/garden may be conducted on the premises. To utilize a roadside stand, such stand shall not exceed twelve feet (12’) in height or five hundred (500) square feet in floor area, and no portion of any such stand shall be located or erected nearer than fifty feet (50’) to any public right of way or adjacent lot line.

(B) Farming Uses In Floodplains: Farming uses are permitted in federal emergency management agency (FEMA) floodplains subject to the requirements of chapter 10 of this title.

Title 10, Chapter 10 – Zoning, Floodplain Regulations

Sec. 10-10-4. – Floodway District (FW)

(A) Permitted Uses: The following uses shall be permitted uses within the floodway district to the extent that they are allowed in the base zoning district.

1. Agricultural uses:

   Forestry.
   
   General farming.
   
   Grazing.
   
   Horticulture.
   
   Outdoor plant nurseries.
   
   Pasture.
Farm Animals

Title 6, Chapter 2 – Police Regulations, Animals

Section 6-2-3 – License Required

No person shall own, harbor or keep within the city a dog, cat, ferret or hen chicken over four (4) months of age unless a current license for such dog, cat, ferret or chicken has been obtained as herein provided. Licenses shall be issued on a biennial basis and shall be for the whole of or unexpired portion of the two (2) year license period ending on December 31.

Section 6-2-4 – License Application

The application for a license shall be made to the animal control official, except that license applications for chickens will be made to the police department. It shall include such descriptive information as is necessary to provide a reasonable identification of the animal and its owner. The license fee for such license shall be in an amount established by the council annually.

At the time of the license application, the owner of the animal shall furnish proof that the dog, cat or ferret being licensed has been vaccinated for rabies and such vaccination is current. A license may be issued for dogs, cats or ferrets less than four (4) months of age without proof of rabies vaccination provided that the animal control official shall issue a ticket requiring proof of vaccination be furnished to the city within a reasonable time after the dog, cat or ferret reaches four (4) months of age. Proof of vaccination shall not be required for chicken licenses.

Section 6-2-9 – Obligation to Prevent Nuisances

It shall be the responsibility of the owner or custodian of any animal in the city, whether permanently or temporarily therein, to prevent such animal from committing any act which constitutes a nuisance. It shall be considered a nuisance for any animal, including dogs, cats, ferrets and chickens, to habitually or frequently make animal noises including barking, crying, howling, meowing, whimpering or clucking; to frequent school grounds, parks or other public areas while unrestrained; to chase vehicles; to fight with other animals; to chase and kill birds or other wildlife; to annoy any person if such person is not on the property of the animal owner or custodian of the animal; to molest, defile, destroy any public or private property; or to leave excrement on any property, public or private.

Section 6-2-20 – Animals Within City Limits
Except as otherwise provided, no person shall keep any animal other than a household pet within the city. No more than three (3) dogs over the age of four (4) months shall be maintained at any one residence or premises. No more than five (5) cats over the age of four (4) months shall be maintained at any one residence or premises. No more than five (5) ferrets over the age of four (4) months shall be maintained at any one residence or premises. No more than four (4) chickens shall be maintained at any one residence or premises. Hen chickens may be kept within the residential district. The keeping of roosters is prohibited except as allowed by section 6-2-21 of this chapter. Chickens shall not be raised or kept for fighting. Cockfighting and dogfighting are prohibited. Except within the R-1A district, slaughtering of animals is prohibited within all residential districts.

Section 6-2-23 – Factors To Be Considered

Factors to be considered in deciding whether the keeping of an animal creates a public or private nuisance include, but are not limited to, the following:

(A) The condition of any structure or building wherein any animal is kept.

(B) The proximity of pens, fences and other structures to adjacent property lines.

(C) The general nature and characteristics of the neighborhood.

(D) The number of animals kept on any one parcel.

(E) The relative size of the parcel on which the animals are kept.

(F) The type of animal being kept.

(G) The extent to which neighboring property is protected from the effects of said animals, e.g., solid fences, landscape screening, buffer areas, etc.

(H) The presence of objectionable odors and/or noise.

(I) The relative danger the animal would pose if exposed to the general public.

Section 6-2-31 – Chickens Within City Limits

(A) Confinement: Every person who owns, controls, keeps, maintains or harbors hen chickens must keep them confined on the premises at all times in a chicken coop or chicken run while in the city. Chickens are not allowed to be located in any part of the home and/or garage.

(B) Chicken Coops And Chicken Runs:

1. Any chicken coop and run fencing must be consistent with building and zoning codes.

2. No chicken coop or run shall be constructed on any lot prior to the time of construction of the principal building.

3. Chicken coops and runs shall not be in the front or side yard.
4. Any chicken coop or run shall be set back at least fifty feet (50’) from any residential structure on any adjacent lots and ten feet (10’) from the property line.

5. Any coop or run shall be screened from view with a solid fence or landscaped buffer with a minimum height of four feet (4’).

6. All chicken coops must have a maximum size of ten (10) square feet per chicken and must not exceed six feet (6’) in total height. Fenced in chicken runs must not exceed twenty (20) square feet per chicken and fencing must not exceed six feet (6’) in total height. Chicken runs may be enclosed with wood and/or woven wire materials, and may allow chickens to contact the ground. Chicken runs must have a protective overhead netting to keep the chickens separated from other animals.

7. Chicken coops must be elevated a minimum of twelve inches (12”) and a maximum of twenty four inches (24”) above grade to ensure circulation beneath the coop.

8. Chicken grains and feed must be stored in rodentproof containers.

(C) Conditions And Inspection: No person who owns, controls, keeps, maintains or harbors hen chickens shall permit the premises where the hen chickens are kept to be or remain in an unhealthy, unsanitary or noxious condition or to permit the premises to be in such condition that noxious odors are carried to adjacent public or private property. Any chicken coop and chicken run authorized under this section may be inspected at any reasonable time by the city animal control officer or other agent of the city.

Chicken Coops

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

Title 6, Chapter 2 – Police Regulations, Animals

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**Fence**

**Title 10, Chapter 7 – Zoning, General Provisions**

Fences shall be permitted in all yards subject to the following: (Ord. 673, 6-2-1997)

(A) Permits:

1. Building permits are required for fences that are taller than six feet (6'). (Ord. 1196, 4-6-2010)

(B) Locations: Fences shall be located entirely upon the private property of the persons constructing the fence unless the owner of the property adjoining agrees, in writing, that such fence may be erected on the division line of the respective properties. The city may require the owner of property with an existing fence to establish the boundary lines of his property by a survey.

(C) Construction: Fences shall be constructed in a workmanlike manner and of substantial material reasonably suited for their intended purpose.
(D) Maintenance: Every fence shall be maintained on both sides in a condition of good repair and shall not be allowed to become or remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the city health or welfare is a public nuisance, and the city may commence proper proceedings for the abatement thereof.

(E) Electric Fences: Electric fences shall not be permitted except for agricultural purposes and for the control of deer in residential gardens, provided that garden fencing shall comply with the following standards:

1. The fence shall be electrified using only a UL listed fence controller, or an equivalent approved by the city electrical inspector.

2. The fence may consist of multiple strands of electrified wire, but at least one strand shall be installed at a height between thirty (30) and thirty six inches (36”) above the ground and marked with warning signs that are no less than eight (8) square inches in size and that are attached to the wire no less than ten feet (10’) apart.

3. The fence shall not be located in the front yard as defined in section 10-4-2 of this title.

4. The fence shall be located only around the perimeter of each garden or freestanding flowerbed to be protected, up to the property line, and shall in no instance be used as perimeter fencing for the property.

5. The fence, including the wires, shall not exceed the height limitations of subsections (G)1 and (G)2 of this section.

(F) Barbed Wire Fences: Barbed wire fences shall only be permitted on farms or for special security requirements by conditional use permit.

(G) Residential Fencing And Screening:

1. Except as provided herein, fences outside the buildable area of a lot may not exceed six feet (6’) in height.

2. Except as provided herein, fences within the buildable area of a lot or in the case of the rear lot line at least ten feet (10’) from the rear lot line, may not exceed eight feet (8’) in height.

3. Fences extending across front yards shall not exceed three and one-half feet (31/2’) in height and shall be at least seventy five percent (75%) open space for passage of air and light. (Ord. 673, 6-2-1997)

(H) Swimming Pool Protection: Pool barrier and screening requirements shall comply with title 4, chapter 6 of this code. (Ord. 1092, 9-17-2007)

(I) Business And Industrial Fencing:

1. Business and industrial fences may be erected up to eight feet (8’) in height. Fences in excess of eight feet (8’) shall require a conditional use permit.
2. Business and industrial fences with barbed wire security arms a minimum of six feet (6') in height (measured without the security arm) may be allowed by conditional use permit. The security arm shall be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public. Such security fencing shall not be located along a property line abutting a residential use.

(J) Special Purpose Fences: Fences for special purpose and fences differing in construction, height or length may be permitted in any district by conditional use permit. Findings shall be made that the fence is necessary to protect, buffer or improve the premises. (Ord. 673, 6-2-1997)\(^2\)

Sec. 10-7-5 – Required Yards and Open Space

(C) The following shall not be considered to be encroachments on yard requirements:

3. Fences: Front yard fences which do not exceed three and one-half feet (31/2') in height or as required elsewhere in this title and terraces, steps, stoops and similar structures, which do not extend above the height of the ground floor level of the principal building and extend to a distance of less than two feet (2') from any lot line.\(^3\)

Sec. 10-7-6 – Traffic Visibility

No fences, structures, vending machines or plantings shall be permitted to exceed thirty inches (30") in height within any front or side yard areas on a corner lot which may interfere with the visibility across the corner. A minimum sight triangle shall be established on each corner lot at every street intersection through which motorists shall have reasonable unobstructed view. The minimum sight triangle is a triangle located at the corner of intersecting streets. The adjacent sides shall be located along the curb line or along the gutter line of streets without curb and gutter, and shall be fifty feet (50') in length. The third side shall be a straight line joining the end points of the adjacent sides. The city may order removal of vision obstructions located within the minimum sight triangle. (Ord. 244, 11-15-1982)\(^3\)

Sec. 10-7-18 – Screening and Buffer Areas

Screening and buffer requirements shall be satisfied through the use of buildings, berms, solid fences, walls, planting screens, evergreen trees, hedges, grade change or some combination thereof. If the topography, existing vegetation, permanent structure or other features create a barrier which meets the standards of this section, they may be substituted.

(A) Screening Fences, Walls: A screening fence or wall shall be constructed of attractive, permanent finished materials, compatible with those used in the construction of the principal structure. Such screens shall be at least six feet (6') in height and provide one hundred percent (100%) obstruction of the view of the item(s) to be screened, when viewed from adjacent properties and right of way.

...
(E) Maintenance:

1. Screen fences and walls which are in disrepair shall be repaired by the private property owner.234

Title 7, Chapter 10 – Zoning, Floodplain Regulations

Sec. 10-10-2 - General Provisions

(B) Permit Requirements:

1. Permit Required: In all floodplain districts, a permit issued by the city in conformity with the provisions of this chapter shall be secured prior to the construction, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or storage of materials or equipment within the floodplain.235

Sec. 10-10-4 – Floodway District (FW)

(C) Floodway Conditional And Interim Uses: The following open space uses which require only accessory structures, fill, storage of materials or equipment, grading and excavation, may be permitted in the floodway district by conditional or interim use permit if allowed as such in the base zoning district and provided they comply with the provisions of this chapter:

Uses or structures accessory to the permitted conditional or interim uses in the floodway district.

Placement of fill, dredge spoils, landfills authorized by the Minnesota pollution control agency and construction of fences.236

Sec. 10-10-10 – Administration

(B) Permit Requirements:

1. Permit Required: In all floodplain districts, a permit issued by the city in conformity with the provisions of this chapter shall be secured prior to the construction, addition, modification, rehabilitation (including normal maintenance and repair), or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the construction of a dam, fence, or on site septic system; prior to the change or extension of a nonconforming use; prior to the repair of a structure that has been damaged by flood, fire, tornado, or any other source; and prior to the placement of fill, excavation of materials, or storage of materials or equipment within the floodplain.237

Planting Boxes
Title 10, Chapter 7 – Zoning, General Provisions

Sec. 10-7-37 – Public Right of Way

No privately owned structure, sign or vending machine may be located on a public right of way with the exception of:

(A) Newspaper vending machines which are allowed if they comply with any other applicable ordinance, law or regulation, and as long as they are not located within the minimum sight triangle described in section 10-7-6 of this chapter. They shall be secured to prevent them from being moved. They may not, however, be secured to trees, public signs, telephone poles or fire hydrants. (Ord. 1059, 12-18-2006)

(B) Bus benches, shelters, and transit facilities, provided they comply with title 8 of this code. (Ord. 1166, 6-2-2009)

(C) Public trash and recycling containers placed on public right of way by or on the behalf of the city for use by the general public are exempt from the screening requirements of section 10-7-18 of this chapter. (Ord. 1316, 4-8-2014)

Title 8, Chapter 8 – Public Ways and Property, Special Assessment for Current Services

Sec. 8-3-3 – Permits

No person shall engage in any of the following activities without first obtaining the required permit.

(A) Trees, Shrubs and Plants on Public Property.

1. No person shall plant, spray, fertilize, prune, remove, cut above the ground, or otherwise disturb any tree, shrub or plant on any street or public property without first filing an application and procuring a permit from the City.

2. Application Data. The application required herein shall state the number and kinds of vegetation affected; the location, grade, species, or variety of each type of vegetation; a description of the proposed work; and such other information as the City Manager shall find reasonably necessary to a fair determination of whether a permit should be issued.

3. The City will issue the permit provided the proposed work is desirable and the proposed method and workmanship thereof are of a satisfactory nature. Any permit granted shall contain a definite date of expiration and the work shall be completed in the time allowed on the permit and in the manner as therein described. Any permit shall be void if its terms are violated.

4. Notice of completion shall be given within five (5) days to the City for inspection.

5. Improper Maintenance. Whenever any tree shall be planted, removed or worked on, in conflict with the provisions of this Chapter, the City may take action to eliminate the violation, and the cost thereof shall be assessed to the owner as provided by law in the case of special assessments.
(A) Any person owning or occupying real property bordering on any street shall prune trees, plants or shrubs on his/her property so that they do not obstruct the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs or obstruct the view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be twelve feet (12’) over sidewalks and fourteen feet (14’) over streets. For purposes of this Section, obstruct means creating a public health or safety concern.

1. Notice to Prune. Should any person owning real property bordering on any street fail to prune as provided by this Chapter, the City may order such person to prune such tree, plant or shrub within thirty (30) days after written notice. A shorter period may be prescribed by the City in the event of the existence of an immediate hazard.

2. Failure to Comply. When a person to whom an order is directed fails to comply within the specified time, the City may prune the tree, plant or shrub, and assess the cost thereof to the owner as provided by law in the case of special assessments.

(B) Diseased and Infected Trees.

1. The City may enter upon private lands to inspect trees, plants or shrubs whereon insect pests and plant diseases may be found to have injuriously affected either said trees, plants or shrubs or which may injuriously affect the public health and welfare. The City may conduct field inspections, including the removal of specimens for laboratory analysis that may be necessary to determine the presence of said infestation or to locate any private lands which might serve as a breeding place for diseases or insects. Before making any inspection on private property, the City shall give notice of the inspection to all affected residents and property owners either through an individual oral or written notice, or by publishing the notice in a local newspaper.

2. If a disease or insect infestation is found, the City may, by written notice, give the property owner a definitive time but not less than twenty (20) days to remove, treat or dispose of the infested trees, plants or shrubs. If the work is not satisfactorily completed within the time prescribed, the City may enter upon the property and remove and/or treat the infested area and assess the cost thereof to the owner as provided by law in the case of special assessments.

Arbors, Trellises, and Pergolas

Title 10, Chapter 7 – Zoning, General Provisions

Sec. 10-7-10. - Maintenance

All structures and property shall be maintained in a manner compatible with adjacent properties, consistent with the goals and objectives of the comprehensive plan and as required by this code. All property owners shall be responsible for keeping their land free of waste material, noxious weeds and other problems potentially detrimental to the general health, safety and welfare. All trees shall be maintained in a healthy condition and dead trees shall be removed within thirty (30) days of notification.
**Greenhouse**

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

**Hoop House**

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.

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**Title 4, Chapter 1 – Building Regulations, Building Code**

Sec. 4-1-2 – Completion Time

*Any residence for which a building permit has been issued for exterior work shall be completed and ready for occupancy according to the approved plans and specifications within one year following issuance of said permit, unless within that time an extension is granted by the council.*

*Ord. 1230, 2-22-2011*

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**Title 10, Chapter 22B – Zoning, Heart of City District**

Sec. 10-22B-6 – Lot Area, Lot Width and Yard Requirements

*(B) Accessory Structure:*

<table>
<thead>
<tr>
<th>Setback</th>
<th>HOC-1</th>
<th>HOC-2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front yard</td>
<td>Build-to line (see below)</td>
<td>Build-to line (see below)</td>
</tr>
</tbody>
</table>
Side yard | 0 foot minimum | 10 foot minimum
---|---|---
Side yard (street) | Same as front yard | 20 foot minimum
Rear yard | 5 foot minimum | 10 foot minimum

(K) Building Height: "Building height" is defined as the vertical distance from the average elevation of the adjoining ground level or the established grade, whichever is lower, to:

3. A point directly above the highest wall of a shed roof;

(L) Height Limit: In the HOC district the minimum and maximum building height shall be governed by the building types described below and identified on the drawings on file in the office of the city clerk. (Ord. 764, 8-18-1999)

10-22B-8: BUILDING TYPES:

Within the HOC district, no building shall be constructed and occupied except for the following types, described below, and depicted on drawings figures 3 through 12 attached to the ordinance codified herein:

(A) Building Type A, Mixed Use: Type A buildings may include retail, office, or residential uses on the first floor and on upper floors. Parking may be included on a level belowground. Type A buildings may have a flat or pitched roof. Minimum height shall be twenty five feet (25’) and the maximum height shall be fifty feet (50’).

(B) Building Type B, Apartments Or Condominiums: Type B buildings shall include residential, office, or retail uses on the first floor, and residential apartments or condominiums on upper floors. Parking may be included on a level belowground. Type B buildings may have a flat or pitched roof. Minimum height shall be thirty feet (30’) and the maximum height shall be fifty feet (50’).

(C) Building Type C, Townhomes: Type C buildings shall be residential townhomes on all floors, except that a portion of the first floor not fronting a street or public open space may include parking. Type C buildings shall have a pitched roof. Maximum height shall be thirty five feet (35’). Maximum depth of buildings perpendicular to a street shall be forty feet (40’). Minimum width of lots shall be twenty five feet (25’).

(D) Building Type D, Office/Retail: Type D buildings shall include office or retail uses on the first floor, and office uses on upper floors. Parking may be included on two (2) levels belowground. Type D buildings may have a flat or pitched roof. Minimum height shall be thirty feet (30’). For areas in HOC-2 north of Burnsville Parkway, there is no maximum height.
requirement. For areas south of Burnsville Parkway in HOC-2, the maximum height shall be fifty feet (50').

(E) Residential Uses On First Floor: Whenever residential uses are included on the first floor of a building of any type, the first floor elevation shall be a minimum of two feet six inches (2'6") above the sidewalk elevation immediately adjacent to the front of the residential unit. In addition, each first floor unit must have an individual private entrance at street level. All such residential units must meet ADA and other applicable access requirements. (Ord. 1226, 1-18-2011)

Grocery Store

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

Title 10, Chapter 7 – Zoning, General Regulations

Sec. 10-7-26 – General Parking and Access Requirements

(A) Purpose: Regulation of off street parking is to alleviate congestion of the public streets and to promote the safety and general welfare of the public by establishing minimum requirements for off street parking and the loading and unloading of vehicles and/or containers in accordance with the use of various parcels of land and structures. (Ord. 1196, 4-6-2010)

(B) Compliance:

1. Permits Prior To Effective Date: Structures or uses for which a building permit has been issued prior to August 19, 2008 (the effective date of this section), shall be exempt from the parking requirements in this section if the structure is completed within six (6) months after the effective date of this section.

2. Compliance Required: All new development, full redevelopment, and all redevelopment that results in disturbance of one-half (1/2) acre or more or the addition of five thousand (5,000) square feet of impervious surface shall comply with the requirements of this section.

3. Change In Use: A change in use or occupancy shall require adequate parking for the new use. If the new use calls for less parking, the extra parking stalls may be removed by the owner. If the new use calls for additional parking, it shall be provided.

(C) Application Of Off Street Parking Regulations: The regulations and requirements set forth in this section shall apply to off street parking facilities in all zoning districts.

(D) Site Plan Drawing: All applications for a building or occupancy permit shall be accompanied by a site plan drawn to scale showing dimensions, indicating the location and
number of off street parking and loading spaces, the location of snow storage areas, green space calculations and building occupancy on which the parking has been calculated. (Ord. 1132, 8-19-2008)

(E) General Provisions:

1. Calculating Parking Space:

a. Fractions: When the calculation of the number of required off street parking spaces results in a fraction, each fraction of one-half (1/2) or more shall constitute another space.

b. Individual Activities Within Use: When computing total number of parking spaces required for a use, individual activities within the use will be calculated separately and added together to arrive at the total required parking spaces for each specific use proposed.

c. Places Of Assembly: In stadiums, religious institutions and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty two inches (22") of such seating facility shall be counted as one seat for the purpose of determining required parking. (Ord. 1265, 5-22-2012)

2. Maintenance: All parking areas and driveways shall be maintained in a safe and proper manner. The owner shall not allow weeds to grow or surface materials to become deteriorated. (Ord. 1196, 4-6-2010)

3. Alternative Parking CUP: The city recognizes reuse of sites and that the strict interpretation of the parking standards of this section may not be appropriate for each specific use or lot. Therefore, the city council may approve alternative parking standards through the conditional use permit process provided the applicant can demonstrate, based upon documented parking studies and site specific analysis, that a need exists to provide more or fewer parking stalls than the maximum or minimum parking standards or to deviate from pervious paving/paver system standards. Factors to be considered in such determination include (without limitation) national parking standards, parking standards for similar businesses or land uses, size of building, type of use, number of employees, expected volume and turnover of customer traffic and expected frequency and number of delivery or service vehicles and appropriate soils and/or site conditions to support pervious paving/paver systems. (Ord. 1132, 8-19-2008)

(F) Design Standards:

1. Access To Parking Areas: Access to parking areas shall provide an adequate means of access to a public street via a driveway.

a. Driveway Access: The driveway access shall not exceed ten percent (10%) in grade or twenty four feet (24') in width at the public street right of way line and shall be so located so as to cause the least interference with traffic movement.
(1) The city engineer may approve driveway access exceeding twenty four feet (24') and/or to exceed ten percent (10%) up to a maximum of fifteen percent (15%) provided one or more of the following exist:

(a) The access is a service entrance for large trucks.

(b) Topographic constraints exist where the street and property elevations (at the proposed driveway location), are sloped.

b. Public Parking Areas: All public parking areas shall provide access to a public street from private driveways. There shall be no direct access from a parking lot to a public street.

c. Driveway Access Points: All driveway access points onto public rights of way shall be allowed only by approval from the appropriate governmental regulating body in accordance with the current standards for driveway locations based upon street classification.

d. Driveways And Private Roadways: Minimum widths are as follows:

(1) Two-way traffic: Twenty four feet (24').

(2) One-way traffic and fire lanes: Twenty feet (20').

(3) Drive-up window lanes not necessary for firetruck access: Fourteen feet (14').

(4) Private roadways in townhouse developments: Twenty four feet (24') with no parking and thirty feet (30') with guest parking on one side.

(5) Private driveways in townhouse developments: Sixteen feet (16') at the public or private roadway connection.

e. Parking Spaces: All surface parking spaces shall be served adequately by parking lot drive aisles. The standards for parking lot drive aisle width in the following table do not apply to required fire lanes:

<table>
<thead>
<tr>
<th>Angle</th>
<th>Stall Dimensions</th>
<th>Parking Lot Drive</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aisle Width</td>
<td></td>
<td></td>
</tr>
<tr>
<td>90 degrees</td>
<td>9 x 18</td>
<td>24 feet (two-way traffic)</td>
</tr>
<tr>
<td>60 degrees</td>
<td>9 x 18</td>
<td>18 feet (one-way traffic)</td>
</tr>
<tr>
<td>45 degrees</td>
<td>9 x 18</td>
<td>14 feet (one-way traffic)</td>
</tr>
<tr>
<td>Parallel</td>
<td>11 x 20</td>
<td>24 feet (two-way traffic)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>20 feet (one-way traffic)</td>
</tr>
</tbody>
</table>
Stacking 14 x 18 14 feet
Residential garage 11 x 20

(Ord. 1316, 4-8-2014)

2. Parking Area Landscaping And Green Space: To break up the appearance of large impervious areas, all parking lots in B and I zoning districts shall be subject to the following design and landscape standards:

a. Landscaped parking lot islands shall be required at the beginning and end of each parking row to break up longer rows.

b. Medians shall have a landscaped area at least nine feet (9') in width.

c. Parking spaces and rows shall be organized to provide consolidated landscaped areas and opportunity for on site stormwater management.

d. The amount of internal parking lot green space shall comply with the requirements of chapter 30A of this title for the underlying zoning district where the parking area is located. The total area calculated for landscaping within the parking lot is calculated as part of the overall green space requirement for the site. (Ord. 1132, 8-19-2008)

3. Pedestrian Circulation: All parking lot designs shall be well planned to minimize conflicts between vehicular and pedestrian traffic.

a. Parking areas shall include a direct and continuous pedestrian walkway network within and adjacent to parking lots to connect building entrances, parking courts, public sidewalks, transit stops, and other pedestrian destinations.

b. All pedestrian walkways within a parking lot shall include a clear division from vehicular circulation areas and be delineated by a change in grade, landscaping and/or a change in surface materials. Pavement markings alone shall not satisfy this requirement.

c. Trees shall be provided on at least one side of pedestrian walkways.

d. Where pedestrian walkways cross access driveways and other major drive aisles, crossings shall be clearly marked and sight distance for both pedestrians and vehicles shall be unobstructed.

e. For projects that propose head-in parking stalls to abut a sidewalk, the minimum sidewalk width shall be six feet (6').

f. Parking stalls shall not be located where they obstruct doorways, driveways, or pedestrian walkways.

g. All handicap stalls shall be located in close proximity to entrance areas and shall not be hindered by inappropriately located curb cuts, catch basins, or other improvements.
4. Parking Area Requirements:
   a. Parking areas greater than fifty thousand (50,000) square feet shall be divided both visually and functionally into smaller parking courts.
   b. On site snow storage areas shall be identified on all development plans and said area shall not be located within required parking stalls or areas that will destroy required landscaping.
   c. Rainwater and snowmelt shall be managed consistent with city stormwater management requirements.

5. Surfacing: The entire parking area including parking stalls, aisles and driveways shall be surfaced with concrete, bituminous, pavers, or pervious paving/paver systems provided appropriate soils and site conditions exist for the pervious systems to function. The city engineer shall make the final determination if soils are conducive for use of pervious paving/paver systems. The use of pervious paving/paver systems is encouraged for pedestrian walkways, overflow parking areas, snow storage areas, within raised medians and islands, emergency vehicle lanes and other low traffic areas. The owner shall provide soils information to demonstrate to the satisfaction of the city engineer that appropriate conditions exist for the pervious paving/paver systems to function and the owner shall enter into a maintenance agreement to ensure ongoing maintenance and operation of all pervious paving/paver systems. This requirement also applies to open sales lots, open rental lots, and outdoor storage or display areas. Other materials such as decorative rock, gravel, sand, or bare soil are prohibited. (Ord. 1226, 1-18-2011)

6. Signs And Pavement Marking: Signs located in any parking area necessary for orderly operation of traffic movement are allowed when consistent with chapter 30 of this title.
   a. All parking spaces shall be clearly marked with white paint on the pavement except upon approval of the community development director.
   b. Handicap parking must comply with current state requirements. All markings shall be consistent with the "Minnesota Manual On Uniform Traffic Control Devices".

7. Curbing: All open off street parking areas in business and industrial districts shall have a six inch (6”) nonsurmountable concrete curb around the perimeter of the parking area and driveways.
   a. As part of a conditional use permit or planned unit development application for an open sales lot a reduced curb height may be requested. The design shall not be less than a four inch (4”) nonsurmountable concrete curb and must be approved by the city engineer.
   b. In R-3 districts, the boundaries of all parking areas shall have a six inch (6”) nonsurmountable concrete curb. Private roadways may have surmountable curbs. Driveways to individual garages from the roadway in townhouse developments do not require curbing.
8. Lighting: Any lighting in an off street parking area shall be shaded or diffused so as to reflect the light away from adjoining property and adjacent traffic areas. All light fixtures must be a downcast style unless specifically approved by the community development director.

9. Use Of Parking Area:

a. Prohibited Uses: Required off street parking space in all districts shall not be used for open storage, or sale of goods, or for the storage of vehicles which are inoperable, for lease, rent or sale or the stockpiling of snow, debris, or materials.

b. Limitations: Off street parking in R-1, R-1A, R-2 and R-3 districts shall be limited to the following:

(1) The use of persons residing on the premises and their visitors.

(2) The number of passenger vehicles may not exceed the number that can be garaged and parked off street on driveways.

(3) One commercially licensed vehicle of twenty two feet (22’) or less in length shall be allowed if used by the resident for transportation to their job on a daily basis.

(4) The parking and storage of recreational vehicles as regulated by the standards under section 7-1-8 of this code.

(5) Parking not in compliance with standards in subsections (F)9b(1) through (F)9b(4) of this section may be allowed only by conditional use permit. Under no circumstances shall parking facilities accessory to residential structures be used for open air storage of commercial vehicles.

c. Parking And Storage Of Certain Vehicles: Automotive vehicles or trailers of any kind or type without current license plates shall not be parked or stored on any residentially zoned property other than in completely enclosed buildings.

10. Screening: Any off street parking area containing more than six (6) parking spaces, any part of which is within thirty feet (30’) of an adjoining residential zone and any driveway to a parking area containing at least six (6) spaces within fifteen feet (15’) of an adjoining residential zone shall be screened according to section 10-7-18 of this chapter. (Ord. 1132, 8-19-2008)

(G) Number Of Spaces Required: Parking shall be provided according to the following schedule:

3. Commercial:

General standards Except as specifically designated below: 1 space per 150 square feet of floor area of customer sales and service, plus 1 space per 200 square feet of storage and/or office floor area, or, if the use has more than 100,000 square feet of floor area, 5.5 spaces per 1,000 square feet of floor area

Other commercial uses:
Convenience grocery (with or without gasoline sales) 1 space per 100 square feet of floor area. Spaces at pump island may count toward total parking requirement

Grocery or supermarket 1 space per 100 square feet of floor area of customer sales and service, plus 1 space per 200 square feet of floor area of storage

Farmers Markets
Title 10, Chapter 7 – Zoning, General Provisions

Sec. 10-7-47 – Farmers’ Markets

(A) Requirements: Farmers’ markets shall be allowed only when permitted in the underlying zoning district and shall meet the following requirements:

1. No person shall conduct a farmers’ market without first having received a temporary/seasonal outdoor sales permit.

2. The application shall include a site plan, a list of all products and materials with quantities to be sold or displayed, and the intended dates, times, and duration of the market.

3. All products, materials, quantities to be sold or displayed, and the dates, times, and duration of the market must be approved by the city.

4. If the farmers’ market is operated by a person other than the property owner, the property owner must notify the city of the full name, address, date of birth and telephone number of the operator in writing. The property owner is responsible for the actions of the operator and for compliance with the conditions of the temporary/seasonal outdoor sales permit.

(B) Standards: All farmers’ markets shall be subject to the following standards:

1. No portion of the use or event shall take place within two hundred feet (200’), as measured in a straight line from the closest point of the property line of the property upon which the farmers’ market is located, to the property line of any R-1 zoned property with residential buildings.

2. A farmers’ market shall be conducted only within a parking lot that has a minimum of five hundred (500) off street parking spaces. It is not required that all five hundred (500) spaces be used for the market.

3. A farmers’ market shall not utilize parking spaces designated for retail food or sales establishments. This standard shall be applied even if the retail food or sales establishment is closed for the day.

4. A farmers’ market shall have a minimum of twenty (20) producers selling products at all times.
5. A farmers' market shall provide one and one-half (1 1/2) parking stalls per producer and one and one-half (1 1/2) customer parking stalls per producer.

6. No uses or displays shall be permitted in required green areas, parking setback areas, or any right of way or other public property.

7. Signage shall be limited to one sign not to exceed thirty two (32) square feet. The sign may be a banner, shall have a professional appearance, and shall be mounted or erected in an appropriate location. The sign may be illuminated, but must comply with all requirements of chapter 30 of this title.

8. All lighting shall comply with the lighting standards of section 10-7-36 of this chapter.

9. All producer merchandise shall be unloaded prior to the opening of the market and confined to the off street parking lot area. No on street parking or unloading shall be allowed.

10. No public address system or speakers shall be used.

11. The site shall be kept in a neat and orderly fashion, free from litter, refuse, debris, junk, or other waste, which results in offensive odors or unsightly conditions.

12. Display of items shall be arranged in as compact a manner as reasonably practicable with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.

13. Farmers' markets shall be allowed to operate one day per week during the months of April through November.

(C) Exemption: Civic, religious and charitable organizations shall be exempt from and do not require a temporary/seasonal outdoor sales permit, provided the provisions of section 3-20-14 of this code are met. (Ord. 1316, 4-8-2014)

Title 10: Zoning

<table>
<thead>
<tr>
<th>Permit Area</th>
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</tr>
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<tr>
<td>R-1 One-Family Residential Zone</td>
<td>Permitted Accessory Uses: Farmers’ market as regulated in section 10-7-47 of this title and section 3-20-14 of this code.</td>
</tr>
<tr>
<td>B-3 General Business District</td>
<td>Permitted Accessory Uses: Farmers’ market subject to section 10-7-47 of this title.</td>
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<tr>
<td>CRD Commercial Recreation District</td>
<td>Permitted Accessory Uses: Farmers’ market subject to section 10-7-47 of this title.</td>
</tr>
<tr>
<td>HOC Heart of City</td>
<td>Temporary/Seasonal Uses: Within any HOC heart of the city district, the following use(s) may be allowed by temporary/seasonal outdoor sales permit, as regulated by section 10-7-48 of this title:</td>
</tr>
<tr>
<td>MIX Mixed use District</td>
<td>Permitted Accessory Uses: Farmers’ market subject to section 10-7-47 of this title.</td>
</tr>
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</tbody>
</table>

**Title 3, Chapter 20 – Business Regulations, Peddlers; Solicitors; Transient Merchants**

**Sec. 3-20-13 – Transient Merchants Prohibited; Exceptions**

*Transient merchants are specifically prohibited within the city except in the following circumstances:*

(B) An individual transient merchant, not including a farmers’ market, operating in other than a building is allowed if he/she secures a valid conditional use permit and otherwise complies with the provisions of this chapter and all other applicable codes and ordinances. (Ord. 1271, 7-17-2012)

**Title 3, Chapter 20 – Business Regulations, Peddlers; Solicitors; Transient Merchants**

**Sec. 10-7-48 – Temporary/Seasonal Outdoor Sales Uses**

(A) Requirements: Temporary/seasonal outdoor sales uses shall be allowed only when permitted in the underlying zoning district and shall meet the following requirements:

1. Permit Required: No person shall conduct temporary/seasonal outdoor sales, without first having received a permit as provided in this section.

2. Permit Application: The application for a permit shall include a site plan, a list of materials to be sold or displayed, and the duration of the sale.

3. Permit Types: A new permit shall be required for all sales located on sites where a permit has not been issued during the preceding twelve (12) month period, and for all sales that include a different site plan, list of materials to be sold, or size and/or location of the sales area from the most recently approved permit. A renewal permit shall be required for a sale that is substantially similar to the most recently approved sale at the site, provided that the most recently approved permit was issued during the preceding twelve (12) month period.

4. Permit Fee: The applicant shall pay the new or renewal permit fee as established annually by the city council. The fee for new and renewal permits shall also include the cost of a sign permit. The permit fee shall be paid in full with the application.

5. Duration: Permits issued under this section shall be for a period not to exceed ninety (90) days. No more than two (2) permits shall be issued to the same applicant or property in any calendar year.

(B) Exemptions:
1. Schools, academies, universities, libraries, churches, hospitals or similar institutions are not required to obtain a temporary/seasonal outdoor sales permit, when the sale is conducted on their own property.

2. Organizations identified in section 3-20-14 of this code shall not be required to obtain a temporary/seasonal outdoor sales permit.

(C) Permit Applicant: The applicant for the permit shall be the owner of the property. If the sale is operated by a person other than the property owner, the owner must notify the city of the operator. The property owner is responsible for the actions of the operator and the conditions of the permit.

(D) Performance Standards: A new or renewal permit shall be issued by the city provided the applicant demonstrates that the following performance standards will be met:

1. Off street parking and loading areas are provided where required.

2. No public address system shall be used.

3. The number, area, bulk, height, location, frequency, and duration of such uses is controlled. The site shall be kept in a neat and orderly fashion, free from litter, refuse, debris, junk, or other waste which results in offensive odors or unsightly conditions.

4. Display of items shall be arranged in as compact a manner as reasonably practicable with particular reference to vehicle and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.

5. No uses or displays shall be permitted in required parking areas, required green areas, parking setback areas, or any right of way or other public property.

6. Signage shall be limited to one sign not to exceed thirty two (32) square feet. The sign may be a banner, shall have a professional appearance, and shall be mounted or erected in an appropriate location. This limitation applies to all signs associated with the sale, including those affixed to vehicles. The sign may be illuminated but must comply with all requirements of chapter 30 of this title.

7. All lighting shall comply with the lighting standards of section 10-7-36 of this chapter.

8. The sale and associated parking shall not obstruct parking spaces needed by any permanent business established on the site except that when a sale is held only during the time when all permanent businesses on the site are closed, parking spaces may be obstructed.

9. No portion of the use or event shall take place within one hundred feet (100') of any residential buildings.

10. An antique/flea market sale shall provide one parking stall per one hundred (100) square feet of vendor display area plus one parking stall per vendor. All parking shall be on site or on an adjacent parcel when approved as part of the initial review.
11. An antique/flea market sale shall be limited to only one day per calendar week during a consecutive ninety (90) day permit period, and shall not exceed fourteen (14) days throughout the ninety (90) day period.

12. Antique/flea market sales are limited to the B-2, B-3, and B-4 zoning districts only.

(E) Denial Of Renewal Permit: No renewal permit shall be issued if the operator failed to comply with any performance standards during the term of a previously issued new or renewal permit, except upon the approval of the planning commission.

(F) Denial For Noncompliance: If the city staff denies a permit, it shall notify the applicant in writing, stating the ways in which the proposed use does not comply with the standards required by this title.

(G) Permittee: A temporary/seasonal outdoor sales permit shall be issued for a particular use and to the property owner making application for such permit. Such permit shall not be transferred or assigned for use by another without the written consent of the city. However, such consent by the city shall not be unreasonably withheld.

(H) Revocation: Failure to comply with any performance standard or any other violation of this title, shall be a misdemeanor and shall also constitute sufficient cause for the termination of the permit by the city council following a public hearing. (Ord. 1316, 4-8-2014)

Food Establishments

Title 10: Zoning

<table>
<thead>
<tr>
<th>Neighborhood Business District</th>
<th>Permitted Accessory Uses: Restaurant within a building having a principal use other than a restaurant subject to subsection 10-19-3(B) of this title. (Ord. 1196, 4-6-2010)</th>
</tr>
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<tbody>
<tr>
<td>Highway Commercial District</td>
<td>Permitted Accessory Uses: Restaurant within a building having a principal use other than a restaurant</td>
</tr>
<tr>
<td>Commercial Recreation District</td>
<td>Permitted Uses: Restaurant complementary to the recreation business as regulated by subsection 10-19-3(B) of this title.</td>
</tr>
<tr>
<td>Mixed Use District</td>
<td>Restaurant within a building having a principal use other than a restaurant subject to subsection 10-19-3(B) of this title.</td>
</tr>
<tr>
<td>Industrial Park District</td>
<td>Permitted Accessory Uses: Restaurant or cafeteria accessory to a permitted or conditional use intended to serve only employees of the facility.</td>
</tr>
</tbody>
</table>
Conditional Uses: Restaurant (freestanding), subject to subsection 10-19-3(B) of this title.\(^{249}\)

### Gateway Industrial Heavy District

Conditional Uses:
- Restaurant - freestanding - minimum five thousand (5,000) square feet.
- Restaurant within a building having a principal use other than a restaurant.
- Tenant restaurants, cafeterias and retail service limited to tenants of the building, provided that they be essentially limited to providing service to the users of the permitted use, and that no signs or other evidence of these uses are visible from the exterior of the building.\(^{250}\)

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**Title 10, Chapter 19: Zoning, Special Requirements for All Business Districts**

Sec. 10-19-30 – Special Requirements and Performance Standards in B-2, B-3, CRD and MIX Districts as Applicable Within the District

**(B) Restaurants shall be subject to the following standards:**

1. A proposed restaurant shall be specifically identified as a fast food or standard restaurant.

2. No restaurant shall be allowed on a parcel of less than one and one-half (11/2) acres.

3. A minimum of thirty percent (30%) of the site shall be developed and maintained as landscaped areas with appropriate species to provide year round interest.

4. Where possible, all outside parking spaces shall be located to the side and/or rear of the restaurant. (Ord. 1247, 9-20-2011)\(^{251}\)

Section 10-19-6: INCIDENTAL OUTDOOR SEATING FOR FOOD SERVICE BUSINESSES

**(A) Food service businesses, including, but not limited to, bakeries, delicatessens, coffee and/or tea shops, and restaurants, may provide outdoor temporary seating for their patrons, provided that the following requirements are met:** (Ord. 1316, 4-8-2014)

1. The seating shall be located on private property.

2. The seating shall be of good patio or cafe type furniture that enhances the appearance of the business.

3. The outdoor seating area shall be defined with the use of landscaping, temporary fencing or other means that contains the tables and chairs for the use as demonstrated on a site plan and approved by city staff.

4. No alcoholic beverages or food shall be served to persons outside of the designated outdoor seating area. Signage shall be posted that restricts consumption of alcohol outside of the designated outdoor seating area as approved by city staff.
5. Patrons shall access the outdoor seating area through the main entrance or host station and shall be seated by a staff person and all full service restaurants with waitstaff service.

6. The seating shall be located so as not to compromise safety. Seating shall not obstruct the entrance or any required exits or be located on landscaping or parking areas. If located on private sidewalks or walkways, it shall be located so as to leave a minimum of a four foot (4') wide passageway for pedestrians.

7. No additional parking is required for thirty (30) seats or less. If public parking is available either in a ramp or adjacent on street, then no additional parking is required. Any additional seating over thirty (30) seats shall provide required parking based on one space per three (3) seats. Shared parking will be considered and may be approved by staff.

8. Any proposed outdoor seating plan over fifty (50) or more seats shall be by conditional use permit.

9. All exterior sound equipment shall be shut off at ten o'clock (10:00) P.M. as regulated in title 7, chapter 1 of this code. (Ord. 1247, 9-20-2011)

10. Lighting shall be permitted to the extent that it only illuminates the designated area. Lighting shall not shine or cause a glare upon other public or private property outside the designated area or as permitted in section 10-7-36 of this title. (Ord. 1316, 4-8-2014)

11. Hours of operation shall be in accordance with subsection 3-1-8-5(A) of this code.

12. Any proposed outdoor seating area on property abutting an R residential zoning district shall be by conditional use permit.

13. The business owner shall regularly clean the seating area so that it is litter free. (Ord. 1247, 9-20-2011)

Title 10, Chapter 30: Zoning, Signs

Sec. 10-30-3 – General Provisions

(A) Hazard To Traffic: No sign permitted by this title shall, by reason of its location, color or intensity, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic. No private sign shall contain words which might be construed as traffic controls, such as "Stop", "Caution", "Warning", etc., unless such sign is needed to direct traffic on the premises.

(B) Maintenance: All signs and sign structures shall be properly maintained in a safe, orderly condition at all times, including the replacement of defective parts, cleaning and other items required for maintenance of the sign. Vegetation around, in front of, behind, and underneath the base of ground signs for a distance of ten feet (10') shall be neatly trimmed and free of weeds, and no rubbish or debris that would constitute a fire or health hazard shall be permitted under or near the sign.
(C) Construction: All signs shall be constructed in accordance with the Minnesota state building code and the national electrical code. No changeable copy, illuminated architectural feature or dynamic display billboard sign shall exceed five hundred (500) nits (candelas per square meter) at night or seven thousand five hundred (7,500) nits during the day.

(D) Location: No sign shall be erected, placed or maintained on, fences, trees, power and light poles or the supports thereof, except as allowed at special events. Signs on rocks shall be allowed if they use metal letters and numbers or the commercial message is etched into the surface of the rock.

(E) Electricity: All signs utilizing electricity shall be subject to the state's electrical code and electrical service wiring shall be buried or concealed.

(F) Placement In Right Of Way: No signs other than governmental signs shall be erected or temporarily placed within any street rights of way or upon any public lands or easements or rights of way, except by conditional use permit.

(G) Obstruction: No sign or sign structure shall be erected or maintained if it prevents free ingress or egress from any door, window or fire escape. No sign or sign structure shall be attached to a standpipe or fire escape.

(H) Window Signs: Window signs shall not cover more than thirty five percent (35%) of the window area on each elevation of a building. Holiday signs placed in windows shall be included in the thirty five percent (35%) window area. All window signs shall be placed on the inside surface of the glass, except for a window sign of paint or decal application applied directly to the glass surface.

(I) Address Signs: A minimum of one address sign identifying the correct property number as assigned by the city shall be required on each principal building in all districts. Such sign shall be of sufficient size to be legible from the nearest street yet shall not exceed nine (9) square feet in area. The numbers shall be metal, glass, plastic or durable material and the numbers shall not be less than four inches (4”) in height, in a contrasting color to the base or made of some reflective material and so placed to be easily seen from the street.

(J) Seasonal Decoration: No seasonal/holiday decoration shall be allowed on or within the right of way.

(K) Message: Commercial message of the sign shall be neat and orderly and not obscene. The signs shall be professionally prepared.

(L) Illumination In B-1 And B-2: Signs in all B-1 and B-2 districts may only be illuminated during business hours, or until eleven o’clock (11:00) P.M., whichever is later.

(M) External Lighting: Signs with external lighting shall have no exposed light sources or fixtures unless decorative fixtures are utilized and the light source is fully concealed and diffused. If a wall sign is mounted above the first floor of a building, the illumination, if any,
shall be internal. Dynamic display billboards shall be exempt from this section and shall be subject to the provisions of subsection 10-30-9(P) of this chapter.

(N) Angle Between Faces: The maximum angle permitted between faces of a double face freestanding sign is sixty degrees (60°), anything less is one sign, anything more is two (2) signs.

(O) Illuminated Architectural Features: Illuminated architectural features or portions thereof, not defined as signage or a canopy sign, shall be applied at the rate of one-third (1/3) the architectural feature area toward the maximum allowable sign area permitted in section 10-30-15, table A of this chapter. Illuminated architectural features shall include, but not be limited to, wall, roof and window mounted linear lighting, the wall surface between multiple rows of linear lighting, illuminated sign bands, backlit canopies, awnings or wall banding features, etc. The color, illumination or intensity of these features shall not change more frequently than one time for every thirty (30) second interval. No scrolling, flashing, continuous movement or other motion shall be permitted. Each illuminated architectural feature must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.

(P) Banner Sign Standards: All temporary banner signs allowed within this chapter for more than ten (10) days shall meet the following design standards:

1. Banners shall be constructed with top and bottom ropes seamed into the banner.

2. Minimum twelve (12) ounce weight vinyl material.

3. Minimum two hundred forty (240) pounds per square yard of tensile strength.

4. Minimum one hundred ten (110) pounds per square yard of tear strength.

5. Banner signs located on buildings shall be stretched taut and securely attached. (Ord. 1332, 12-2-2014)

Food Carts, Mobile Food Units, and Food Stands

Title 3, Chapter 30 – Business Regulations, Mobile Vending (in ROW only)

Section 3-30-2: LICENSE REQUIRED

It is unlawful for any mobile vendor to engage in any such activity within the city without first obtaining a license from the city in compliance with the provisions of this chapter. Mobile vendors licensed under this chapter do not need city issued peddlers or transient merchant licenses when operating on streets or rights of way. Licensure under this chapter does not exempt compliance with all other applicable local, state, and federal laws. Vendors operating within the city other than on streets or rights of way must register as transient merchants or
peddlers and meet any land use or other official controls. Licenses shall be valid for the calendar year and shall not be prorated for part of a year. All licenses shall expire on December 31 after their issue. A license may not be transferred. (Ord. 1297, 4-16-2013)

Section 3-30-3: LICENSE APPLICATION

Persons seeking a license under this chapter shall file with the city a written application on a form to be furnished by the city. The application shall provide:

(A) A description of the nature of the business and the goods to be sold and the license plate number and description for any vehicle to be used in conjunction with the activity. If selling food, a copy of the department of health or department of agriculture license must be submitted with the application. The application shall also include the following information for the owner/operator of the mobile vendor business as well as for all persons working for or assisting the owner/operator of the mobile vending business;

(B) The applicant's full legal name, other names the applicant uses or is known by, date of birth and driver's license number or other acceptable identification of the person registering;

(C) The permanent and any temporary home and business address, phone numbers, and e-mail address of the applicant;

(D) A recent color photograph of the applicant which picture shall be approximately two inches by two inches (2” x 2”) showing the head and shoulders of the person in a clear and distinguishing manner;

(E) The names of at least two (2) references who will substantiate the person's good character and business respectability or other evidence of the good character and business responsibility of the person;

(F) A statement as to whether or not the person has been convicted of any crime, misdemeanor or violation of any municipal ordinance, other than traffic violations, the nature of the offense and the punishment or penalty assessed, written authorization for the city to conduct a criminal history background check, and acknowledgment that failure to disclose previous convictions will disqualify the applicant;

(G) The two (2) preceding municipalities, if any, where the person carried on his or her activity prior to the current application.

(H) Before any license will be issued allowing vending in the public right of way, the applicant shall provide a certificate of insurance or self-insurance:

1. Verifying that an insurance policy has been issued to the applicant by an insurance company authorized to do business in the state of Minnesota, or a form of self-insurance acceptable to the city;

2. Verifying that the applicant is insured against claims arising out of all operations of such applicant under this chapter for the sum of at least two million dollars ($2,000,000.00) against
liability for bodily injuries to one person from the accident, two million dollars ($2,000,000.00) for the injury of two (2) or more persons, and for at least two million dollars ($2,000,000.00) against liability for damage or destruction of property, or such amounts at least to the limits of liability established by Minnesota statutes section 466.04;

3. Naming the city as an additional insured as to whom the coverages required herein are in force and applicable and for whom defense will be provided as to all such coverages;

4. Requiring that the city be notified thirty (30) days in advance of cancellation of the policy or material modification of a coverage term.

(I) City may require a copy of the insurance policy. If the insurance is canceled or suspended 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 the insurance is reinstated or replaced. (Ord. 1297, 4-16-2013)

Section 3-30-5: LICENSE POSTED

The city shall issue a mobile vendor license upon the filing of a properly signed and completed form and satisfactory completion of the investigation and criminal history background check for the applicant and for all persons working for or assisting the owner/operator of the mobile vending business. All mobile vendors shall post their city license on or in the vehicle, trailer or cart as to be visible by the purchasing public. (Ord. 1297, 4-16-2013)

Section 3-30-7: MOBILE VENDING PERFORMANCE STANDARDS

(A) Mobile vending shall only be permitted in locations identified by the city. Such locations shall not be on any collector or higher capacity street. Such locations shall not be allowed where the street is posted "No Parking". Such locations shall not be in areas zoned residential as indicated with R type zoning on the zoning map. Such locations shall not compete with other events (block parties, park events, legacy events). All locations are on a first come first serve basis and cannot be reserved.

Approved locations are as follows:

1. Within the on street parking area located on the north side of 126th Street, adjacent to Nicollet Commons Park, between Nicollet Avenue and Pillsbury Avenue.

2. Within the on street parking area located on the north side of 125th Street between Nicollet Avenue and 1st Avenue.

(B) For vendors selling food, such locations shall have known facilities for restrooms.

(C) Vendors may also sell in the right of way at any zoning district and location within a registered and approved block party area or when catering to a private event such as a graduation party.

(D) Mobile vending operations may not take up more than two (2) parking stalls at any time. All traffic, parking, and right of way laws and regulations shall be complied with.
(E) No mobile vendor shall call attention to his or her business or to his or her merchandise by crying out, by blowing a horn, by ringing a bell, playing music or other noise discernible beyond the truck or trailer or cart or by displaying lights, or any sign or device except flat mounted signs affixed to their vehicle, trailer or cart.

(F) Hours of operation shall be between nine o'clock (9:00) A.M. and ten o'clock (10:00) P.M. on any given day. The operator shall have up to an additional thirty (30) minutes before and after these times for setup and take down.

(G) Mobile vending vehicles, trailers or carts shall not be stored outside and visible on any residential property. Storage on commercial or industrial properties shall comply with all zoning requirements.

(H) To protect pedestrian safety, mobile vending vehicles and trailers shall have the customer window or access point facing the curb.

(I) All mobile vending vehicles, trailers and carts shall be self-contained. There shall be no electrical cords or other utility hookups or exterior hazards to the public.

(J) All mobile food vendors shall provide separate trash and recycling receptacles for their customers. Vendors shall pick up trash from the area and remove their receptacles when they relocate. (Ord. 1297, 4-16-2013)

Title 10, Chapter 7 – Zoning, General Provisions

Section 10-7-8: Urban Agriculture

(A) Existing Farms: All farms currently in existence will be permitted to continue operation subject to the following conditions:

2. Limited sales of products produced on a farm or truck farm/garden may be conducted on the premises. To utilize a roadside stand, such stand shall not exceed twelve feet (12’) in height or five hundred (500) square feet in floor area, and no portion of any such stand shall be located or erected nearer than fifty feet (50’) to any public right of way or adjacent lot line.

Title 10, Chapter 7 – Zoning, General Provisions

Section 10-7-26: GENERAL PARKING AND ACCESS REQUIREMENTS:

9. Use Of Parking Area:

a. Prohibited Uses: Required off street parking space in all districts shall not be used for open storage, or sale of goods, or for the storage of vehicles which are inoperable, for lease, rent or sale or the stockpiling of snow, debris, or materials.
Section 10-7-46: OPEN SALES/RENTAL LOT:

★ **Open Sales Lot:** Land devoted to the display of goods for sale, rent, lease or trade where such goods are not enclosed within a building.²⁵²

(A) Open sales/rental lots shall be allowed only if permitted in the underlying zoning district and are subject to the following provisions and restrictions:

1. Shall have a principal structure on the lot. (Ord. 1226, 1-18-2011)

2. The view from headlights shall be one hundred percent (100%) screened from adjacent property lines and the public right of way.

a. Items approved by the city council for display on designated display pads are exempt from this headlight screening requirement. This exemption shall only apply to items oriented toward the public right of way and not adjacent properties. Display pads shall be physically separated from parking lots and drive aisles and shall comply with the applicable district’s parking setback requirements. (Ord. 1316, 4-8-2014)

**Transient Merchant**

Title 3, Chapter 20 – Business Regulations, Peddlers; Solicitors; Transient Merchants

Section 3-20-2: REGISTRATION REQUIRED

It is unlawful for any peddler, solicitor, or transient merchant to engage in any such activity within the city without first registering with the police department in compliance with the provisions of this chapter. Registration does not exempt compliance with all other applicable local, state, and federal laws. (Ord. 1271, 7-17-2012)

Section 3-20-9: PRACTICES PROHIBITED

(A) No peddler, solicitor or transient merchant shall call attention to his or her business or to his or her merchandise by crying out, by blowing a horn, by ringing a bell or other noise or by displaying any sign or device except flat mounted signs affixed to a vehicle or trailer.

(B) No peddler or solicitor shall enter in or upon any premises or attempt to enter in or upon any premises wherein a sign or placard bearing the notice “Peddlers Or Solicitors Prohibited”, or language similar thereto, is located. No peddler or solicitor shall remain in or upon any premises when told by the owner to leave the premises.
(C) No peddler or solicitor shall enter upon any residential premises for the purpose of carrying on his or her trade or business without having been expressly or impliedly invited to do so by the owners or occupants thereof.

(D) No peddler or solicitor shall enter upon any residential premises for the purpose of carrying on his trade or business between the hours of one-half (1/2) hour after sundown, but no later than eight o’clock (8:00) P.M., until nine o’clock (9:00) A.M. of the following day, unless such person has been expressly invited to do so by the owner or occupant thereof. (Ord. 1271, 7-17-2012)

(E) Transient merchants shall not occupy any right of way or public or private property without proper approvals. Vending on private property shall comply with section 3-20-13 of this chapter. Vending in the ROW shall comply with chapter 30 of this title. Vending in parks shall comply with park policy 3.045. (Ord. 1297, 4-16-2013)

Section 3-20-13: TRANSIENT MERCHANTS PROHIBITED; EXCEPTIONS

Transient merchants are specifically prohibited within the city except in the following circumstances:

(A) Transient merchants operating in accordance with the zoning and other applicable codes, ordinances and policies.

(B) An individual transient merchant, not including a farmers’ market, operating in other than a building is allowed if he/she secures a valid conditional use permit and otherwise complies with the provisions of this chapter and all other applicable codes and ordinances. (Ord. 1271, 7-17-2012)

(C) In lieu of a conditional use permit for a transient merchant, a transient merchant license may be allowed for one or multiple sites where solicitations are made to employees of a business if the following provisions are met:

1. The business is located in an industrial zoning district or an office building in a commercial zoning district. This exception does not apply to general retail or commercial locations.

2. The solicitation is to employees and visitors otherwise on the premises during the normal business operation and solicitations are not made to the general public.

3. The transient merchant is operating while the business is open and no truck, trailer, tent, or cart shall be on the site when not in operation or stored overnight.

4. No signage, other than on the truck, trailer, tent or cart is permitted.

5. No noise or other devices to attract the general public are permitted.
6. Fire lanes, emergency ingress and egress, sidewalks, and handicapped parking shall not be obstructed.

7. Permission and/or invitation from the owner of the business or property must be obtained and the registrant shall provide suitable contact information to allow the city to verify owner approval. (Ord. 1297, 4-16-2013)

... 

(E) Persons selling products of the farm or garden occupied and cultivated by him/her, and farmers’ markets as permitted under section 10-7-47 of this code. (Ord. 1271, 7-17-2012)

Parking

Title 9, Chapter 1 – Traffic Regulations, Traffic

Section 9-1-3: PARKING AND STOPPING:

It shall be unlawful for the owner and/or driver of a motor vehicle or trailer of any type to stop, stand or park the said vehicle or trailer in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the directions of a peace officer or traffic control device:

(A) On a sidewalk or boulevard between sidewalk and roadway.

(B) On a crosswalk.

(C) Within an intersection.

(D) Within twenty feet (20') of a crosswalk at any intersection.

(E) Within ten feet (10') of a fire hydrant.

(F) Within thirty feet (30') of any arterial stop sign or sign indicating the direction for travel.

(G) On the roadway side of any vehicle stopped or parked at the edge or curb of a street or highway.

(H) At any place where official signs prohibit stopping, standing or parking of a motor vehicle and/or trailer.

(I) In any manner on any street or highway so as to interfere with or interrupt the passage of other vehicles.

(J) Along the curb adjacent to any school property from eight o'clock (8:00) A.M. to four o'clock (4:00) P.M. on days when school is in session.
(K) On any street or roadway between the hours of two o'clock (2:00) A.M. and six o'clock (6:00) A.M. of any day, except physicians on emergency calls. (Ord. 989, 9-6-2005)

(L) On any street, highway, alley, or public property which is within an area zoned as a residential district, when the motor vehicle is a truck, trailer, semitrailer, truck-tractor, or a combination thereof, or any vehicle licensed with a commercial license having a capacity of more than one ton, or a gross vehicle weight of more than five thousand (5,000) pounds, or any vehicle designated, used or maintained for towing other motor vehicles or equipment, except for the purpose of expediently loading and unloading the vehicle or providing a service, food, goods, wares or merchandise to the abutting or nearby property. (Ord. 1271, 7-17-2012)

(M) On any public property, street or roadway for in excess of forty eight (48) hours. (Ord. 989, 9-6-2005)

Title 10, Chapter 7 – Zoning, General Provisions

Section 10-7-26: GENERAL PARKING AND ACCESS REQUIREMENTS:

9. Use Of Parking Area:

a. Prohibited Uses: Required off street parking space in all districts shall not be used for open storage, or sale of goods, or for the storage of vehicles which are inoperable, for lease, rent or sale or the stockpiling of snow, debris, or materials.

Signage

Title 10, Chapter 30 – Zoning, Signs

Section 10-30-7: WALL SIGNS ALLOWED BY PERMIT:

(L) Transient Merchant Signage: Signage for transient merchants as defined and regulated in title 3 of this code, shall be limited to one 32-square foot temporary sign.

(M) Temporary/Seasonal Outdoor Sales Uses: Shall be subject to the requirements of section 10-7-48 of this title.

Section 10-30-4: ALLOWABLE AND PROHIBITED SIGNS IN ANY ZONING DISTRICT:

(A) Allowable Signs: The following signs are allowed without a permit unless otherwise specified. These signs, if placed in accordance with the following standards, will not apply toward the maximum allowable sign area, but shall comply with all other applicable provisions of this title:

5. Community Garden Signs: A sign permit shall be obtained for all community gardens and shall be subject to the following requirements:
a. Only one sign shall be posted at the garden site and said sign shall not exceed twelve (12) square feet in area or ten feet (10') in height and the sign shall be set back a minimum of ten feet (10') from property lines;

b. Current contact information for the community garden shall be posted on the sign including the property owner and garden manager contact name(s), address(es), and telephone number(s); and

c. The sign shall be posted on the site of the garden at least thirty (30) days prior to the start of the community garden use. (Ord. 1316, 4-8-2014)

Title 10, Chapter 7 – Zoning, General Provisions

Section 10-7-48: TEMPORARY/SEASONAL OUTDOOR SALES USES:

(D) Performance Standards: A new or renewal permit shall be issued by the city provided the applicant demonstrates that the following performance standards will be met:

6. Signage shall be limited to one sign not to exceed thirty two (32) square feet. The sign may be a banner, shall have a professional appearance, and shall be mounted or erected in an appropriate location. This limitation applies to all signs associated with the sale, including those affixed to vehicles. The sign may be illuminated but must comply with all requirements of chapter 30 of this title.

Title 8, Chapter 14– Public Ways and Property, Right of Way

Section 8-14-4: RIGHT OF WAY OCCUPANCY AND REGISTRATION:

(A) Right Of Way Occupancy: No privately owned structure, sign or vending machine shall be located within a public right of way with the exception of:

1. A mailbox for the use of receiving mail from the United States postal service or a newspaper delivery.

2. Newspaper vending machines provided they comply with section 10-7-37 of this code.

3. Bus benches, shelters, and transit facilities, provided they comply with this title.

Title 10, Chapter 22B– Zoning, Heart Of the City

Section 10-22B-4: CONDITIONAL USES:

Projecting signs over the public right of way or public open space for a permitted or conditional use, provided that:
The sign is approved by the city council on the recommendation of the city staff, and on finding that the sign placement will not compromise public health, safety, or welfare.

The sign shall meet all other provisions for signs under this section.

Section 10-22B-10: GENERAL PROVISIONS:

(E) Signage:

1. Standards: All signs erected on any building or land within the HOC district must comply with the standards of this section and sections 10-30-1, 10-30-2, 10-30-3, and subsection 10-30-4(A) of this title.

2. Wall Signs:

a. Wall signage is allowed on buildings in the HOC district within a horizontal band no more than three feet (3’) in height, at least ten feet (10’) and no more than fifteen feet (15’) above the ground.

b. Wall signage may be either:

(1) Attached: Flat and parallel to the surface of the building and projecting no more than one foot (1’) from it, or

(2) Projecting: Perpendicular to the surface of the building and no more than one foot (1’) in thickness.

c. Attached wall signage shall consist of individual letters or script logos mounted on the building.

d. Projecting signs may project no more than four feet (4’) from the front edge of the building and be no more than twelve (12) square feet in area.

e. Projecting signs may not extend over a public right of way or public property unless by conditional use permit.

f. Projecting signs may not extend over a designated parking space or loading area.

g. Box signs or cabinet signs, whether on a wall, projecting or on canopies, are prohibited, except for logo signs as approved as part of the overall signage plan.

h. Allowable area of wall signs is one and one-half (11/2) square feet of signage per linear foot of building frontage on a public street, public open space, or private parking area. Each wall shall be calculated individually and sign area may not be transferred to another side of the building. In calculating the total allowable area of wall signage, only one side of a two (2) sided projecting sign shall be counted. In calculating the amount of signage for tenants in a multi-tenant building, the exterior facade adjacent to the individual tenant bay shall be the basis for calculating the maximum area of signage allowed for that tenant.
i. The number of wall signs and canopy signs are unlimited as long as the total area allowed by this section is not exceeded.

3. Awning/Canopy Signs: Awning/canopy signs may be allowed in addition to wall signs allowed in subsection (E)2 of this section provided they meet the following standards:
   a. The lowest part of the awning/canopy shall be not less than eight feet (8') above the sidewalk or above the centerline of the adjacent street or drive aisle.
   b. Awnings/canopies shall be located over a window or door feature.
   c. No awning/canopy signs shall be permitted on windows above the first floor.
   d. Awning/canopy signs shall count against the total allowable sign area per this subsection (E).
   e. Awning and canopy signs shall require a sign or building permit prior to installation.

4. Freestanding Signs In HOC-1 District: Freestanding signs are prohibited in the HOC-1 district, except directional signs at driveways and within parking areas, if no more than five feet (5') in height and no more than six (6) square feet in area. Directional signs must be set back at least two feet (2') from right of way, lot lines, and parking spaces.

5. Freestanding Signs In HOC-2 District: Freestanding signs are allowed in the HOC-2 district according to the provisions of chapter 30 of this title using the standards for the B-1 district. (Ord. 1232, 4-5-2011)

Composting

Title 7, Chapter 10 – Health and Sanitation, Composting

Section 7-10-1: GENERAL RULE

Every householder or owner, occupant, or tenant of any premises who composts shall do so in an environmentally sound manner, and shall meet the standards set forth in this chapter. (Ord. 1224, 1-18-2011)

Section 7-10-2: COMPOST BIN STANDARDS

(A) Compost Bins: Compostable materials shall be placed within a compost bin(s) constructed of durable material including, but not limited to, wire fencing, rot resistant wood, or brick, or a commercially manufactured bin designed for composting.

(B) Setbacks: Compost bins shall be located entirely on the owner's property and meet the following setback and standards:

1. Compost bins shall not be located within a required front yard as defined in title 10 of this code.
2. Compost bins shall not be located within five feet (5') of a side or rear lot line or within a drainage and utility easement.

3. Compost bins shall not be located within twenty feet (20') of a swale or ditch.

4. Compost bins shall not be located within a required wetland buffer or setback as defined in title 10 of this code.

5. Compost bins shall not be located within a FEMA floodplain or shoreland impact zone as defined in title 10 of this code.

6. Compost bins shall not be located closer than twenty five feet (25') to an adjacent residential dwelling unit.

(C) Compost Bin Size And Height: Individual compost bin size shall not exceed four feet by four feet by four feet (4' x 4' x 4') in area on lots less than nine thousand (9,000) square feet and shall not exceed five feet by five feet by five feet (5' x 5' x 5') in area on lots more than nine thousand (9,000) square feet. Unless the compost bin is a commercial product particularly manufactured for composting purposes, the height of the bin and the compostable material stored in the bin shall not exceed five feet (5').

(D) Number Of Bins: Up to three (3) compost bins may be allowed for each nine thousand (9,000) square feet or portion thereof, of lot area.

(E) Maintenance: Compost bins shall be maintained in sound condition and shall be capable of securing all compostable material. Compost bins and compostable materials shall be maintained so as not to create odors, rodent harborage, or a fire hazard. Compost shall be turned over and mixed within the bin(s) in order to keep the material aerated, to minimize odor generation and promote effective decomposition of material whereby it will not create a public nuisance.

(F) Screening: Compost bins shall be screened by an opaque fence or vegetative landscape screen of sufficient height to screen the containers from view of adjacent properties and public right of way. (Ord. 1224, 1-18-2011)

Section 7-10-3: PERMITTED COMPOSTABLE MATERIAL

Only acceptable materials generated from the legal boundaries of the property where the plants are grown and/or kitchen waste is generated, such as eggshells, coffee grounds, chopped vegetables, and fruit remains shall be allowed into the compost bin(s). "Permitted compostable materials" are limited to plant materials consisting of grass clippings, leaves, weeds, small twigs, evergreen cones and needles, wood chips, herbaceous garden debris and commercial ingredients (mixed into the composting material) specifically designed to speed or enhance decomposition. (Ord. 1224, 1-18-2011)

Section 7-10-4: PROHIBITED MATERIALS
The following materials are prohibited from being placed or mixed with compost: meat, bones, fat, oil, dairy products, plastic, synthetic fibers, human or pet waste, diseased plants or plants treated with pesticides. (Ord. 1224, 1-18-2011)

See Garbage Disposal & Recycling

**Garbage Disposal & Recycling**

**Title 7, Chapter 7 – Health and Sanitation, Mixed Municipal Solid Waste and Recyclables**

**Section 7-7-2: REQUIRED COLLECTION OF GARBAGE AND REFUSE**

Every household and commercial/industrial establishment in the city must be under a contract for the collection of garbage and refuse with a licensed garbage hauler by June 1, 1992. A household in a multi-dwelling property is considered to be under a garbage collection contract if the owner, association, or management entity has a contract with a licensed garbage hauler. (Ord. 433, 12-2-1991)

**Section 7-7-3: EXEMPTION FROM COLLECTION REQUIREMENT**

A household or commercial/industrial establishment may be exempt from the requirement to be under a garbage and refuse contract if the household or commercial/industrial establishment hauls garbage or refuse from their own residence or business property and complies with the standards set forth in section 7-7-6 of this chapter. (Ord. 433, 12-2-1991)

**Section 7-7-4: OPPORTUNITY TO RECYCLE**

All residents of multiple dwelling properties shall have an opportunity to recycle. Owners, associations, or other management entities of any multiple/residential dwelling properties shall provide the opportunity to recycle on the property to the residents by January 1, 1992. The recycling opportunity shall include the collection of all targeted recyclables. (Ord. 433, 12-2-1991)

**Section 7-7-5: LICENSE REQUIREMENTS**

(A) No person shall haul mixed municipal solid waste or recyclables in the city without first securing a license from the city.

**Title 4, Chapter 8 – Building Regulation, Property Maintenance Code**

**Section 4-8-3-5: RUBBISH AND GARBAGE**

(A) Accumulation Of Rubbish Or Garbage: All exterior property and premises, and the interior of every structure, shall be free from any excessive accumulation of rubbish or garbage.
(B) Disposal Of Rubbish: Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

1. Rubbish Storage Facilities: The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish. (Ord. 706, 3-16-1998)

2. Appliances: Refrigerators, freezers, and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors. (Ord. 1300, 5-14-2013)

(C) Disposal Of Garbage: Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

1. Screening: If allowed in the zoning district where the property is located, all exterior garbage and recycling containers shall be screened pursuant to section 10-7-18 of this code. (Ord. 1316, 4-8-2014)

(D) Curbside Collection: Appliances, furniture and similar items shall not be left outside for collection and disposal for more than seventy two (72) hours before they are collected. (Ord. 706, 3-16-1998)
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 Burnsville 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”. 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.

**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.261

**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 Burnsville, Minn., Code, § 10-4-2 (2015).
7 Minn. Const., art. 13, § 7.
8 Minn. Stat. §§ 157.16, 28A.04; Minn. R. Ch. 4626.
9 Minn. Rules Ch. 4626.
12 Minn. Stat. § 28A.04.
13 Minn. Rules Ch. 4626.
15 Minn. Rules 4626.0017; Minn. Stat. § 144.05.
16 Minn. Rules 4626.0017; Minn. Stat. § 144.05.
19 See generally, Procedures, supra note Error! Bookmark not defined..
20 Minn. Rules 4626.1785.
21 Minn. Stat. §§ 31.101; 31.11.
22 Minn. Rules 4626.1785.
23 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).
24 See generally, Procedures, supra note Error! Bookmark not defined..
25 See generally, Minn. Stat. Ch. 410 (home rule charter cities) and Minn. Stat. Ch. 412 (statutory cities).
27 Minn. Stat. § 462.352, subd. 15 (2014); see also Minn. Stat. § 394.22, subd. 6 (2014); Minn. Stat. § 473.582, subd. 9 (2014).
32 Burnsville, Minn., Code, Title 3 (2015).
33 Black’s Law Dictionary (2nd ed.) (“Permit”).
34 Minn. Stat. Ch. 462.
35 Minn. Stat. § 462.351.
41 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”).
Minn. Rules 7035.0300, Subp. 19.
Minn. Rules 7035.0300, Subp. 20.
Minn. Rules 7035.0300, Subp. 73.
Minn. Rules 7035.0300, Subp. 74.
Burnsville, Minn., Code, § 7-7-1 (2015).
Burnsville, Minn., Code, § 7-7-1 (2015).
Burnsville, Minn., Code, § 7-7-5(A) (2015).
Burnsville, Minn., Code, § 7-10-3 (2015).
Burnsville, Minn., Code, § 7-7-1 (2015).
Burnsville, Minn., Code, § 7-7-1 (2015).
Burnsville, Minn., Code, § 7-7-1 (2015).
Burnsville, Minn., Code, § 7-7-1 (2015).
Burnsville, Minn., Code, § 7-7-1 (2015).
Burnsville, Minn., Code, § 7-7-3 (2015).
Burnsville, Minn., Code, § 7-7-5(A) (2015).
Burnsville, Minn., Code, § 7-7-4 (2015).
Burnsville, Minn., Code, § 7-7-2 (2015).
Burnsville, Minn., Code, § 4-8-3-5 (2015).
Burnsville, Minn., Code, § 10-7-4 (2015).
Burnsville, Minn., Code, § 10-12-3 (2015).
Burnsville, Minn., Code, § 10-17-3 (2015).
Burnsville, Minn., Code, § 10-7-5(C) (2015).
Burnsville, Minn., Code, § 10-7-6 (2015).
Burnsville, Minn., Code, § 10-7-26 (2015).
Burnsville, Minn., Code, § 10-12-3 (2015).
Burnsville, Minn., Code, § 10-7-2 (2015).


BURNSVILLE, MINN., CODE, § 7-10-3 (2015).


MINN. STAT. §28A.02 (2015).

“Egg Sales,” Minnesota Institute of Sustainable Agriculture, http://www.misa.umn.edu/FarmFoodResources/LocalFood/EggSales/.

