EAGAN

FOOD SYSTEM POLICY ANALYSIS
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EXECUTIVE SUMMARY

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

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

This policy brief analyzes local ordinances in Eagan, current as of July 2015, that may directly or indirectly impact access to healthy food in Eagan. While this policy brief focuses primarily on Eagan’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,
- 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 subsection, relevant state law and municipal regulations are identified and discussed.

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

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

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

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

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

**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:

- 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.

**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 Eagan’s municipal code, available publicly at: https://www.municode.com/library/mn/eagan.codes/code_of_ordinances

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

★ Restaurant-Fast food. An eating facility where drive-through service is provided and customers may place their food order either at a counter inside the facility or from the customer's motor vehicle outside the facility by use of a drive-through service. This type of restaurant also includes a "drive-in" establishment where food and beverages are ordered from and consumed in the motor vehicle upon the premises outside of the building.¹

★ Restaurant-Full service. An eating facility that provides full wait staff service where food/beverages are ordered, served and consumed by the customer while seated at a table, booth or counter. Accessory use may include take-out food service. No drive-through service is provided.²

It is important to note that many of the definitions established by the City of Eagan 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 analyzing specific activities or structures impacting access to healthy food in Eagan, this memo briefly discusses some general concepts providing context regarding and impacting the ability of Minnesota to access healthy food, 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 Eagan’s regulation of different components of the food system. The Public Health Law Center used the Minnesota Food Charter to structure the analysis of Eagan’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/.

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:

- Building and plumbing requirements,\(^4\)
- Sale of personally grown, unprocessed agricultural products,\(^5\)
- Licensing of food establishments,\(^6\)
- Food safety standards,\(^7\)
- Sale of products prepared in unlicensed kitchens,\(^8\) and
- Food sampling at farmers’ markets and other community events.\(^9\)

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:


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.

<p>| TABLE 1 – OVERSIGHT OF FOOD SYSTEM BY MINNESOTA DEPARTMENTS OF HEALTH AND AGRICULTURE |
|--------------------------------|--------------------------------|----------------------------------|</p>
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<th>AGENCY</th>
<th>SOURCE OF FOOD</th>
<th>REGULATORY AUTHORITY</th>
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| MDH    | Cafes, Restaurants, Bars, Hotels & motels, Cafeterias | • Licenses and inspects food establishments  
• Enforces Minnesota Food Code  
• Provides food safety and food handling education and training  
• Investigates outbreaks  
• Tracks and monitors foodborne illness  
• Operates the Minnesota Foodborne Illness Hotline  
• Releases reports and summaries of foodborne illness outbreaks in Minnesota  
• Coordinates response to foodborne illness outbreak with other state and local government agencies |
| 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  
• Enforces Minnesota Food Laws and the Minnesota Food Code  
• Enforces state standards relating to food quality, labeling, and advertising  
• Investigates complaints regarding questionable food products or food sales practices  
• Cooperates in foodborne illness outbreak investigation when involving MDA-regulated facilities or food that is commercially distributed in Minnesota  
• 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/ 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 few Minnesota 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 Eagan does not have delegated authority to regulate food establishments, retail establishments, or food facilities. As a result, this memorandum focuses on how Eagan 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.\footnote{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.} Minnesota state law gives statutory cities\footnote{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.} explicit authority to regulate a wide range of areas, including:\footnote{‡ 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.}:

- 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.”\footnote{‡ 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.} 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…”\footnote{‡ 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.} 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.”\footnote{‡ 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.}

Local governments can utilize licensing strategies to increase access to healthy food and limit access to unhealthy food. They may license certain types of food businesses while not requiring licenses for others. For example, local governments may require licenses for mobile food vendors but not for restaurants generally. Additionally, licensing schemes may limit where certain fast food businesses are allowed to operate, create or remove licensing requirements for
certain food businesses, and/or create incentive or ratings programs for food businesses. Alternatively, local governments may be using licensing (or other regulations) to reduce access to healthy foods such as by prohibiting the use of required parking lots for sale of products.

Eagan does not require general business licensing or registration for all businesses. However, Eagan has established business licensing requirements for transient merchants, special events, and refuse haulers.28

**Permits**

Permits are another policy tool used by local governments to regulate the food system generally, and certain types of food enterprises specifically. 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.”29 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.

Eagan uses permits to govern a wide range of activities, as found on their website at: [http://www.cityofeagan.com/index.php/building-inspections](http://www.cityofeagan.com/index.php/building-inspections). Additionally, Eagan uses permits to allow beekeeping30 and chickens.31

**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.32 This includes the authority to prepare, adopt and amend a comprehensive municipal plan as well as the official controls to implement that plan. Eagan has the authority to conduct planning and enact zoning ordinances.33

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. Eagan’s municipal code states:
“Whenever in any district a use is neither specifically permitted nor denied, a property owner may request a study by the city to determine whether the particular use is compatible with the zoning district in which it is proposed to be located.”

Comprehensive Planning

In Minnesota, the Municipal Planning Act (“MPA”) of 1965 is the basis of the authority requiring municipalities in the metropolitan area to complete comprehensive planning. This Act reflects the Minnesota Legislature’s desire that cities use comprehensive planning for a three-fold purpose:

1. to insure a safer, more pleasant and more economical environment for residential, commercial, industrial and public activities,
2. to preserve agricultural and other open lands, and
3. to promote the public health, safety, and general welfare.

The cities, townships, and counties that make up the 7-county metro-area are so interdependent, that the legislature determined that these local jurisdictions would be required to complete comprehensive planning and to coordinate those plans to “protect the health, safety, and welfare of residents” and also to ensure “orderly, and economic development.” 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 every local government – 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. Eagan 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 Eagan’s comprehensive plan is outside the scope of this project. However, any effort to increase access to healthy food in Eagan 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 Eagan’s municipal code is essential to ensure the comprehensive plan reflects the broader needs of the community to have access to healthy, affordable food. Eagan’s current
comprehensive plan that is under review is available on the city’s website at:

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:

Eagan has established the following zoning districts:

<table>
<thead>
<tr>
<th>Agricultural and Estate Districts</th>
<th>Residential Districts</th>
<th>Commercial Districts</th>
<th>Industrial Districts</th>
<th>Special and Environmental Protection Districts</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Agricultural District</td>
<td>R-1 Residential Single District</td>
<td>LB Limited Business District</td>
<td>I-1 Limited Industrial District</td>
<td>RD Research and Development Park District</td>
</tr>
<tr>
<td>E Estate District</td>
<td>R-1S Residential Single District - Small Lot</td>
<td>NB Neighborhood Business District</td>
<td>I-2 General Industrial District</td>
<td>PD Planned Development District</td>
</tr>
<tr>
<td></td>
<td>R-2 Residential Double District</td>
<td>GB General Business District</td>
<td></td>
<td>P Park District</td>
</tr>
<tr>
<td></td>
<td>R-3 Residential Townhouse District</td>
<td>CSC Community Shopping Center District</td>
<td></td>
<td>PF Public Facilities/Institutional District</td>
</tr>
<tr>
<td></td>
<td>R-4 Residential Multiple District</td>
<td>BP Business Park District</td>
<td></td>
<td>CGD Cedar Grove District</td>
</tr>
<tr>
<td></td>
<td>R-5 Manufactured Home Park District</td>
<td></td>
<td></td>
<td>T Transitional 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.\textsuperscript{46} In contrast, a conditional use can be requested for a use that is only permitted in a zone with certain conditional requirements on a case-by-case basis.\textsuperscript{47} Eagan provides additional clarification about variances and conditional uses as follows.

### Municipal Definitions

- **Variance.** means a modification or waiving of the provisions of this chapter consistent with the state enabling statute for municipalities, as applied to a specific property and granted pursuant to the standards and procedures of this chapter, except that a variance shall not be used for modification of the allowable uses within a district and shall not allow uses that are prohibited.\textsuperscript{48}

- **Use, conditional.** means those uses specifically designated in each zoning district, which because of unique characteristics, are not classified as permitted uses in a particular zoning district but may be deemed acceptable subject to certain conditions and guarantees to protect the public interest.\textsuperscript{49}

- **Use, interim.** means a temporary use of property until a particular date or until the occurrence of a particular event.\textsuperscript{50}

- **Conditional use permit.** Conditional use permit means a permit specially and individually granted by the council after review thereon by the advisory planning commission for any conditional use so permitted in any use district.\textsuperscript{51}

### 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.


### Additional information: Conditional Use Permits

See League of Minnesota Cities information memo, Land Use Conditional Use Permits.


### Regulating Structures

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

For example, the State Building Code sets requirements for temporary and permanent structures to “establish reasonable safeguards for health, safety, welfare, comfort, and security.” 52 Permanent and temporary structures are required to meet minimal structural requirements, and permanent structures must meet additional requirements including snow load requirements. 53 At the same time, agricultural buildings on agricultural lands are exempted from certain provisions of the state building code. 54 The Minnesota Building Code also exempts certain small-sized, one-story accessory structures from permit requirements prior to being constructed, altered, or repaired. 55

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. 56 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. 57 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 taking place within its 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.

Eagan has adopted the Minnesota Building Code, 58 which governs “the construction, reconstruction, alteration, and repair of buildings and other structures to which the code is applicable.” 59 In addition, Eagan has additional municipal ordinances governing structures, distinguishing principle use buildings and/or structures from accessory buildings and/or structures as follows.

**Municipal Definitions**

- **Building, accessory.** An accessory structure detached from the principal structure, having a roof and walls to provide weather protection. This includes detached garages,
storage sheds, gazebos and similar structures. A carport attached to an accessory building is considered part of that accessory building.\textsuperscript{60}

\textbf{★ Accessory building or structure}, (see Building, accessory)\textsuperscript{61}

\textbf{★ Building or structure, principal}, means the primary building or structure upon a lot.\textsuperscript{62}

Eagan’s municipal code requires a zoning permit to construct or modify and building or fixed improvement which does not require a building, plumbing, or mechanical permit.\textsuperscript{63} The municipal code requires a building permit to construct or modify “multi-story structures or those [structures] larger than 120 square feet.” Therefore, how a specific structure is regulated depends on whether the structure falls into one of those categories.

The city code requires a zoning permit “prior to constructing, installing, or erecting any building, structure, or other fixed improvement [except when a permit is already required under the Minnesota State Building Code].\textsuperscript{64} The city requires a building permit to construct or modify “multi-story structures or those [structures] larger than 120 square feet,” in compliance with the State Building Code.\textsuperscript{65}

Zoning permits are required for any exterior improvement on a property.\textsuperscript{66}

A Zoning Permit is required for the following projects:

\begin{itemize}
\item Fences,
\item Patios,
\item Driveways and sidewalk replacement/expansion, and
\item One-story detached structures used as tool or storage, play houses/structures and similar uses, not to exceed 120 square feet in building area (multi-story structures or those larger than 120 square feet require a building permit).\textsuperscript{67}
\end{itemize}

For more information:

\begin{itemize}
\item City specific information may be obtained from the city’s municipal building official
\item \textbf{Explanation of the Agricultural Building Exemption in the State Building Code} by the Minnesota Department of Labor and Industry
\item More information on Eagan’s regulation of accessory buildings and structures is discussed in Appendix B, below.
\end{itemize}
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.** Not defined by municipal code as of April 21, 2015.

★ **Market garden.** Not defined by municipal code as of April 21, 2015.

★ **Permitted vegetation.** Established vegetation that is one or a combination of the following: turf grasses; low maintenance ground cover; ornamental plants; rain garden; meadow; and edible vegetation when planted with other permitted vegetation. Permitted vegetation does not include unmanaged vegetation or any prohibited tree species as defined herein. 68

★ **Edible vegetation.** Any herb plant or fruit or vegetable producing plant which all or a part thereof is edible. 69

★ **Landscape bed.** An area or tiered areas delineated by landscape material or established turf grasses as its border(s) and is designed for and maintained with ornamental plants or native grasses and forbs or edible vegetation. 70

★ **Public right-of-way.** The surface, air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, trail, avenue, boulevard, drive, court, concourse, bridge, tunnel, park, parkway, skyway, waterway, or property within the city owned by or under control of the city, or dedicated or otherwise conveyed to the public. 71

★ **Residential property.** A lot of record on which the only residential permitted use is single-family detached dwelling under the land use regulations of this Code. 72

★ **Vegetation.** Any non-woody plants. 73

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?

Gardening is permitted within the following zones:

- "A" Agricultural District,
- "E" Estate District,
- "R-1" Residential Single District,
- "R-1S" Residential Single - Small Lot District,
- "R-2" Residential Double District,
- "R-3" Residential Townhouse District,
- "R-4" Residential Multiple District,
- Floodway District (FW), and
- Flood Fringe District (FF).

In the Agricultural District, gardening is allowed but the sale of the products is not allowed. However stands for the sale of agricultural products grown on the premises are a permitted use.

In the Floodway and Flood Fringe Districts, are silent concerning the sale of agricultural products.

For all other zoning districts that allow gardening, the sale of products from a garden is not permitted.

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.

Tangentially, Eagan has established regulations governing the maintenance of trees and grass on private property.
Farming

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

Municipal Code Definitions

★ **Farm.** A parcel of land having an area of ten acres or more (five acres for truck farms) which is under cultivation or is fenced and utilized as pasture.\(^{89}\)

★ **Truck farm.** Not defined by municipal code as of October 7, 2015.

★ **Farming.** The process of operating a farm for the growing and harvesting of crops and/or the keeping of common domestic farm animals which shall include those necessary buildings related to operating the farm.\(^{90}\)

★ **Agricultural use.** Agricultural use means the commercial use of land for the production for sale of agricultural products as defined in Minn. Stat. ch. 273, as may be amended.\(^{91}\)

★ **Accessory building or structure.** (see Building, accessory)\(^{92}\)

★ **Building, accessory.** An accessory structure detached from the principal structure, having a roof and walls to provide weather protection. This includes detached garages, storage sheds, gazebos and similar structures. A carport attached to an accessory building is considered part of that accessory building.\(^{93}\)

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

No.

What are the relevant regulations?

The Agricultural District allows “agriculture”.\(^{94}\) Additionally, the Shoreland Overlay District has Agricultural Use Standards that do not allow have the potential to impact water quality such as disturbing steep slopes and the use of feedlots and grazing.\(^{95}\)

Eagan established appearance regulations for accessory buildings; however, accessory buildings on farms are exempt from these provisions.\(^{96}\)
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.** *Cattle, horses, mules, sheep, goats, swine, ponies, ducks, geese, turkeys, chickens, guinea hens and honey bees.*

★ **Animals.** Include farm animals and all other animals, reptiles, and feathered birds or fowl, except dogs, cats, ferrets, gerbils, hamsters, rabbits, and caged household birds.

★ **Chicken.** *A fowl of the genus Gallus and species Gallus domesticus that is commonly referred to as domesticated fowl.*

★ **Rooster.** *A male chicken.*

★ **Chicken coop.** Any structure used for the housing of chickens.

★ **Chicken run.** A fenced outdoor area for the keeping and exercising of chickens.

Does the municipal code require a permit or license?

The City requires a permit to keep certain farm animals, including chickens. The “chicken permit” allows for the keeping of up to five (5) chickens at any given time and does not permit the harboring of roosters. Once the Chicken Permit Application is submitted and the site plan is approved, the City will inform the applicant that the chicken coop and chicken run may be constructed.

The City has established a bee keeping permit, which can be found online at [http://www.cityofeagan.com/images/CityClerk/App_-_BEES_Permit.pdf](http://www.cityofeagan.com/images/CityClerk/App_-_BEES_Permit.pdf).
What are the relevant regulations?

The municipal code prohibits the keeping of any animal, not in transit, except (1) farm animals kept in a district zoned for agricultural use and containing at least 5 acres; (2) animals kept as part of a show licensed under the code; (3) animals used in a parade for which a permit has been issues; (4) animals kept in a laboratory for scientific or experimental purposes; (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian; (6) animals kept in a pet shop licensed under the Code; or (7) otherwise provided.\textsuperscript{105}

In order to keep chickens, the municipal code requires the interested party to have a chicken coop and run.\textsuperscript{106} The municipal code considers a “chicken coop” and a “chicken run” to be a single structure and subject to the regulations governing accessory structures.\textsuperscript{107}

The interior floor space of the coop must be at least two square feet for each chicken authorized by the permit.\textsuperscript{108} The floor area of the chicken run must be at least five square feet for each chicken authorized by the permit.\textsuperscript{109} Additionally, the exterior of the chicken coop must be water-resistant.\textsuperscript{110} The chicken run must be attached to the coop.\textsuperscript{111} There are set back requirements that vary depending on zoning district.\textsuperscript{112}

The chicken permit sets several conditions, including:

- The owner of the chickens must occupy the premises for which the permit is issued;
- The premises, including the coop and run must be opened for inspection at all times;
- The permit is non-transferable; and
- All chicken feed must be tore in a water-tight and vermin-proof container.\textsuperscript{113}

While there are specific provisions governing the keeping of chickens, the municipal code does not have specific provisions for honeybees. However, Eagan has established a bee keeping permit application, see below.

Additional resources

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.** Any partition, structure, wall or gate erected as a dividing marker, visual or physical barrier, or enclosure and located along the boundary or within the required yard.\textsuperscript{114}

★ **Fence height.** The distance measured from grade to the highest point of the fence.\textsuperscript{115}

★ **Screening.** A device or materials used to visually shield or obscure one element of a development from other elements or from adjacent or contiguous development. Screening materials may include fences, walls, berms, plantings, or other materials providing the required opacity.\textsuperscript{116}

★ **Structure.** Anything constructed or erected, the use of which requires location on the ground or attachment to something having a location on the ground. Among other things, structures include but are not limited to buildings, gazebos, decks, retaining walls, walls, fences over six feet in height, and swimming pools, but excluding patios and similar at-grade improvements.\textsuperscript{117}

Does the municipal code require a permit or license?

A Zoning Permit is required for the construction or physical improvement of residential fences.

- Please visit the following link for a copy of the permit application: http://www.cityofeagan.com/images/CommunityDevelopment/BuildingInspections/2015PermitApps/2015.01App_Zoning Permit.pdf

A Building Permit is required for the construction or improvement of commercial fences.\textsuperscript{118}

What are the relevant regulations?

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

- The finished side of all fences shall face away from the fence owner's lot,
• In front yards, fences shall not exceed 42 inches in height, and
• Barbed wire fences are not permitted only in residential zoning districts.\textsuperscript{119}

Eagan has established land use provisions that apply \textit{only} to privately owned property, specifically new development, new building construction, or significant expansion in any commercial, multiple residential (R-2, R-3, and R-4), industrial institutional zoning district, and planned development districts.\textsuperscript{120} Specifically, these provisions require, in some circumstances, a detailed landscaping plan, including the detailing of the use of fences.\textsuperscript{121} Please see Appendix D: Landscape Plan Requirements for applicable regulations.

**Additional resources**

Handout from the city outlining fence requirements, including: permit, height, set back, and maintenance requirements (available at: http://www.cityofeagan.com/images/CommunityDevelopment/BuildingInspections/HandoutsBrochures/Handout\textsuperscript{-20\%20Fences.pdf}).

**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 garden beds with improved soils when the quality or safety of existing soil is questionable; they can also be used to make garden beds accessible to those in wheelchairs or who are otherwise physically not capable of working at ground level. Raised beds may also be allowed along public right of ways in residential areas, increasing the available area for garden production.

**Municipal Code Definitions**

★ **Arbor**, Not defined by municipal code as of May 4, 2015.

★ **Pergola**, Not defined by municipal code as of May 4, 2015.

★ **Trellis**, Not defined by municipal code as of May 4, 2015.

★ **Accessory building or structure**, (see Building, accessory).\textsuperscript{122}

★ **Building, accessory**, An accessory structure detached from the principal structure, having a roof and walls to provide weather protection. This includes detached garages, storage sheds, gazebos and similar structures. A carport attached to an accessory building is considered part of that accessory building.\textsuperscript{123}

★ **Planting box**, Not defined by municipal code as of May 15, 2015.
**Raised plant bed.** Not defined by municipal code as of May 15, 2015.

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

No.

**What are the relevant regulations?**

In rear yards of all public and private parks, schools, churches, and areas where play areas are provided, arbors and trellises may encroach to a point not less than five feet from the rear lot line.\(^{124}\)

Eagan has established land use provisions that apply only to privately owned property, including new development, new building construction, or significant expansion in any commercial, multiple residential (R-2, R-3, and R-4), industrial institutional zoning district, and planned development districts.\(^{125}\) Specifically, the municipal code requires all new construction and significant expansion as identified above to include a detailed landscaping plan and be submitted to the city.\(^{126}\) The municipal code requires that the landscaping plan detail the use of planting beds.\(^{127}\)

**Greenhouses and Hoop Houses**

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

**Municipal Code Definitions**

**Greenhouse.** Not defined by municipal code as of May 15, 2015.
Hoop house. Not defined by municipal code as of May 15, 2015.

High tunnel. Not defined by municipal code as of May 15, 2015.

Does the municipal code require a permit or license?

Yes. A building or zoning permit is likely required depending on the size of the greenhouse or hoop house. The city code requires a zoning permit “prior to constructing, installing, or erecting any building, structure, or other fixed improvement [except when a permit is already required under the Minnesota State Building Code].” The city requires a building permit to construct or modify “multi-story structures or those [structures] larger than 120 square feet,” in compliance with the State Building Code. Therefore, it depends on whether the greenhouse or hoop house falls into one of those categories.

What are the relevant regulations?

The municipal code is silent concerning hoop houses and greenhouses. Depending on the type and size of greenhouse or hoop house, municipal provisions governing accessory structures may apply. In addition, zoning restrictions on where a greenhouse or hoop house can be located may apply if the greenhouse or hoop house is for business or commercial purposes.

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

For more information, contact the City’s Permit & Inspections Department at 651-554-3220.

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.minneapolisman.gov/sustainability/homegrown/WCMS1P-130152.
Shed

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

Municipal Code Definitions

★ Building, accessory. An accessory structure detached from the principal structure, having a roof and walls to provide weather protection. This includes detached garages, storage sheds, gazebos and similar structures. A carport attached to an accessory building is considered part of that accessory building.\textsuperscript{132}

★ Shed. Not defined by municipal code as of April 27, 2015.

Does the City require a permit or license?

Yes. Depending on size, either a zoning or building permit is required to construct or modify a shed.\textsuperscript{133}

What are the relevant regulations?

The city code requires a zoning permit to construct or modify “one-story detached structures used as storage.”\textsuperscript{134} The city code requires a building permit to construct or modify “multi-story structures or those [structures] larger than 120 square feet.”\textsuperscript{135}

The municipal code requires that exterior work authorized by a building permit be completed within a set amount of time. Sheds are treated like accessory structures, and must be completed within 180 days from the date of issuance of the permit.

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

Please see Appendix C regarding regulations governing completion of exterior work.
PROCESSING FOOD

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

Wholesale food processors are generally governed by Minnesota state law and regulated by the Minnesota Department of Agriculture. 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. As mentioned earlier, Eagan does not have delegated authority from 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 May 4, 2015.

Does the municipal code require a permit or license?

No.

What are the relevant regulations?

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

Additional Resources

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


GETTING FOOD

Subsections:

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

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

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

State Law Definitions**

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

** Please note: State law includes a wide range of legal definitions for different types of food establishments and food and beverage service establishments. The definitions included here are meant to highlight key definitions relevant to this discussion.
★ **Food and Beverage Service Establishment.** A building, structure, enclosure, or any part of a building, structure, or enclosure used as, maintained as, advertised as, or held out to be an operation that prepares, serves, or otherwise provides food or beverages, or both, for human consumption.\textsuperscript{143}

**Municipal Code Definitions**

★ **Food Establishment.** Not defined by municipal code as of October 7, 2015.

★ **Food and Beverage Service Establishment.** Not defined by municipal code as of October 7, 2015.

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

Minnesota law requires that every person who handles food obtain a license and that “all producers, packagers, labelers, handlers, distributors and vendors of food, whether or not subject to licensing … be required to comply with the applicable rules.”\textsuperscript{144} Specifically, any person that engages in the business of manufacturing, processing, selling, handling, or storing of food must obtain a license, unless Minnesota law specifically exempts that person or activity from the general licensing requirement.

**Additional Resources**

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).

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 or produced from the requirement of obtaining a food license.\(^{145}\) 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 May 20, 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.\(^{146}\)

**What are the relevant regulations?**

There is nothing in the City’s municipal code on point to the individual selling produce from a farm or garden other than in a farmers’ market, discussed below.

See Farmer’s Markets section for additional information.

### 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
providing to farmers’ market customers, and certain products processed in unlicensed kitchens covered under the 2015 Cottage Food Law. However, state regulation of farmers’ markets is fairly limited and local governments are generally more involved in regulating different aspects of farmers’ markets beyond this limited state involvement.

**Minnesota State Legal Definitions**

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

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

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

**Municipal Code Definitions**

- **Farmers’ market.** Not defined by municipal code as of April 21, 2015.

- **Transient merchant.** Transient merchant means any person who sells or attempts to sell goods for immediate delivery, the method of which may be from a vehicle or other mobile conveyance or device or a temporary stand and not by means of door-to-door, from a temporary location. If an organization or entity organizes and operates an event, at which there will be the sale of goods to the public or to the attendees of the event by vendors who must register or enroll with the organization or entity in order to sell goods at the event, then the vendor, nonetheless, shall be deemed a transient merchant for purposes of this section. Transient merchant shall not mean any person who sells or attempts to sell goods on property which the person owns or legally occupies a building or portion thereof on the property.

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

Yes, the City requires a farmers’ market to obtain a special event permit. As part of this permit process, the farmers’ market must apply for the permit and obtain an insurance policy, which includes product liability of at least $1,000,000.00.

The City licenses transient merchants and some farmers’ market vendors may fall into this licensing scheme. Please see the Transient Merchant Section for additional information.
What are the relevant regulations?

The City of Eagan regulates farmers’ markets through its licensing of special events. Currently, there are no farmers’ market-specific regulations in the municipal code.

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 under 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, Eagan does not have delegated authority from MDH. However, Eagan 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.
Municipal Code Definitions

★ **Drive-through service-Restaurant.** An accessory use of restaurant whereby a customer pays for and picks up his/her food/beverage order from a vehicle at a window of the restaurant facility regardless if the food may be ordered in advance of arrival to the site or ordered while in a drive-through lane on the site via a menu board-ordering intercom system.\textsuperscript{156}

★ **Restaurant-Casual.** An eating facility where customers place their order at a counter and either the customer takes the food/beverage to a table or wait staff serves the food/beverage at the customer's table for on-premise consumption.Accessory use may include take-out food service. No drive-through service is provided.\textsuperscript{157}

★ **Restaurant-Delivery or take-out.** A facility where food is prepared, ready-to-eat or partially ready-to-eat and either picked up by or delivered to the customer for off-premise consumption. This type of restaurant may have a limited amount of seating, but not for more than 24 guests at one time.\textsuperscript{158}

★ **Restaurant-Fast food.** An eating facility where drive-through service is provided and customers may place their food order either at a counter inside the facility or from the customer's motor vehicle outside the facility by use of a drive-through service. This type of restaurant also includes a "drive-in" establishment where food and beverages are ordered from and consumed in the motor vehicle upon the premises outside of the building.\textsuperscript{159}

★ **Restaurant-Full service.** An eating facility that provides full wait staff service where food/beverages are ordered, served and consumed by the customer while seated at a table, booth or counter. Accessory use may include take-out food service. No drive-through service is provided.\textsuperscript{160}

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

No, the City does not require a license for restaurants.\textsuperscript{161}

What are the relevant regulations?

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

- Parking space requirements,
- Hours of operation requirements,
- Outdoor dining restrictions, and
- Noise regulations.\textsuperscript{162}

Currently, only certain zoning districts permit food establishments (see below for the list).
**Sec. 11.60 – Use districts and overlays.**

<table>
<thead>
<tr>
<th>District</th>
<th>Permitted uses.</th>
<th>Conditional uses.</th>
</tr>
</thead>
<tbody>
<tr>
<td>LB Limited Business District.</td>
<td>Restaurants-Full service and casual only those granted a permit according to applicable City Code provisions to serve 3.2 beer or wine and an outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.(^{163})</td>
<td>Restaurants-Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.</td>
</tr>
<tr>
<td>NB Neighborhood Business District.</td>
<td>Permitted uses. Restaurant-Full service (on-sale liquor subject to conditional use permit) and casual.</td>
<td>Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.</td>
</tr>
<tr>
<td>GB General Business District.</td>
<td>Permitted uses. Restaurants-Full service and casual (without on-sale liquor).</td>
<td>Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.</td>
</tr>
<tr>
<td>CSC Community Shopping Center District.</td>
<td>Permitted uses. Restaurant-Full service and casual.</td>
<td>Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.</td>
</tr>
<tr>
<td>I-I Limited Industrial District.</td>
<td>Permitted uses. Restaurants-Full service and casual.</td>
<td>Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.</td>
</tr>
</tbody>
</table>

Permitted accessory uses. An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.\(^{164}\)

Permitted accessory uses. An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.\(^{165}\)

Permitted accessory uses. An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.\(^{166}\)
special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.

<table>
<thead>
<tr>
<th>BP Business Park District.</th>
<th>Conditional uses. Restaurants—Full service and casual and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.</th>
</tr>
</thead>
<tbody>
<tr>
<td>CGD Cedar Grove District.</td>
<td>Permitted uses. Restaurants—Full service and casual. Accessory uses. Within the CGD, the following uses shall be permitted accessory uses: An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter. Conditional uses. Within the CGD, no structure or land may be used for the following uses except by conditional use permit: Restaurant—Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.</td>
</tr>
</tbody>
</table>

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:

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†† 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.
(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.\textsuperscript{169}

\begin{itemize}
  \item Food cart means a food and beverage service establishment that is a nonmotorized vehicle self-propelled by the operator.\textsuperscript{170}
  \item Seasonal permanent food stand means a food and beverage service establishment which is a permanent food service stand or building, but which operates no more than 21 days annually.\textsuperscript{171}
  \item Seasonal temporary food stand. (a) "Seasonal temporary food stand" means a food and beverage service establishment that is a food stand which is disassembled and moved from location to location, but which operates for no more than 21 days annually at any one location, except as provided in paragraph (b).

(b) A seasonal temporary food stand may operate for more than 21 days annually at any one place with the approval of the regulatory authority, as defined in Minnesota Rules, part 4626.0020, subpart 70, that has jurisdiction over the seasonal temporary food stand.\textsuperscript{172}

\item Special event food stand. "Special event food stand" means a food and beverage service establishment which is used in conjunction with celebrations and special events, and which operates no more than three times annually for no more than ten total days.\textsuperscript{173}
\end{itemize}

Municipal Code Definitions

\begin{itemize}
  \item Food cart. Not defined by municipal code as of April 27, 2015.
  \item Food stand. Not defined by municipal code as of April 27, 2015.
  \item Mobile food unit. Not defined by municipal code as of April 27, 2015.
  \item Food truck. Not defined by municipal code as of May 15, 2015.
\end{itemize}

Does the municipal code require a permit or license?

The City does not require a license to sell food products from a food cart, mobile food unit, or food stand.

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

Eagan has established additional parking restrictions that are enforced during the winter seasons. These restrictions may impact where a mobile food unit can legally park on the street during the winter months.

Additional Resources

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


Transient Merchant

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

Minnesota State Legal Definitions

★ Transient merchant. 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.

11 This municipal language has not been included in the brief for brevity.

88 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.
Municipal Code Definitions

★ **Transient merchant.** Transient merchant means any person who sells or attempts to sell goods for immediate delivery, the method of which may be from a vehicle or other mobile conveyance or device or a temporary stand and not by means of door-to-door, from a temporary location. If an organization or entity organizes and operates an event, at which there will be the sale of goods to the public or to the attendees of the event by vendors who must register or enroll with the organization or entity in order to sell goods at the event, then the vendor, nonetheless, shall be deemed a transient merchant for purposes of this section. Transient merchant shall not mean any person who sells or attempts to sell goods on property which the person owns or legally occupies a building or portion thereof on the property.177

Does the municipal code require a permit or license?

Yes, it is unlawful to conduct business as either a peddler, solicitor, or transient merchant without first having obtained a permit from the city.178 There are several exemptions to this permitting requirements, including:

1. A person selling product grown, produced, cultivated, or raised on any farm is exempt from this requirement.
2. A person selling goods at a special event on city property, such a farmers’ market or organized fundraiser, is also exempt from this requirement so long as the person is a registered vendor for the event and has a vendor permit issued by the director of parks and recreation.179

What are the relevant regulations?

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

- Permissible hours of operation, 8 a.m. – 8 p.m. (which are significantly stricter than the hours of operation set forth for restaurants, 7 a.m. – 1 a.m.);
- Noise restrictions; and
- Restriction from selling or attempting to sell in public right-of-ways.180

Grocery Store

Grocery stores must comply with the Minnesota state food safety requirements established in Minnesota law and other legal requirements governing food establishments and food and beverage service establishments if the grocery store serves prepared food.181 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.

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

**Minnesota State Legal Definitions***

★ **Food establishment**\(^1\)\(^8\)\(^2\)

A. “Food Establishment” means an operation that:

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

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

**Municipal Code Definitions**

★ **Grocery store.** Not defined by municipal code as of July 10, 2015.

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

No, the City does not require a license for grocery stores or businesses generally.\(^1\)\(^8\)\(^3\)

**What are the relevant regulations?**

Only two zone districts allow specialty food stores or grocery stores. The Neighborhood Business District allows specialty food stores\(^1\)\(^8\)\(^4\) and the Cedar Grove District allows grocery stores that are equal or less than 10,000 square feet in floor area.\(^1\)\(^8\)\(^5\)

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\(^*\)* 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.
Additional Resources

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


Displaying Signs

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

Municipal Code Definitions

★ Sign. Means any surface, facing or object upon which there is printed, painted or artistic matter, design or lighting.\(^{186}\)

Does the municipal code require a license or permit?

Yes, a permit is required for commercial signage.\(^{187}\) A copy of the 2015 sign permit application is available online, here: http://www.cityofeagan.com/images/CommunityDevelopment/BuildingInspections/2015PermitApps/2015.01App_SignPermit.pdf.

What are the relevant regulations?\(^{†††}\)

The City has established numerous restrictions on signage, including:

\(^{†††}\) 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.
• It is unlawful for a person to paste or affix a sign or distribute material in any parks or recreation area; and
• It is unlawful for a person to maintain a sign or advertisement on public property without obtaining a written permit from the council.\textsuperscript{188}

Additionally, the restrictions may vary depending on zoning district.\textsuperscript{189}

\textbf{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.

\textbf{Municipal Code Definitions}

\begin{itemize}
  \item \textbf{Parking.} Not defined by municipal code as of May 21, 2015.
\end{itemize}

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

No.

\textbf{What are the relevant regulations?}

Eagan has set minimum parking requirements for certain establishments, including convenience stores, fast food establishments, restaurants, wholesale stores, and retail stores.\textsuperscript{190}

Please visit the applicable zoning regulations for additional considerations.\textsuperscript{191}
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 creates limited exceptions from the state licensing requirements for some types of food prepared in kitchens that have not been licensed or inspected. A discussion of these exemptions is outside the scope of this document. However, resources providing additional information about these exemptions is provided, below.

Municipal Code Definitions

- **Kitchen**: Not defined by municipal code as of May 15, 2015.

Does the municipal code require a permit or a license?

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

What are the relevant regulations?

No 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:

- **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).

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

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

Subsections:

1. Composting
2. Recycling and Waste Disposal

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

Composting

Composting provides an organic source of nutrients for garden soil, and makes great use of leaf litter, grass clippings, plant debris, certain food scraps, and other decomposed organic matter. Composting programs are used to reduce waste and create a resource of organic matter for farmers and gardeners. Both municipal and state laws may impact composting activities, depending on the type of composting activity. Composting can be an activity limited to an individual household, also known as backyard composting. However, composting can also involve a larger waste stream if a larger commercial facility or business comports 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 regulated by the state may include:

- Odors
- Design requirements
- Discharge and surface water drainage runoff
• Operation requirements (i.e., staff training) ¹⁹³

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. ¹⁹⁴

★ **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. ¹⁹⁵

★ **Composting.** (State Definition) The controlled microbial degradation of organic waste to yield a humus like product. ¹⁹⁶

★ **Operator.** (State Definition) The person or persons responsible for the operation of a facility. ¹⁹⁷

★ **Owner or facility owner.** (State Definition) The person or persons who own a facility or part of a facility. ¹⁹⁸

Municipal Code Definitions:

★ **Composting.** Any aboveground microbial process that converts yard waste to organic soil amendment or mulch, excluding winter plant protection coverings less than one foot in height. ¹⁹⁹

★ **Kitchen waste.** Rinsed egg shells, coffee grounds and chopped vegetables and fruit remains. ²⁰⁰

★ **Yard waste.** Leaves, lawn clippings, garden waste, weeds, Christmas trees and prunings up to six inches in diameter or other materials as may be defined by council resolution. ²⁰¹

★ **Curbside.** The collection point for garbage, yard wastes and recyclables, whereby water tight containers shall be located within the driveway apron or boulevard area behind the street curb and shall not be within the roadway surface area of a street, except where the topography, slope or other impediment of the driveway or boulevard prevent the safe storage of the container and open containers or refuse not placed in containers shall be located not less than three feet from the street or curb. ²⁰²

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

Unclear. The City does not require a permit or license for “backyard composting” but does not define backyard composting. A license is required to haul garbage, refuse, recyclables, yard waste or food waste. ²⁰³
What are the relevant regulations?

Composting is only allowed in residential districts and agricultural districts.\textsuperscript{204} In addition, the City’s code includes a wide range of specific regulations governing composting (including, but not limited to set back requirements, size requirements, compostable materials and restrictions, amongst others).\textsuperscript{205} See the code for additional details.

Additional Resources

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

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

Recycling and Waste Disposal

The food system extends beyond the consumption of food and includes the disposal of food packaging and other non-compostable materials. Many materials can be used or reused through recycling, such as paper, glass, 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.** All putrescible wastes, including animal offal and carcasses of dead animals, but excluding human excreta, sewage and other water-carried wastes.\textsuperscript{206}

- **Refuse.** Ashes, nonrecyclable glass, crockery, cans, paper, boxes, rags and similar nonputrescible wastes (does not decay or have foul odor), and construction or demolition debris, and wood except when stored as firewood in compliance with section 11.10 subd. 32.C.\textsuperscript{207}

- **Recyclables.** Materials that are separated from mixed municipal solid waste for the purpose of recycling, including paper, glass, plastics, metals, automobile oil, and
batteries. Refuse-derived fuel or other material that is destroyed by incineration is not a recyclable material.

★ **Yard waste.** Leaves, lawn clippings, garden waste, weeds, Christmas trees and prunings up to six inches in diameter or other materials as may be defined by council resolution. 208

★ **Residential dwelling.** Any single building consisting of one through four dwelling units with individual kitchen facilities for each. 209

★ **Multiple dwelling.** Any building used for residential purposes consisting of more than four dwelling units with individual kitchen facilities for each. 210

★ **Commercial establishment.** Any premises where a commercial or industrial enterprise of any kind is carried on, and shall include restaurants, clubs, churches, and schools. 211

★ **Curbside.** The collection point for garbage, yard wastes and recyclables, whereby water tight containers shall be located within the driveway apron or boulevard area behind the street curb and shall not be within the roadway surface area of a street, except where the topography, slope or other impediment of the driveway or boulevard prevent the safe storage of the container and open containers or refuse not placed in containers shall be located not less than three feet from the street or curb. 212

**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. 213 A license is required to haul garbage, refuse, recyclables, yard waste or food waste. 214

**What are the relevant regulations?**

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

- Every household in residential and multi-dwelling districts and all commercial establishments shall have garbage and refuse collection.
- It is unlawful for any person to store garbage or refuse on residential dwelling premises for more than one week.
- Occupants of residential dwelling properties jointly managed by associations or others shall have the same opportunity to recycle afforded to occupants of other residential dwelling units. It is unlawful for any residential dwelling association or other residential dwelling joint management entity to negotiate, execute or maintain a contract for residential garbage or other refuse collection unless it includes as a part of that contract or as part of a separate contract weekly collection of recyclables occurring on the same day as their refuse collection. 215
**APPENDIX A: SEARCH TERMS**

<table>
<thead>
<tr>
<th>Fence</th>
<th>Market garden</th>
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<tr>
<td>Arbor</td>
<td>Garden</td>
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<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>
<td>Restaurant</td>
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<td>Greenhouse</td>
<td>Fast food</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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<tr>
<td>Farm animal</td>
<td>Compost</td>
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<tr>
<td>Domestic animal</td>
<td>Recycling</td>
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<tr>
<td>Chicken</td>
<td>Sign</td>
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<td>Bee</td>
<td>Parking</td>
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<td>Chicken coop</td>
<td>Kitchen</td>
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<tr>
<td>Shed</td>
<td>Pantry</td>
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<tr>
<td>Community garden</td>
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</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, the City has set special requirements for accessory buildings, structures, and uses that exceed 120 square feet in size, including: a requirement that the finish materials must be similar and compatible to those utilized on the principal structure and the accessory roof must match the pitch and style of the principal roof.

Municipal Code of Ordinances:

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.40. - General provisions

Subd. 5. Accessory buildings, structures and uses.

A. General standards.

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

2. Accessory buildings exceeding 120 square feet in size shall exhibit finish materials similar and compatible to those utilized on the principal building and match the principal building in color.

3. Accessory buildings shall be maintained in a manner that is compatible with adjacent uses and does not present a hazard to public health, safety and general welfare.

B. Other uses.

1. Buildings and structures accessory to uses other than farms and single-family detached dwellings shall conform to the principal building setback requirements specified for the respective zoning district in which they are located.

2. Buildings and structures accessory to uses other than farms and single-family detached dwellings shall not exceed the district height limit or the height of the principal building, whichever is less, except as otherwise allowed by this chapter.

C. Residential uses, R-1, R-2, and E zoning districts.

1. No accessory use or building shall be allowed within a required front yard setback. With the exception of an attached garage, no accessory building or structure may be placed within the front yard.
2. No more than two detached accessory buildings may be permitted for each dwelling.
3. All accessory buildings shall comply with the following setbacks:

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<th>R-1</th>
<th>R-2</th>
<th>E</th>
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<tr>
<td>Side yard</td>
<td>5 ft</td>
<td>5 ft</td>
<td>10 ft</td>
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<tr>
<td>Front yard or public right-of-way</td>
<td>30 ft</td>
<td>30 ft</td>
<td>30 ft</td>
</tr>
<tr>
<td>Rear yard</td>
<td>5 ft</td>
<td>5 ft</td>
<td>10 ft</td>
</tr>
</tbody>
</table>

4. When an attached garage is present on the site, the total floor area of all detached accessory structures (including garages) shall not exceed 576 square feet.
5. When an attached garage is not present on the site, the total floor area of all detached accessory structures shall not exceed 800 square feet.
6. The roof of all detached accessory structures exceeding 120 square feet in size shall match the pitch and style of the principal structure.
7. In no event shall the height of any attached garage exceed the height of the dwelling.
8. In no event shall the inside wall height of any detached accessory structure, including a detached garage, exceed 11 feet as measured from the floor to the roof decking (maximum eight-foot wall height for accessory structures 120 s.f. or smaller).
9. In no event shall the height of a door opening of any detached accessory structure or attached garage exceed eight feet, as measured from the floor to the trim covering the door header.

D. Agricultural uses. Buildings and structures accessory to farming operations are exempt from the requirements of this subdivision except that a building containing more than two animal units shall not be less than 50 feet from a lot line.

Additional resources:

APPENDIX C: REGULATIONS GOVERNING THE EXTERIOR OF STRUCTURES AND BUILDINGS

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

Municipal Code of Ordinances:

Chapter 4 – Construction Licensing, Permits and Regulation, Excavations and Mobile Home Parks

Section 4.07. Completion of exterior work

A. Exterior work authorized by a building permit issued in accordance with the Minnesota State Building Code must be completed within the specified days set forth below from the date of issuance of the building permit or within the timeframe set by the city’s chief building official at the time the permit is issued, whichever is greater. Exterior work includes work on all exterior parts of a structure or building, including but not limited to: roofs, doors, windows, siding, and stairs, and work on exterior structures, including but not limited to: retaining wall, accessory building (sheds, detached garages), deck, and fence.

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

1. Buildings or structures on residential property including multi-family residential property with up to four units per building:
   - Roofs, siding, replacement doors and windows: 180 days.
   - Accessory structures: 180 days.
   - New construction: 365 days.
   - Additions to primary home: 180 days.
   - Retaining walls: 180 days.

2. Buildings or structures on multi-family residential property with more than four units per building, commercial property and industrial property:
   - Building exterior work: As determined by building official.
   - Exterior structures other than primary building: 180 days.

B. Upon a showing by the permit holder or property owner that there has been an unavoidable delay in completion of the exterior work, the city's chief building official, in the official's
reasonable discretion, may grant one extension for the completion of the exterior work for a period not to exceed 180 days.

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

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

E. This section shall apply to any exterior work for which a building permit was issued on or after the effective date of this section. Any exterior work for which a building permit was issued prior to the effective date of this section shall be completed by August 1, 2012, unless another time was set by the city's chief building official at or after the time of the issuance of the permit. If exterior work has been completed or in progress without the issuance of a building permit, the completion timeframe dates set forth herein do not apply and the city's chief building official shall have the sole authority to determine a completion and code compliance date.
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 in any commercial, multiple residential (R-2, R-3 and R-4), industrial institutional zoning district, and planned development districts, and any existing commercial, industrial or institutional building to be expanded by ten percent or greater square feet, where an approved landscape plan is not on file with the city.

Municipal Code of Ordinances:

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.70 Performance Standards.

Subd. 12. Landscaping.

A. Findings, purpose and scope.

1. The city council finds:

   (a) Trees produce oxygen, a necessary element for human survival;

   (b) Trees appreciably reduce the ever-increasing environmentally dangerous carbon dioxide content of the air and play a vital role in purifying the air breathed;

   (c) Trees transpire considerable amounts of water each day, thereby purifying the air;

   (d) Trees participate in the natural process of neutralizing wastewater passing through the ground from the surface to groundwater tables and lower aquifers;

   (e) Trees, through their root systems, stabilize the groundwater tables and play an important and effective part in soil conservation, erosion control, and flood control;

   (f) Trees are an invaluable physical, aesthetic, and psychological counterpoint to the urban setting, making urban life more comfortable by providing shade and cooling the air and land, reducing noise levels and glare, and breaking the monotony of human developments on the land, particularly parking areas; and

   (g) Trees affect the desirability of land and its property values.

2. Purpose. Based on the foregoing findings, the council declares that it is desirable and essential to the health, safety, and welfare of the city to protect certain existing trees and plant materials, to require new and additional plant materials and trees, to prohibit the
planting of certain species and to require the maintenance of plant materials and trees as set forth in this subdivision.

3. Scope. The provisions of this subdivision shall apply only to privately owned property, excluding any property within public rights-of-way which are regulated in chapter 7 of the Code.

B. Landscape plan.

1. Plan required. A landscape plan shall be approved by the city and implemented by the property owner:

   (a) For any new development or new building construction in any commercial, multiple residential (R-2, R-3 and R-4), industrial institutional zoning district, and planned development districts, except as otherwise provided by specific planned development agreements;

   (b) For any existing commercial, industrial or institutional building to be expanded by ten percent or greater square feet, where an approved landscape plan is not on file with the city; and

   (c) No building permit for any construction described in items (a) and (b) of this subparagraph shall be issued unless a landscape plan required hereunder is approved by the city.

   (d) The plan as required under item (b), above, may be implemented over a period of three years, and a performance guarantee shall not be required. However, if the plan is not fully implemented within three years, the city may complete the landscaping and, if necessary, attempt to recover its cost from the benefitted property for the improvement by billing or assessment, as appropriate.

2. Landscape plan required. In every case where landscaping is required by provision of the Code or by an approval granted by the city, for a building or structure to be constructed on property, the applicant for the building permit shall submit a landscape plan prepared in accordance with the provisions of this subdivision. The landscape plan shall include the following information:

   (a) General. Name and address of developer, owner, and contact person; name and address of state-registered landscape architect, or state-certified nurseryperson; date of plan preparation; date and description of all revisions; name of project or development.

   (b) Site map. One scale drawing of the site based upon a survey of property lines with indication of scale and north point; name and alignment of proposed and existing adjacent on-site streets; location of all proposed and existing utility easements and rights-of-way; location of existing and proposed buildings; topographic contours using main sea level datum at two-foot contour intervals; existing and proposed location of parking areas; water bodies; proposed sidewalks and trails.

   (c) Landscape plan. Two scale drawings of proposed landscaping for the site based upon a survey of property lines with indication of scale and north point; existing and
proposed topographic contours using mean sea level datum at two-foot intervals; details of proposed planting beds and foundation plantings; delineation of both sodded and seeded area; location and identification of proposed landscape or manmade materials used to provide screening from adjacent and neighboring properties; location and identification of trees; details of fences, tie walls, planting boxes, retaining walls, berms and other landscape improvements and details in legible scale; location of landscape islands and planter beds with identification of plant materials used.

(d) Planting schedule. A table containing the common names and botanical names, size of plant materials, root specifications, quantities, and special planting instructions.

3. Performance guarantee.

(a) A performance guarantee shall be required to insure completion and maintenance of all landscaping in accordance with the approved landscape plan required hereunder.

(b) The performance guarantee shall be approved in form as to security by the city.

(c) The performance guarantee shall be in the amount of $7,500.00, subject to modification by the council.

(d) The performance guarantee shall cover two full calendar years subsequent to the completion of the landscaping as provided in the approved landscape plan and shall be released only upon inspection and written notice of conformance by the city.

(e) For any landscaping or screening that is unacceptable, the applicant shall replace the material to the satisfaction of the city before the guarantee is released. Where this is not done, the city, at its sole discretion, may use the proceeds of the performance guarantee to accomplish performance.
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. Eagan 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 Eagan.

Eagan has over twenty (20) zoning districts. Eagan’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 Eagan’s zoning and planning website, http://www.cityofeagan.com/index.php/planning-zoning.

Municipal Code of Ordinances:

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.40. - General provisions

Subd. 1. Application.

A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare.

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

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

D. Whenever in any district a use is neither specifically permitted nor denied, a property owner may request a study by the city to determine whether the particular use is compatible with the zoning district in which it is proposed to be located.

Sec. 11.50. - Administration and enforcement

Subd. 5. Amendments to zoning map (rezoning) and ordinance text.
A. Provisions. The provisions of this chapter may be amended by the majority vote of the council, except that amendments changing the boundaries of any district or changing the regulations of any existing district may only be made by an affirmative vote of two-thirds of all members of the council.

B. Initiation. Proceedings for amendment of this chapter shall be initiated by: (1) a petition proposing a text amendment; (2) a petition of the owner or owners of the property which is proposed to be rezoned; (3) a recommendation of the advisory planning commission; or (4) by action of the council.

C. Petitions. All petitions for amendments shall be filed with the city. If the application is initiated by the owner or owners of the property and involves the changing of zoning districts and boundary thereof, the application shall be accompanied by an abstractor's certified property certificate showing the property owners within 350 feet of the outer boundaries of the property in question. The petition shall be forwarded to the advisory planning commission by the city.

Petitions for amendments shall fill out and submit a rezoning/text amendment application form to the city. If a rezoning of property is proposed, a scaled site plan must be attached indicating the following:

1. A detailed map showing the number of acres in each separate zoning district.
2. Any additional information that may be required under this Code.

D. Public hearing—Notice and procedure. The advisory planning commission shall hold at least one public hearing affording the parties interested the opportunity to be heard and shall give not less than ten days’ nor more than 30 days' notice of the time and place of such hearing, published in the designated legal newspaper of the city. Such notice shall also include the description of the land and the proposed changes in zoning. At least ten days before the hearing, the city shall mail an identical notice to the owners of the property and to each of the property owners within 350 feet of the outside boundaries of the land proposed to be rezoned. Failure to give mailed notice to individual property owners or defects in the notice shall not invalidate the proceeding, provided a bona fide attempt to comply with this subdivision has been made. The council may waive the above mailed notice requirement in connection with a city-wide zoning or amendment to the text of this chapter, initiated by the advisory planning commission or the council. An amendment to the text of this chapter, however, shall also require a public hearing as described above.

E. Referral to advisory planning commission. The council shall not rezone any land or area in any zoning district or make any other proposed amendment to this chapter without first having referred it to the advisory planning commission for its consideration and recommendation.

F. If the advisory planning commission fails to make a report within 60 days after receipt of the application, the council may act without the recommendation. The council may table the petition for further investigation and hearing. The council may also request further information and report from the advisory planning commission.
G. City council action. The city council shall after receiving recommendation from the advisory planning commission and within 60 days of receipt of a completed application unless extended in a manner consistent with Minn. Stat. § 15.99, act on the application, providing appropriate findings of fact to support the action. The city council shall consider whether the property is in compliance with the City Code when rezoning is sought.

H. Reaplication. No application of a property owner for a zoning amendment shall be considered within a period of one year following a denial of such request, except that a new application may be permitted if new evidence or a change of circumstances warrant it.

Sec. 11.60. - Use districts and overlays

Subd. 1. Classification. The following land use districts are hereby established under which all lands in the city shall be classified:

<table>
<thead>
<tr>
<th></th>
<th>Agricultural District</th>
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<tbody>
<tr>
<td>A</td>
<td>The intent of the agricultural district is for agricultural uses and related activities, and a holding area for future development.</td>
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<tr>
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<th>Estate District</th>
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<tbody>
<tr>
<td>E</td>
<td>The intent of the &quot;E&quot; Estate District is for large lot single family residential development.</td>
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<tr>
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<th>Residential Single District</th>
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<tr>
<td>R-1</td>
<td>The intent of the &quot;R-1&quot; Single District is for single family residential development.</td>
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<thead>
<tr>
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<th>Residential Single District – Small Lot</th>
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<tr>
<td>R-1S</td>
<td>The purpose of the &quot;R-1S&quot; Residential Single - Small Lot District is for new single family residential developments on smaller lots to allow for varied housing styles and values within the city. Such district is intended to satisfy issues with existing single-family developments that do not meet standard R-1 requirements, and to allow for cluster-type development for infill developments when appropriate (due to topography, tree and wetland preservation, etc.).</td>
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<th>Residential Double District</th>
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<tr>
<td>R-2</td>
<td>The intent of the R-2 Residential Double District is for two-family residential development.</td>
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<tr>
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<th>Residential Townhouse District</th>
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<tr>
<td>R-3</td>
<td>The intent of the &quot;R-3&quot; Residential Townhouse District is for multi-family residential townhouse developments.</td>
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<td>Code</td>
<td>District Name</td>
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<tr>
<td>R-4</td>
<td>Residential Multiple District</td>
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<tr>
<td>R-5</td>
<td>Manufactured Home Park District</td>
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usual types of industrial structures and operations which more appropriately qualify only under the foregoing industrial classifications.

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<thead>
<tr>
<th>BP</th>
<th>Business Park District</th>
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<td>The Business Park BP District is intended to accommodate development of low intensity office, light industrial and supporting commercial service uses that may be suitable in relative close proximity to non-industrial development. More intensive industrial uses which require either outdoor storage or high truck traffic or both are excluded. The performance standards for this district are intended to establish and maintain high quality site planning, architecture, signage and landscape design to create an attractive and unified development character.</td>
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<th>Planned Development District</th>
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<td>1. Providing greater flexibility in environmental design and relaxation of strict application of the zoning ordinance in exchange for greater creativity and environmental sensitivity.</td>
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<td>2. Recognizing the economic and cultural advantages that will accrue to the residents of a planned community.</td>
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<td>3. Encouraging a more creative and efficient approach to the use of the land.</td>
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<td>4. Encouraging the preservation and enhancement of desirable site characteristics, natural features, and open space.</td>
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<td>5. Encouraging a development pattern that is consistent with land use density, transportation facilities and community facilities objectives of the Comprehensive Plan.</td>
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<table>
<thead>
<tr>
<th>P</th>
<th>Park District</th>
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<tbody>
<tr>
<td></td>
<td>The Park District is intended for public and private park uses and related facilities.</td>
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<tr>
<th>PF</th>
<th>Public Facilities/Industrial District</th>
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<tbody>
<tr>
<td></td>
<td>The purpose of this district is for city, state, and federal government buildings, public and private schools and hospitals.</td>
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<thead>
<tr>
<th>CGD</th>
<th>Cedar Grove District</th>
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<tbody>
<tr>
<td></td>
<td>The intent of the &quot;CGD&quot; Cedar Grove District is to provide an area for compact, mixed use development made mutually compatible through a combination of careful planning and urban design and coordinated public and private investment. The mixture of land uses within the district is essential to establishing the level of vitality and intensity needed to support retail and service uses. The placement of building edges and treatment of building, parking, landscaping, and pedestrian spaces is essential to creating the pedestrian-friendly environment envisioned for the Cedar Grove District. The standards in this ordinance are intended to implement and</td>
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effectuate the principles and relationships established in the City of Eagan Cedar Grove Design Framework, which will be carried out through specific standards related to site planning, architecture, building materials, landscaping, signage and other elements.

<table>
<thead>
<tr>
<th>T</th>
<th>Transitional District</th>
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<tbody>
<tr>
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<td><strong>The intent of the (T) Transitional Zoning District is:</strong></td>
</tr>
<tr>
<td></td>
<td>1. To provide for the maintenance of existing uses on parcels of land that are inconsistent with the adopted Comprehensive Guide Plan land use designation.</td>
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<tr>
<td></td>
<td>2. To provide for the continued present use of a parcel of land until such time as market forces warrant a change to a use consistent with the Comprehensive Guide Plan land use designation.</td>
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<tr>
<th>S</th>
<th>Shoreland Overlay District</th>
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| FP | Floodplain Overlay District |
Gardening

Chapter 10 – Public Protection, Crimes and Offenses

Section 10.21 Planting and maintenance of trees and grass on private property

Subd. 1. Purpose and application. The regulations set forth in this section are for the purposes of protecting and promoting the public health, safety and general welfare of the people of the city by regulating the planting and maintenance of trees in order to protect trees and to prevent and abate hazardous and nuisance trees and conditions within the city. It is also the purpose of this section to regulate establishment of turf grass or other permitted vegetation to promote proper maintenance of vegetation, control noxious weeds, and encourage the planting and maintenance of other permitted vegetation to provide diversity and environmental benefits. This section applies to all private property at all times on a continuing basis.

Subd. 3. Establishment and maintenance of turf grass and other permitted vegetation.

A. Any property that has been approved by the city for development or has been improved with a building, as defined in the building code, including vacant property combined with an improved property for property tax purposes, shall have established and maintained turf grass or permitted vegetation subject to the following requirements:

1. Permitted vegetation establishment required. All areas of a property that constitutes the yard of the property, as the term is defined in the land use regulations of this Code, and that is not otherwise occupied by the driveway or other parking surface, sidewalk, structures, landscape beds, or recreational improvements (such as: swimming pool, tennis or sport court, play equipment) shall be covered by turf grasses, permitted vegetation or woodland that are compatible with the property's existing conditions, including soil, slope and shade conditions.

2. Turf grass establishment required. All areas of a property, which is not a residential property as defined in this section, constituting the yard of the property, as the term is defined in the land use regulations of this Code, and that is not otherwise occupied by the driveway or other parking surface, sidewalk, structures, landscape beds, recreational improvements (such as: swimming pool, tennis or sport court, play equipment) or established woodland shall be covered by turf grasses that are compatible with the property's existing conditions, including soil, slope and shade conditions. Notwithstanding the foregoing, up to 50 percent of all disturbed or maintained areas requiring turf grass may be restored to a meadow or woodland condition, provided the requirements herein are met.

3. The establishment of turf grass, permitted vegetation or woodland, as required herein for the property, shall be completed within eight months of the issuance of a certificate of occupancy or within 12 months of issuance of a building permit, whichever is earlier. Turf
grass establishment shall be completed through sodding or seed and mulch. Any turf grass establishment on and within three feet of all impervious surfaces shall be accomplished through sodding.

4. The property owner shall be responsible for supplemental watering of all areas established with turf grass, permitted vegetation or woodland to ensure sufficient establishment and root development.

5. All areas of the property shall comply with the requirements of the provisions of the land disturbance and erosion control regulations and any other provisions of the City Code as applicable.

6. If any property, or portion thereof, is established as or restored to meadow or woodland, then all vegetation existing in the proposed establishment or restoration area shall be eliminated in its entirety and the meadow or woodland vegetation shall be established through transplanting, seeding or other means of propagation. Any meadow or woodland restoration area should be consistent with the Minnesota Department of Natural Resources’ native planting and restoration best practices methods and standards.

7. No area established as or restored to a woodland or meadow condition shall have any unmanaged vegetation or any prohibited tree species as provided in this section.

8. A minimum three-foot-wide buffer of turf grass shall be established and maintained along the property boundary line of the property where permitted vegetation other than turf grass, meadow or woodlands abuts established turf grass on the adjoining property in order to provide a transition zone between the two types of plant communities. The minimum three-foot setback need not be maintained as required in this paragraph if: (a) a fence is installed along the property line pursuant to a zoning permit; (b) the permitted non-turf grass vegetation, meadow or woodland abuts a public park, open space, a vacant lot, or a wetland, pond, lake, stream or natural area; or (c) the planting area is located on slopes equal to or greater than three feet horizontal to one foot vertical (3:1).

9. Soil erosion prevention measures shall be completed during the transition or establishment period of any meadow, woodland or other permitted vegetation area and shall comply with the provisions of the land disturbance and erosion control plan in effect for the property.

10. No shrub, tree, vegetation except turf grass, or any landscape material(s) may be planted or maintained within the public right-of-way, unless approved by the city pursuant to a right-of-way permit as regulated elsewhere in this Code.

11. Rain gardens shall be constructed and maintained in accordance with the best practice methods and standards of the Minnesota Pollution Control Agency or other similar industry practices and standards for rain gardens.

12. Unmanaged vegetation is prohibited and shall not be permitted or maintained on any property.

B. Turf grass and other permitted vegetation maintenance standards.
1. Vegetation on a property shall not exceed a height of eight inches, measured from the base at ground level to the tip of each stalk, stem, blade or leaf, except permitted vegetation other than turf grass that naturally exceeds eight inches in height due to the plant’s cultivar.

2. Paragraph 1 above shall not apply to the following:

(a) A wetland designated on the official city wetland inventory or zoning map or along the shoreline of a lake, pond or stream;

(b) A drainage pond or ditch that stores or conveys stormwater;

(c) An area currently being used as pasture land for domestic hoofed animals when permitted by the city’s land use regulations in this Code;

(d) An area of land that has not been graded, landscaped, mowed or otherwise previously disturbed by human or mechanical means;

(e) A steeply sloped area that makes mowing or cutting vegetation not reasonably practical for equipment operation or safety; and

(f) A meadow or woodland area established and maintained in accordance with the provisions of this subdivision.

Subd. 4. Public nuisance. The following shall constitute a public nuisance and shall be immediately abated by the property owner:

(a) Noxious weeds;

(b) Vegetation in violation of this section;

(c) Vegetation in violation of the public rights-of-way plant and vegetation placement provisions in the City Code; and

(d) Unmanaged vegetation.

Subd. 5. City to control tree planting. It is unlawful to plant on any lot or land parcel any tree or seed therefrom that is a prohibited species where such trees are not naturally occurring. Prohibited species are defined as the following trees: Ginkgo (female only), Box elder, Non-disease-resistant elm species, Nonhybrid cottonwood species

Subd. 6. Shade tree diseases.

A. It is unlawful for any person to keep, maintain or permit, any nuisance as defined in section 10.20 of the City Code.

B. Inspection, diagnosis and abatement of a nuisance shall be in accordance with the procedures and methods specified in section 10.20 of the City Code.

Subd. 7. Abatement. If any such owner fails to assume the primary responsibility described in subdivisions 2, 3, or 4 of this section or to abate any public nuisance under this section, then the
city's performance of the work necessary for compliance of this section or the abatement of the public nuisance shall be in accordance with this chapter.\textsuperscript{228}

Section 10.37 - Equipment and construction activity noise regulations

The following activity shall be unlawful on public or private property between the hours of 10:00 p.m. and 7:00 a.m.:

... C. The use of power lawn or landscape maintenance equipment, including but not limited to: lawn mowers; hedge trimmers; grass/weed trimmers; garden tillers; chainsaws; leafblowers; wood chippers\textsuperscript{229}

Chapter 3 - Municipal and Public Utilities - Rules and Regulations, Rates, Charges, and Collections

Sec. 3.20. - Rules and regulations relating to water service.

Restricted hours for sprinkling. Whenever the city shall determine that a shortage of water threatens the city, it may limit the times and hours during which water may be used from the city water system for lawn and garden sprinkling, irrigation, car washing, air conditioning, and other uses, or either or any of them. It is unlawful for any water consumer to cause or permit water to be used in violation of such determination after public announcement thereof has been made through the news media specifically indicating the restrictions thereof.

Chapter 11: Land use planning (zoning)

<table>
<thead>
<tr>
<th>Sec. 11.60. - Use districts and overlays</th>
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<tbody>
<tr>
<td>&quot;A&quot; Agricultural District.</td>
<td>Permitted accessory uses. Gardening and other horticultural uses where no sale of products is conducted on the premises.</td>
</tr>
<tr>
<td>&quot;E&quot; Estate District.</td>
<td>Permitted accessory uses. Within any estate district, no structure or land or use of land shall be permitted except for one or more of the following uses or uses deemed similar by the council: Gardening and other horticultural uses where no sale of products is conducted on the premises.</td>
</tr>
<tr>
<td>&quot;R-1&quot; Residential Single District.</td>
<td>Permitted accessory uses. Within the R-1 district, no structure or land or use of land shall be permitted except for one or more of the following uses or uses deemed similar by the council: Gardening and other horticultural uses where no sale of products is conducted on the premises.\textsuperscript{230}</td>
</tr>
<tr>
<td>&quot;R-IS&quot; Residential Single - Small Lot District.</td>
<td>Permitted accessory uses. Within the &quot;R-IS&quot; district, no structure or land or use of land shall be permitted except for one or more of the following uses or uses deemed similar by the council: Gardening and other horticultural uses where no sale of products is conducted on the premises.</td>
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### "R-2" Residential Double District

**Permitted accessory uses.** Within the R-2 district, no structure or land or use of land shall be permitted except for one or more of the following uses or uses deemed similar by the council: Gardening and other horticultural uses where no sale of products is conducted on the premises.

### "R-3" Residential Townhouse District

**Permitted accessory uses.** Within the R-3 district, no structure or land or use of land shall be permitted except for one or more of the following uses or uses deemed similar by the council: Gardening and other horticultural uses where no sale of products is conducted on the premises.

### "R-4" Residential Multiple District

**Permitted accessory uses.** Within the R-4 district, no structure or land or use of land shall be permitted except for one or more of the following uses or uses deemed similar by the council: Gardening and other horticultural uses where no sale of products is conducted on the premises.

### Sec. 11. 66 – Floodplain Overlay Districts: Floodway District (FW) and Fringe District (FF)

**Floodway district (FW) and flood fringe district (FF).**

**Floodway district (FW) permitted uses.** The following uses shall be permitted uses within the floodway district (FW), provided they are not prohibited by any other Code provision and comply with the standards for floodway permitted uses set forth herein: 5. Residential uses not involving a structure, such as: lawns, gardens, parking areas and play areas.

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**Farming**

### Chapter 10 – Public Protection, Crimes and Offenses

Sec. 10.53. - Building and structure safety and appearance regulations.

**Subd. 1. Building and structure appearance and maintenance requirements.**

A. Any building or structure other than accessory buildings on farms is a public nuisance if its exterior does not comply with the following requirements...

### Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.60. - Use districts and overlays

**Subd. 3. "A" Agricultural District.**

A. **Purpose.** The intent of the agricultural district is for agricultural uses and related activities, and a holding area for future development.

B. **Permitted uses.** Within any agricultural district no structure or land shall be used except for one or more of the following uses or uses deemed similar by the council:
1. Agriculture.

2. Freestanding satellite dishes, subject to the regulations thereof elsewhere in this chapter.

3. Public parks, playgrounds and public utility service facilities.

4. Public utility tower mounted antennae, subject to the regulations thereof elsewhere in this chapter.

5. Stands for the sale of agricultural products provided said products are raised on the premises.


Sec. 11.66. – Floodplain Overlay Districts: Floodway District (FW) and Flood Fringe District (FF)

Subd. 5. Floodway district (FW) and flood fringe district (FF).

A. Floodway district (FW) permitted uses. The following uses shall be permitted uses within the floodway district (FW), provided they are not prohibited by any other Code provision and comply with the standards for floodway permitted uses set forth herein:

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

Sec. 11.70. – Performance standards

Subd. 16. Fences.

A. Construction and maintenance. (2) Above-ground electric boundary fences shall only be permitted in the A district when the property is an active farm.

Farm Animals

Chapter 10 – Public Protection, Crimes and Offenses

Section 10.12 – Animals and fowl – Keepings, transporting, treatment, housing

Subd. 2. Keeping. It is unlawful for any person to keep or harbor any animal, not in transit, except (1) farm animals kept in that portion of the city zoned agricultural and containing not less than five acres, or (2) animals kept as part of a show licensed under the City Code, or (3) animals used in a parade for which a permit has been issued, or (4) animals kept in a laboratory for scientific or experimental purposes, or (5) animals kept in an animal hospital or clinic for treatment by a licensed veterinarian, or (6) animals kept in a pet shop licensed under the City Code, or (7) as otherwise provided in this section.
Subd. 2(a). Kennels. It is unlawful for any person to keep or harbor a total of four or more dogs, cats, ferrets, or rabbits, or a combination thereof, over six months of age, without first obtaining a kennel license from the city as regulated in Chapter 6 of this Code.

Subd. 3. Animals in transit. It is unlawful for any person to transport animals unless they are (1) confined within a vehicle, cage or other means of conveyance, or (2) farm animals being transported in a portion of the city zoned agricultural, or (3) restrained by means of bridles, halters, ropes or other means of individual restraint.

Subd. 4. Treatment. It is unlawful for any person to treat any animal, as herein defined, or any other animal in a cruel or inhumane manner.

Subd. 5. Housing. It is unlawful for any person to keep any animal, as herein defined, or any other animal in any structure infested by rodents, vermin, flies or insects or inadequate for protection against the elements.

Subd. 6. Trespasses. It is unlawful for any person to herd, drive or ride any animal over and upon any grass, turf, boulevard, city park, cemetery, garden or lot without specific permission therefor from the owner.

Regulations governing the harboring of carrier pigeons:

A. Definitions. As used in this subdivision, the following definitions shall apply:

1. Carrier pigeon means any homing or racing pigeon which has the name of the owner stamped upon the wing or tail or is banded upon the leg with the name or initials of the owner or with an identification or registration number stamped on the band.

2. Homing pigeon and racing pigeon mean a pigeon registered with a national pigeon racing organization and used as a game and competitive bird. Homing and racing pigeons shall not constitute "fowl" as otherwise used in this section unless such pigeons are raised for food or for similar commercial purposes.

3. Loft means one or more structures in which carrier pigeons are housed.

4. Pigeon means a member of the family Columbidae.

B. Carrier pigeon permit required. It is unlawful for any person to keep, harbor, maintain, possess, or otherwise control any carrier pigeon without first obtaining a permit therefor from the city. The fees for a permit hereunder shall be established by the council, by resolution, from time to time. Each permit hereunder shall be issued for a period of one year from its date of issuance.

C. Permit application. An application for a permit hereunder shall be filed with the city clerk upon an application form furnished by the city. A permit hereunder may not be renewed unless an application is filed pursuant to this subdivision and the animal control officer inspects the premises and lofts thereof. All applications for permit
renewal shall be filed within 60 days prior to the expiration of the present operating permit. The application shall include, but not be limited to, the following:

1. The name and addresses of the following persons:
   (a) The applicant signed thereto; and
   (b) The owner or owners of the premises on which carrier pigeons are sought to be kept for which the application is submitted;
2. The location and legal description of the premises on which carrier pigeons are sought to be kept;
3. The number of carrier pigeons kept and harbored on the premises;
4. Verification of identification marks stamped on each carrier pigeon or each carrier pigeon is banded upon the leg with the name or initial of the owner or an identification registration number stamped on the band;
5. A sketch plan of the premises on which carrier pigeons are sought to be kept, including the location, dimensions and design of the loft; and
6. Any other and further information as the city deems necessary.

D. Granting or denying issuance of permit. The city clerk may grant a permit hereunder. The city clerk shall deny a permit hereunder for any of the following reasons:

1. The application is incomplete and contains false, fraudulent or deceptive statements.
2. The applicant has not complied with one or more of the provisions hereunder.
3. The premises or loft thereof for which the permit is sought is not in compliance with all provisions of this subdivision, other City Code provisions or state laws relating to zoning, health, fire, building or safety regulations.
4. The applicant or owner of the premises or carrier pigeons harbored or kept thereon has been convicted of a violation under this subdivision.
5. The applicant is not the owner of the pigeon(s) and is not the occupant of the property for which the permit is issued.
6. The applicant is not a member in good standing of an organized pigeon club, such as the American Racing Pigeon Union, Inc., the International Federation of Racing Pigeon Fanciers, the National Pigeon Association, the American Tippler Society, the International Roller Association, the Rare Breeds Pigeon Club, or a local club that has rules that will help preserve the peace and tranquility of the neighborhood.

No permit shall be issued for any property less than one-half acre in size.
E. **Conditions of permit.** A permit granted by the council hereunder shall be subject to the following conditions and to such other conditions as the council may deem necessary and expedient for the protection of health, safety and general welfare of the city:

1. **Inspection.** The premises and loft(s) thereon for which a permit is issued shall at all reasonable times be open to inspection by the animal control officer or any other city official to determine compliance with this subdivision, other City Code provisions or state laws relating to zoning, health, fire, building or safety regulations.

2. **Transferability of permit.** Any permit issued hereunder shall be nontransferable except upon application to and with the consent of the city clerk. An application for the transfer shall be made as an application for issuance of the initial permit and shall conform in all respects with the provisions of subparagraph B, above, governing the filing of the original application. The application for transfer is to be accompanied by a transfer fee as to be determined by council resolution.

3. **Specifications.** The construction and location of the loft shall be in compliance with the building and zoning regulations of the city and the following requirements:

   (a) No more than two lofts, of which each shall not be greater in size than 24 feet × 12 feet × 14 feet shall be on the premises.

   (b) No more than 100 pigeons over three months of age shall be kept or harbored on the premises for which the permit applies.

   (c) No loft shall be within 25 feet of any inhabited dwelling.

   (d) Each loft shall be maintained in a clean and sanitary condition and kept in good repair, including the removal and disposal of all pigeon waste weekly or more often as required to keep the loft in a sanitary and odor-free condition.

   (e) Each loft shall have at least two square feet of floor space for each mature carrier pigeon kept therein.

   (f) All carrier pigeons shall be fed within the confines of the loft, and all feed for the carrier pigeons shall be stored in such containers as to protect against infestation of rodents and other vermin.

   (g) All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training and competition; provided no carrier pigeon shall be released for flying within eight hours of its feeding.

   (h) No pigeon shall perch or linger on the buildings or property of others.
F. Revocation of permit. Any violation of any provision of this section or any conditions of the permit issued hereunder or any misdemeanor and petty misdemeanor conviction of the permit holder under this subdivision shall constitute grounds for revocation of a permit issued hereunder.

Regulations governing the harboring and keeping of chickens:

A. Definitions. As used in this subdivision, the following definitions shall apply:

1. Chicken means a fowl of the genus Gallus and species Gallus domesticus that is commonly referred to as domesticated fowl.

2. Chicken coop means any structure used for the housing of chickens.

3. Chicken run means a fenced outdoor area for the keeping and exercising of chickens.

4. Rooster means a male chicken.

B. Chicken permit required. It is unlawful for any person to keep, harbor, maintain, possess, or otherwise control any chicken within the city, except:

1. In an area zoned as agricultural; or

2. Pursuant to a permit issued by the city under this subdivision on a parcel of record zoned for single family detached dwelling.

C. Permit application and permit fees. An application for a permit hereunder shall be filed with the city clerk upon an application form furnished by the city. The permit fee, which shall be paid and filed with the permit application, shall be in an amount established by city council resolution. A permit issued hereunder shall be for duration of one year from its date of issuance. An application for permit renewal shall be filed 60 days prior to the expiration of the current permit. The permit application shall include, but not be limited to, the following:

1. The full name and address of the following persons:

   (a) The applicant signed thereto; and

   (b) The owner(s) of the premises on which chickens are sought to be kept and for which the permit would apply;

2. The street address of the premises on which chickens are sought to be kept;

3. The number of chickens to be kept on the premises;

4. A detailed sketch plan of the premises on which chickens are sought to be kept, including the location, the dimensions and design of the coop and run, establishing compliance with the chicken coop and run specifications provided in this subdivision;
5. A statement certifying whether the property's homeowners' association rules, if any, prohibit the keeping of chickens on the property for which the application is sought;

6. If the applicant is not the fee owner of the premises on which the chickens are sought to be kept and for which the permit would apply, the application shall be signed by all fee owners of the premises.

7. Any other and further information as the city deems necessary.

D. Granting or denying issuance of permit. The city clerk may grant an initial or renewal permit under this subdivision; however, a permit may not be issued or renewed unless the application filed demonstrates compliance with the requirements of this subdivision. A permit shall not be issued or renewed until the animal control officer inspects and approves the premises, including the chicken coop and run, at which chicken are sought to be kept. The city clerk shall deny a permit hereunder for any of the following reasons:

1. The application is incomplete or contains false, fraudulent or deceptive statements.

2. The applicant does not or has not complied with one or more of the provisions of this subdivision.

3. The premises for which the permit is sought, including, but not limited to, the proposed or existing chicken coop or run, is not in compliance with any provisions of this subdivision, other city code provisions or state laws relating to zoning, health, fire, building or safety.

4. The proposed chicken coop would result in a violation of or be inconsistent with the accessory structure zoning regulations elsewhere in this Code.

5. The applicant or owner of the premises where the chickens are to be kept has been convicted of a violation under this subdivision.

6. The applicant is not the owner of the chickens proposed to be kept on the premises.

7. The applicant is not the occupant of the premises for which the permit is sought to be issued.

E. Conditions of permit. A permit granted under this subdivision shall be subject to the following conditions:

1. Ownership. The owner of the chickens must occupy the premises for which the permit is issued.

2. Inspection. The premises, including the coop and run thereon, for which a permit is issued shall at all reasonable times be open to inspection by the animal control officer or any other city official to determine compliance with
this subdivision, other city code provisions and state laws relating to zoning, health, fire, building or safety.

3. Transferability of permit. A permit issued hereunder shall be nontransferable. It is unlawful to keep, harbor, maintain, possess, or otherwise control any chicken on property that is not identified on the permit.

4. Specifications for feeding chickens. All feed for the chickens shall be stored in water-tight and vermin-proof containers.

5. Specifications of chicken coop and run. A chicken coop and run are required. The construction and location of the chicken coop and run shall be in compliance with the applicable building and zoning regulations of the city and the following requirements:

   (a) The interior floor space of the chicken coop shall be a minimum size of two square feet for each chicken authorized under the permit.

   (b) The exterior finish materials of the chicken coop shall be: (i) weather-resistant, protective covering material, decay-resistant wood, or if exterior finish wood is not decay resistant, then the wood finish shall be protected from the elements and decay by paint or protective covering (e.g., siding, fascia wrap); and (ii) in accordance with the accessory structure regulations set forth in the zoning regulations in this Code.

   (c) The construction of and materials used for the chicken coop and run must be adequate to prevent access by rodents.

   (d) The chicken run shall be attached to the chicken coop. The chicken coop and run shall be deemed as a single structure and subject to the accessory structure regulations set forth in the zoning regulations of this Code.

   (e) The floor area of the chicken run shall be a minimum size of five square feet for each chicken authorized under the permit.

   (f) The chicken run shall be fully enclosed by fencing or other similar material.

   (g) No chicken coop or run, or any portion thereof, shall be within 25 feet of the outer perimeter of any inhabitable building.

   (h) The chicken coop and run shall be setback at least ten feet from the rear lot line and at least five feet from the side lot lines. On properties zoned estate, the coop and run shall be setback at least ten feet from the rear and side lot lines. The chicken coop and run, or any portion thereof, shall not be located in the front yard, which is defined as any area located between the front lot line and the front setback line or front building line, whichever is further from the front lot line, running from side lot line to side lot line.
(i) The chicken coop and run shall be kept in good repair as to be in compliance with the property maintenance regulations elsewhere in this Code.

(j) The chicken coop and run shall be kept in a sanitary and odor-free condition, including the regular and frequent removal and proper disposal of any accumulated chicken feces or waste, dirt or filth that could create a safety or health hazard.

(k) The chicken coop and run shall be immediately removed if a permit granted under this subdivision expires or is revoked.

6. Regulations. The keeping, harboring, maintaining, or possessing of any chicken under a permit issued pursuant to this subdivision shall be in accordance with the following:

(a) No more than five chicken shall be kept or harbored on the premises to which the permit applies.

(b) Roosters are prohibited.

(c) Slaughtering of chickens on any property zoned for residential use is prohibited.

(d) No chickens shall be kept, maintained, housed or permitted inside any residential dwelling or any garage.

(e) No chickens shall be permitted to run at large. The term "run at large" is defined as any chicken freely roaming in any area not on the premises to which the permit applies. The chicken shall be deemed to be permitted to run at large when the premises to which the permit applies is not securely enclosed by a proper boundary fence as to prevent a chicken from leaving the premises.

(f) If the chickens are not contained at all times to the coop and run and allowed to freely roam within the yard, the property shall be enclosed by a fence in accordance with the fence regulations set forth in the zoning regulations of this Code and which by material and design prevents a chicken from leaving the premises.

(g) Chickens shall not be kept in such a manner as to constitute a public nuisance. Any violation of the provisions of this subdivision shall be deemed a public nuisance.

(h) No chicken eggs shall be sold or offered for sale; all chicken eggs shall be for personal use or consumption.
7. Revocation of permit. A violation of any provision of this subdivision or any provisions of the permit issued hereunder shall constitute grounds for revocation of a permit.\textsuperscript{231}

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.60. – Use districts and overlays

Subd. 3. "A" Agricultural District.

D. Permitted accessory uses.

10. The keeping of domestic animals (household) for noncommercial purposes, for the use of the occupants of the premises.\textsuperscript{232}

Chicken Coops

Chapter 10 – Public Protection, Crimes and Offenses

Section 10.12 – Animals and fowl – Keepings, transporting, treatment, housing

5. Specifications of chicken coop and run. A chicken coop and run are required. The construction and location of the chicken coop and run shall be in compliance with the applicable building and zoning regulations of the city and the following requirements:

(a) The interior floor space of the chicken coop shall be a minimum size of two square feet for each chicken authorized under the permit.

(b) The exterior finish materials of the chicken coop shall be: (i) weather-resistant, protective covering material, decay-resistant wood, or if exterior finish wood is not decay resistant, then the wood finish shall be protected from the elements and decay by paint or protective covering (e.g., siding, fascia wrap); and (ii) in accordance with the accessory structure regulations set forth in this Code.

(c) The construction of and materials used for the chicken coop and run must be adequate to prevent access by rodents.

(d) The chicken run shall be attached to the chicken coop. The chicken coop and run shall be deemed as a single structure and subject to the accessory structure regulations set forth in the zoning regulations of this Code.

(e) The floor area of the chicken run shall be a minimum size of five square feet for each chicken authorized under the permit.

(f) The chicken run shall be fully enclosed by fencing or other similar material.

(g) No chicken coop or run, or any portion thereof, shall be within 25 feet of the outer perimeter of any inhabitable building.
(h) The chicken coop and run shall be setback at least ten feet from the rear lot line and at least five feet from the side lot lines. On properties zoned estate, the coop and run shall be setback at least ten feet from the rear and side lot lines. The chicken coop and run, or any portion thereof, shall not be located in the front yard, which is defined as any area located between the front lot line and the front setback line or front building line, whichever is further from the front lot line, running from side lot line to side lot line.

(i) The chicken coop and run shall be kept in good repair as to be in compliance with the property maintenance regulations elsewhere in this Code.

(j) The chicken coop and run shall be kept in a sanitary and odor-free condition, including the regular and frequent removal and proper disposal of any accumulated chicken feces or waste, dirt or filth that could create a safety or health hazard.

(k) The chicken coop and run shall be immediately removed if a permit granted under this subdivision expires or is revoked.

Fence

Chapter 7 – Streets and Sidewalks Generally

Sec. 7.05 - Obstructions and excavations within public rights-of-way (streets or sidewalks/trails)

Subd. 1. Application and scope. This section shall not apply to obstructions or excavations within public rights-of-way by a person or entity owning or controlling a utility service facility therein, which is regulated elsewhere in this chapter.

Subd. 3. Obstructions and excavations. No person shall excavate, obstruct, or place, deposit, display, install, or maintain any obstruction, including but not limited to: a fence, goods, building or landscaping materials, any structure, landscaping, electrical cords or devises of any kind or other objects, or sell or offer for sale any goods or merchandise within any public right-of-way. This paragraph shall not apply to operable and registered motor vehicles lawfully parked within the street or upon a portion of a driveway within the public right-of-way, provided the motor vehicle is not blocking any portion of a sidewalk or trail and is not used in connection with the sale of any goods. No violation shall occur if the person obtains a written permit from the council for the excavation or obstruction, provided a permit will be issued only for mailboxes, irrigation systems and landscaping that do not create a public safety concern and are placed and maintained in compliance in all respects with the terms and conditions of such permit and the regulations of this Code. This subdivision shall not apply to any person who is selling merchandise from a motor vehicle that travels through the streets and stops only to make an immediate sale and does not park to await customers or sales. This subdivision shall not apply to any person participating in a special event for which a special event permit has been issued and in accordance with terms of the special event permit as governed elsewhere in this Code.

Chapter 10 – Public Protection, Crimes and Offenses

Sec. 10.53 - Building and structure safety and appearance regulations.
**Fence:** Any structure, wall, or gate erected as a permanent dividing marker, partition, visual or physical barrier, or enclosure, excluding any permitted temporary fence as regulated in the zoning regulations of this Code, within a parcel of land regardless if the parcel is platted or unplatted.

Subd. 1. Building and structure appearance and maintenance requirements.

A. Any building or structure other than accessory buildings on farms is a public nuisance if its exterior does not comply with the following requirements:

1. An owner, lessee, or occupant of property or a dwelling may not allow the accumulation of dirt or filth on the exterior premises occupied or controlled in a manner that could create a health hazard to the dwelling occupants or the general public. All exterior property and premises shall be maintained in a clean, safe and sanitary condition.

2. No part of any exterior surface shall have deterioration, holes, breaks, gaps, or loose or rotting siding. All exterior surfaces including, but not limited to, doors, door and window frames, cornices, porches and trim, shall be maintained in a good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment.

3. Every exterior surface shall be maintained to avoid noticeable deterioration of the finish. No wall or other exterior surface shall have peeling, cracked, chipped, or otherwise deteriorated surface finish on more than 20 percent of:

   (a) Any one wall or other surface; and

   (b) All door and window moldings, eaves, gutters, and similar projections on any one side or surface.

4. Every window, exterior light fixture, skylight, door and frame shall be kept in sound condition, good repair, weather tight, and shall be maintained free from cracks and holes.

5. All cornices, moldings, decorative features, lintels, sills, bay or dormer windows, and similar projections shall be kept in good repair and free from cracks and defects which make them hazardous or unsightly.

6. All siding and masonry joints, including joints between the building envelope and the perimeter of windows, doors, and skylights, shall be maintained weather resistant and water tight.

7. Roof structures, including but not limited to: drains, gutters and downspouts, facia and trim, shall be maintained in good repair. All roof drainage systems shall be attached securely.

8. Chimney, antennae, air vents, and other similar projections shall be structurally sound and in good repair. Such projections shall be attached securely, where applicable, to an exterior wall or roof.

9. Retaining walls shall be structurally sound and in good repair.
10. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in sound and good repair and maintained free from hazardous conditions.

11. All foundation walls shall be maintained so as to prevent the entry of rodents.

12. Every exterior stairway, ramp, deck, porch, balcony, and all appurtenances attached thereto, shall be kept in sound and good repair, maintained structurally sound and free of hazardous conditions, anchored and capable of supporting the imposed loads.

13. Every handrail and guardrail shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in sound and good repair and free from hazardous conditions.

B. Any fence is a public nuisance if it does not comply with the following requirements:

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

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

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

4. No fence section shall have peeling, cracked, chipped or otherwise deteriorated surface finish, including but not limited to: paint or other protective covering or treatment, on more than 20 percent of any one linear ten-foot section of the fence.²³⁵

Sec. 10.32 - Obstructions and dumping on public property.

Subd. 1. Obstructions. It is unlawful for any person to excavate, obstruct, or place, deposit, display, install, or maintain, or offer for sale any object or materials, including but not limited to: any fence, goods, building or landscaping materials, any structure, any landscaping, any garbage or refuse of any kind, or other objects, on or within any public property, unless granted written permission from the city. This paragraph shall not apply to operable and registered motor vehicles lawfully parked within any designated public parking area, provided the motor vehicle is not blocking any portion of a sidewalk or trail and is not used in connection with the sale of any goods. This subdivision shall not apply to any person participating in an event for which a special event permit or public facility permit has been issued and in accordance with the terms of the permit.²³⁶

Chapter 4 – Construction Licensing, Permits and Regulation, Excavations and Mobile Home Parks

Section 4.07. Completion of exterior work:

Please see Appendix C for more information.
Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.40. - General provisions.

Subd. 1. Application.

A. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare.

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

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

D. Whenever in any district a use is neither specifically permitted nor denied, a property owner may request a study by the city to determine whether the particular use is compatible with the zoning district in which it is proposed to be located.

…

Subd. 3. Lot provisions. A duly created lot of record shall be deemed a buildable lot, provided all of the following are met:

A. The lot shall have a minimum of 50 feet of frontage on a public street or the lot shall have been approved in platting a condominium project or an attached dwelling project wherein a contiguous lot, owned in common, provides said frontage.

B. There shall be no more than one principal building on one lot except when approved as a part of a planned development.

C. The lot shall be capable of supporting a building(s).

D. The lot shall be of sufficient size to accommodate a building(s) within the minimum required building setbacks for the particular zoning district in which it is located.

E. If two or more contiguous lots are in single ownership and if all or part of the lots do not meet the width and area requirements of this chapter for lots in the district, the contiguous lots shall be considered to be an undivided parcel for the purpose of this chapter. If part of the parcel is sold, the sale shall constitute a self-created hardship under the variance provisions of this chapter.

Subd. 4. Required yards and open space.

A. Whenever a park or play area is so located that it abuts on a public right-of-way or railroad right-of-way, either a landscaped yard area of at least 30 feet shall maintained
from such right-of-way and the nearest developed play space, or a fence in conformity with subdivision 20 of this section, or similar barrier may be used. This section shall apply to all public and private parks, schools, churches and areas where play areas are provided.

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

C. The council may waive the required side yard setback requirement in all districts, if two legal lots of record are held in one ownership and are combined by the county assessor as one tax parcel.

D. The following shall not be considered as encroachments on required yard setbacks:

1. Air conditioning or heating equipment, chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and similar features, provided they do not project more than 30 inches into the required yard.

2. Decks, patios, balconies, stoops, or other similar features provided they do not extend more than 30 inches above the finished grade and a distance greater than eight feet into a required front yard, five feet into a required side yard and five feet into a required rear yard and provided they do not encroach upon a public easement.

3. In rear yards, recreational equipment and clothes lines, arbors and trellises, gazebos, breezeways, detached accessory buildings, air conditioning and heating equipment may encroach to a point not less than five feet from the rear lot line.

Subd. 5. Accessory buildings, structures and uses.

A. General standards.

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

Section 11.60. Use districts and overlays

Subd. 21. CGD Cedar Grove District.

C. Accessory uses. Within the CGD, the following uses shall be permitted accessory uses:

... 3. Signs, fences, and decorative landscape features as regulated herein.237

Sec. 11.65. S – Shoreland Overlay District

Subd. 6. Administration.
A. Permits required. The provisions of chapter 4 of the City Code regarding the issuance of building permits shall apply to this section.

1. No buildings, building additions, including fences higher than six feet, decks, signs or sewage treatment systems shall be constructed, installed or altered, and no grading or filling activities not exempted by subdivision 12(I) of this section shall be permitted without first obtaining a permit from the city. Application for a permit shall be filed with the city on the form provided by the city. The application shall include the necessary information so that the city can determine the site’s suitability for the intended use and that a conforming sewage treatment system will be provided should any building permits or conditional use permits be issued.

Sec. 11.66. - Floodplain Overlay Districts: Floodway District (FW) and Flood Fringe District (FF).

Subd. 3. General provisions.

1. Permit requirements.

1. No person shall erect, construct, enlarge, alter, repair (including normal maintenance and repair), improve, move, remodel or rehabilitate, or demolish any building or structure without first obtaining a separate permit for each building or structure from the protective inspection department. This provision applies to any such construction upon a nonconforming structure or any structure damaged by flood, fire, tornado, winds, or any other source.

2. No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the construction of a dam, fence, or on-site septic system, the placement of fill, excavation of materials or the storage of materials or equipment within the floodplain shall be commenced until a permit has been obtained from the protective inspection department for each change.

Subd. 5. Floodway district (FW) and flood fringe district (FF).

Floodway conditional uses. The following uses shall only be permitted by conditional use permit within the floodway of the floodplain district (FP), provided they are not prohibited by any other Code provisions and comply with the standards for floodway conditional uses herein:

1. Structures accessory to the permitted uses within the floodway and conditional uses set forth in this paragraph.

6. Placement of fill or construction of fences.

Sec. 11.70 Performance Standards.

Subd. 16. Fences.

A. Construction and maintenance.

1. Every fence shall be maintained in accordance with the building and structure safety and appearance regulations in chapter 10 of this Code. No temporary fence, such as snow fence or
an erosion control fence, shall be permitted on any property for a period in excess of 30 days unless otherwise approved by the city for good cause.

2. Above-ground electric boundary fences shall only be permitted in the A district when the property is an active farm.

3. The finished side of all fences shall face away from the fence owner's lot.

B. Residential district fences. In all parts of the city zoned residential, boundary fences shall be subject to the following requirements:

1. Fences on all corner lots erected within 30 feet of the intersecting curbline shall be subject to traffic visibility requirements set forth elsewhere in this Code.

2. In side or rear yards, fences shall not exceed a maximum height of six feet.

3. In front yards, fences shall not exceed 42 inches in height.

4. Barbed wire fences shall be permitted only in non-residential zoning districts.

C. Business and industrial fences. Property line fences within all business and industrial districts shall not exceed eight feet in height, except by conditional use permit.

Arbors, Trellises, and Pergolas

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.40. - General [land use/zoning] provisions.

Subd. 4. Required yards and open space.

A. Whenever a park or play area is so located that it abuts on a public right-of-way or railroad right-of-way, either a landscaped yard area of at least 30 feet shall maintained from such right-of-way and the nearest developed play space, or a fence in conformity with subdivision 20 of this section, or similar barrier may be used. This section shall apply to all public and private parks, schools, churches and areas where play areas are provided.

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

C. The council may waive the required side yard setback requirement in all districts, if two legal lots of record are held in one ownership and are combined by the county assessor as one tax parcel.

D. The following shall not be considered as encroachments on required yard setbacks:
1. Air conditioning or heating equipment, chimneys, flues, sills, pilasters, lintels, ornamental features, cornices, eaves, gutters, and similar features, provided they do not project more than 30 inches into the required yard.

2. Decks, patios, balconies, stoops, or other similar features provided they do not extend more than 30 inches above the finished grade and a distance greater than eight feet into a required front yard, five feet into a required side yard and five feet into a required rear yard and provided they do not encroach upon a public easement.

3. In rear yards, recreational equipment and clothes lines, arbors and trellises, gazebos, breezeways, detached accessory buildings, air conditioning and heating equipment may encroach to a point not less than five feet from the rear lot line.

Zoning Permit

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.70. – Performance Standards

Subd. 30. Zoning permit.

A. Purpose. The purpose for a zoning permit, as provided herein, is to assist property owners who choose to make exterior improvements to their property by ensuring the improvements meet City Code requirements prior to the installation of the improvements and to protect property owners from unnecessary costs of removing or relocating improvements that are erected or installed not in compliance with City Code, as well as to protect adjacent properties that may be adversely affected by improvements not in compliance with City Code requirements.

B. Zoning permit required. Prior to constructing, installing or erecting any building, structure, or other fixed improvement upon any property within the city, a zoning permit from the city shall be obtained by the property owner. A zoning permit shall not be required for any building, structure or improvement for which a building, plumbing, or mechanical permit under the Minnesota State Building Code is required or which otherwise occurs within the interior of the principal building on the property.

This subdivision shall apply to buildings, structures, or other fixed improvements, including, but not limited to, the following: sport court; patio; sidewalks; driveway replacement or expansion; play structures; piers or docks.

C. Zoning permit application and action. A zoning permit application on a form provided by the city shall be submitted to the Eagan Planning Division. The application shall include a site plan depicting the property's boundary lines, the proposed location of the proposed building, structure, or other improvement, accurate measurements of the proposed building, structure, or other improvement, and the accurate distance in feet from all property lines to the nearest points of the footprint of the proposed building, structure, or other improvement at its proposed location. A zoning permit application shall be denied if the proposed building, structure, or other improvement fails to meet all requirements of this chapter or other applicable provisions of the City Code.
D. Zoning permit inspection fee. If the zoning permit application requires a field inspection(s) by city staff to ensure compliance with the City Code, the applicant shall pay the established inspection fee prior to the city granting the zoning permit. An inspection fee shall be set by city council resolution.

Shed

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.40. - General provisions

Subd. 5. Accessory buildings, structures and uses.

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

Sec. 11.66. –Floodplain Overlay Districts: Floodway District (FW) and Flood Fringe District (FF)

Subd. 2. Definitions. The following terms, as used in this section, shall have the meanings stated:

★ Structure. [A]nything constructed or erected on the ground or attached to the ground or on-site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, recreational vehicles not meeting the exemption provisions of this section and other similar items.

Subd. 3. General provisions.

F. Compliance. No new structure or land shall hereafter be used and no structure shall be located, enlarged or extended, converted, repaired, maintained, constructed or structurally altered without full compliance with the terms of this section. Within the floodplain, all uses not listed as a permitted use or a conditional use in this section shall be prohibited. In addition:

1. Modifications, repair and maintenance, additions, structural alterations or repair after substantial damage to existing legal, nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this section and specifically the nonconforming structures and uses regulations in this chapter; and

2. As-built elevations for elevated or floodproofed structures must be certified by ground surveys as provided in this section. Floodproofing techniques must be design

Failure to comply with the provisions of this section shall be unlawful and constitute a violation of this chapter. Each day that a violation of this section exists constitutes and shall be deemed as a separate violation of this section and this chapter.

I. Permit requirements.

1. No person shall erect, construct, enlarge, alter, repair (including normal maintenance and repair), improve, move, remodel or rehabilitate, or demolish any building or structure without
first obtaining a separate permit for each building or structure from the protective inspection department. This provision applies to any such construction upon a nonconforming structure or any structure damaged by flood, fire, tornado, winds, or any other source.

2. No man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the construction of a dam, fence, or on-site septic system, the placement of fill, excavation of materials or the storage of materials or equipment within the floodplain shall be commenced until a permit has been obtained from the protective inspection department for each change.

Subd. 5.  Floodway district (FW) and flood fringe district (FF).

4. Accessory structures:

(a) Accessory structures shall not be designed for human habitation.

(b) Accessory structures, if permitted, shall be constructed and placed on the building site so as to be the least obstructive to the flow of flood waters and:

(1) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(2) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(c) Accessory structures shall be elevated on fill or structurally dry floodproofed in accordance with the FP-1 or FP-2 floodproofing classifications in the state building code. As an alternative, an accessory structure may be floodproofed to the FP-3 or FP-4 floodproofing classification in the state building code provided the accessory structure constitutes a minimal investment, does not exceed 500 square feet in size at its largest projection, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All floodproofed accessory structures must meet the following additional standards:

(1) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls;

(2) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly floodproofed; and

(3) To allow for the equalization of hydrostatic pressure, there must be a minimum of two "automatic" openings in the outside walls of the structure having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding. There must be openings on at least two sides of the structure and the bottom of all openings must be no higher than one foot above the lowest adjacent grade to the structure. Using human intervention to open a garage door prior to flooding will not satisfy this requirement for automatic openings.
Grocery Store

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.60. – Use districts and overlays

| NB Neighborhood Business District | Permitted uses: Specialty food stores
|----------------------------------|---------------------------------
| CGD Cedar Grove District         | Permitted uses: Within the CGD, no structure or land may be used, except for one or more of the following uses, provided such use is equal to or less than 10,000 square feet in floor area: Grocery store |

Farmers’ Market

Chapter 7 – Streets and Sidewalks Generally

Sec. 7.07 - Parades, athletic events, and other special events occurring on city property or public rights-of-way

Subd. 1. Purpose. An increased number of events sponsored by private individuals, groups of private individuals, or organizations involving a large number of participants or attendees of the general public have been requested within the city to occur on city-owned property or public rights-of-way. The sponsors of the events have requested or the nature of the events have required city services or resources which would have not been otherwise necessary in the absence of such event, including but not limited to, street closures or restrictions, traffic direction and control, city personnel resources, city resources to provide services for the operation of a special event in whole or part, and other city services to protect the general public health, safety and welfare due to the occurrence of a special event. To protect the participants, attendees, and the general public involved in or affected by the special event, as well as to preserve and protect the city's property, streets, sidewalks and trails, and resources, it is in the best interest of the city to establish a special event permit process, together with rules and regulations for the operation of a special event under the permit. Events subject to this section may include, but are not limited to: parades; athletic events such as a marathon, walk or run event, bicycle rallies or races; farmers’ market; art or craft fairs; festivals; or street dances, parties or fairs, provided the event meets the permit requirement criteria set forth in subdivision 3 herein.

Subd. 2. Definitions.

Applicant shall mean any person, organization or entity applying for a special event permit from the city to conduct a special event governed by this section.

Event shall mean a parade, athletic event, or other special event.
Other special event shall mean an event open to the general public which occurs on city-owned property or a public right-of-way, including any sidewalk or trail. For purposes of this section, other special event includes but is not limited to a farmer's market; art and craft fair or show; block party; soap box derby; motorized vehicle rally; street dance or fair; or similar event. For purposes of this section, an event which its sole purpose is to advertise or sell a product, good, ware, or merchandise of an individual business establishment or vendor and is designed to be held solely for private profit will not be deemed a special event for which a permit may be issued and will not be eligible for a special event permit.

Permittee shall mean any person or organization or group issued a special event permit by the city.

Public rights-of-way shall mean the entire area dedicated on a plat or contained in an easement or other conveyance or grant to the city for purposes of public vehicular and pedestrian traffic and shall include, but not be limited to: streets and roadways; boulevards; sidewalks; trails; alleys; and other public property between lateral property lines in which a roadway lies.

Special event permit committee shall mean a committee comprising of a city employee duly appointed by the director of each of the following city departments: parks and recreation, police, fire, public works, community development, administration, and city clerk.

Subd. 3. Permit required. A special event permit is required for the use of city property, use of public rights-of-way, including sidewalks and trails, or a combination thereof, in connection with any of the following:

A. Athletic events that are timed or for which prizes are awarded to the top finishers, regardless of the number of participants, which include, but are not limited to: marathons; walk, run, skate, or ski events; and cycle rallies or races.

B. Athletic events that are not timed or for which prizes are not awarded to the top finishers with 500 or more participants in a walk/run event or 50 or more cyclists in a cycle event.

C. Events for which street or intersection closures or restrictions are required as determined by the city or as may be requested by the event sponsor.

D. Events, due to its location or nature of activities, will significantly interfere with or obstruct the safe and orderly movement of vehicular or pedestrian traffic contiguous to the event site or event route.

E. Events to occur on city property or within public rights-of-way which will require the use of any city services, including but not limited to: city personnel, city utilities, public safety personnel, use of city traffic controls and devices, sanitary facilities, solid waste disposal facilities, clean up and restoration of city property, that would not otherwise be necessary in the absence of such special event.

Subd. 4. Permit issuance. The city clerk is authorized to issue special event permits in accordance with this section. The city clerk shall approve, conditionally approve, or deny an
application for a special event permit in accordance with the provisions of this section. All applications shall be reviewed by the special event permit committee. The special event permit committee, subject to the adoption by the city council, shall establish, and amend as necessary, rules and regulations governing the implementation of this section and all events under a special event permit.

A special event permit shall be approved or conditionally approved, unless the special event committee determines that one or more of the following exists based upon the application and other pertinent information received:

A. The application, along with the application fee, was filed with the city clerk after the filing deadline date as set forth in this section and there is insufficient time to process and review the application or provide the necessary city services required for the proposed event.

B. Information contained in the application, or supplemental information requested from the applicant, is found to be false in any material detail.

C. The applicant/sponsoring organization of the event has, within the preceding 24 months, violated a previously issued special event permit or its conditions, including the rules and regulations applicable to special event permits, violated any term or condition of any previous park facility permit or reservation to use the city’s property, or violated any city or state law in connection with the use of city property or public rights-of-way.

D. The applicant failed to complete or sign the application form by the required deadline after having been notified of the additional information or documents required, including the provision of traffic and emergency plans.

E. The traffic plan or emergency plan submitted by the applicant does not meet the approval of the chief of police or director of public works.

F. The sole purpose of the event is advertising or sale of the product, good, ware, or merchandise of an individual business establishment or vendor and is designed to be held solely for private profit. This provision does not apply to the sale of products, goods, wares, or merchandise as part of a farmers’ market, art or craft fair, or the like and does not apply if the advertising is secondary to or as a sponsoring organization of the event.

G. The application for the event is a walk/run/cycle event proposing to use city sidewalks or trails and the estimated number of participants in the event is 50 or more cyclists in a cycle event, 100 or more participants in a timed athletic event, or 500 or more participants in an untimed athletic event or parade. A cycle event exceeding 50 participants and a timed athletic event exceeding 100 participants proposing to use any sidewalk or trail may be permitted under this clause if the use of city sidewalks or trails first occurs one-half or more mile(s) past the start of the event.
H. Another special event permit application has been received prior in time, or has already been approved, to hold an event (1) on the same date and same location requested by the applicant; or (2) within the same month at the same location; or (3) on the preceding or following weekend of another event at the same location, or so close in time and place as to cause undue traffic congestion or the inability of city personnel to meet the needs for city services for both events.

I. The time, route, or size of the event will substantially interrupt the safe and orderly movement of traffic contiguous to the event site or route or disrupt the use of a street at a time when it is usually subject to great traffic congestion.

J. The concentration of persons, vehicles or animals, or a combination thereof, at the site of the event or the assembly and disbanding areas around an event will prevent or hinder proper police, fire, or ambulance services to areas contiguous to the event or significantly cause harm or damage to city property.

K. The type or size of the event will significantly impact the general public's use of the city's park, park amenities or other public uses, or require diversion of so great a number of city personnel, including police, to protect participants in or attendees of the event; to insure that participants stay within the boundaries or route of the event; to ensure the protection of the city's resources at the event site, or to police the operation of the event for assurance of compliance with city and state laws as to prevent the normal operation and protection to the rest of the city's residents. The permit may be denied if the city personnel whose presence at the time of the event is required is not available at the time proposed for the event.

L. The proposed date of the event is during the period of the city's winter parking restrictions or snow removal services would be required for the safety of the participants or attendees of the event.

M. The location of the event will substantially interfere with, or has been deemed unsafe by reason of any construction or maintenance work scheduled to take place upon or along the city streets, or a previously granted encroachment permit.

N. The event is proposed at a time when a school is in session at a route or location adjacent to the school or class thereof, and the noise created by the activities of the event would substantially disrupt the educational activities of the school or class thereof.

When the grounds for denial of an application for permit based upon subsections E through N above can be corrected by altering the date, time, duration, route, or location of the event, the city clerk shall, instead of denying the application, conditionally approve the application upon the applicant's acceptance of conditions for permit issuance based upon the revised date, time, duration, route, or location of the event in order to meet the subsections above.

Subd. 5. Permit application procedure and fees.

A. Filing of application. An application for a special use permit shall be on a form provided by the city and contain all information requested therein and shall contain
such other information as the city may require. The application shall be filed along with a non-refundable permit application fee in the amount set by city council resolution. When the special event permit committee finds that supplemental information is reasonably necessary in order to act on the application, the applicant shall file with the city clerk all supplemental information requested within five business days of the request.

An application for a special use permit shall be filed with the city clerk no less than 60 days prior to the proposed event date. In calculating the 60 days, the date on which the application is filed and the day of the event shall not be counted. If an application is filed after the filing deadline or the filed application is not signed or fully completed, the permit application shall be denied by the city clerk, unless the city clerk, upon a showing of good cause by the applicant, has determined that there is sufficient time to process and review the application and provide the necessary city services required for the proposed event.

B. Requirements upon approval, but before issuance of permit. Upon the approval of the application, but prior to the issuance of the permit, the applicant shall submit to the city the following:

1. The permit applicant and authorized officer of the sponsoring organization, if any, shall sign an indemnification agreement with the city as prepared by the city under which the applicant/permittee/sponsoring organization agrees to (1) defend the city against and indemnify and hold the city harmless from any liability, action, cause, suit, or claim by any person resulting from any damage or injury occurring in connection with the permitted event; (2) reimburse the city for any costs incurred by it in repairing damage to city property or public rights-of-way occurring in connection with the special event; and (3) to reimburse the city for all expenses and costs incurred by the city for its services related to the event that are not otherwise covered or in excess of the city services/resource fee deposit paid by the applicant.

2. The applicant/sponsoring organization of the event shall obtain and maintain commercial general liability insurance on an occurrence basis to protect against loss from liability imposed by laws for damages on account of bodily injury or property damage arising from the event. Such insurance shall name the City of Eagan, its officers, employees and agents, on the policy or by endorsement, as additional insureds. The insurance coverage shall be maintained for the duration of the event with a minimum $1,000,000.00 combined single limit and a minimum $2,000,000.00 aggregate limit.

If food or non-alcoholic beverages are sold or provided at the event, whether by the permittee or a registered vendor, the insurance policy shall also include an endorsement for product liability in an amount not less than $1,000,000.00.

If alcoholic beverages are sold or provided at the event, the insurance coverage shall include an endorsement for liquor liability in an amount as otherwise
required in the city's regulations governing the sale and licensing of alcoholic beverages.

A copy of the policy or a certificate of insurance, clearly identifying the City of Eagan as an additional insured, shall be filed with the city clerk not less than five business days before the date of the event. If a copy of the policy or the certificate of insurance is not filed with the city as required herein, the permit shall not be issued and the event shall not occur.

3. Upon approval of the application for a special event permit, the city clerk shall provide the applicant with a statement of the estimated cost of the expenses incurred by the city in connection with providing city personnel, services and resources necessary for the event. The applicant/permittee shall be required to pay, as deposit of the city services/resources fee, the amount equal to 125 percent of the estimated costs as determined in the statement no later than seven business days prior to the date of the event. If the applicant/permittee fails to remit the payment of the city services/resources fee deposit as required herein, the permit shall not be issued and the event shall not occur. The city services/resources fees shall be in the amounts as set by city council resolution.

4. Upon approval of the application, and not less than five days prior to the event, the applicant/permittee shall notify in writing all properties abutting any public rights-of-way in which the event will occur and said notice shall advise of the event, including the date, duration of time and any street restrictions imposed as a result of the event. The applicant permittee shall also post signs, as approved by the city, at all affected street intersections.

Subd. 6. Conditions of permit. All special events permits shall be subject to the following conditions:

A. The permittee shall comply and conduct the event in compliance with all conditions imposed with the issuance of a special event permit. The permittee, or an authorized designee, shall establish in advance of the event and maintain at all times during the event means to have immediate contact with and access by city staff.

B. The permittee/sponsoring organization of the event shall be responsible for the conduct of all employees, agents, or volunteers working in the event and shall take all steps necessary to ensure the employees, agents, or volunteers working in the event comply with the permit conditions set forth in this section and all conditions set forth in the permit.

C. The event shall have an emergency medical first response team on site specifically assigned to the event. The city may require additional emergency medical resources on site for the event if deemed necessary due to the nature of the event. The city, in its sole discretion, may waive this requirement if deemed unnecessary due to type of event and number of participants.
D. The permittee shall comply with all city, county, state and federal laws and regulations relevant to the event, including any animal protection laws and regulations.

E. No electronic sound system or audio equipment or any other device designed to produce or reproduce audio sound shall be used unless specifically approved under the permit.

F. No sale or furnishing of food or non-alcoholic beverages shall occur at the special event, unless the vendor thereof has a vendor permit from the city and all required licenses from the State of Minnesota.

G. No sale or furnishing of alcoholic beverages shall occur at the event unless a license is first obtained from the city. Provided the appropriate license has been issued for the sale or furnishing of alcoholic beverages at the event, the sale shall be subject to all city and state laws relative to the sale or furnishing of alcoholic beverages and shall be conducted in accordance with the licensed conditions.

H. No sale of any goods, products or merchandise shall be sold at the event unless all vendor have a vendors permit issued by the city.

I. No signs or banners shall be posted unless specifically approved under the permit.

J. No public rights-of-way, including sidewalks, trails and paths, shall be written upon or otherwise marked with any permanent substance. A fee, the amount of which shall be duly adopted by council resolution, will be charged to the event organizer if this provision is violated.

Subd. 7. Appeal right and procedure. The applicant shall have the right to appeal the denial of a permit application, the conditions of a permit, or the amount of the city service/resource fee deposit imposed upon the applicant to the city council. A request for appeal shall be in writing and filed with the city clerk within seven days after the mailing or delivery of the notice of denial or conditional approval or the city service/resource fees. The appeal must be filed no later than 12:00 noon one calendar week preceding a city council meeting to be placed on the next regular city council meeting agenda. The city council shall hear the applicant or a designated representative, receive any relevant information and documents, and act on the appeal at the regular meeting. The decision of the city council is final.

Subd. 8. Unlawful acts.

A. It is unlawful for any person to interfere with events permitted under this section. The following acts are prohibited when done with the intent to cause interference:

1. Blocking, obstructing, or impeding the passage of participants, vehicles, or animals along the route of any parade or athletic event.

2. Walking, running, driving a motor vehicle or other motorized vehicle, skating, or riding a cycle or skateboard through, between, with, or among participants, vehicles, or animals of any parade or athletic event.
3. Dropping, throwing, rolling, or flying any object toward, among, or between participants, vehicles, or animals of any parade or athletic event.
4. Grabbing at, taking hold of, hitting, pulling, or pushing any participant, vehicle, or animal or anything in the possession of any participant of any parade or athletic event.

B. It is unlawful for any person to sell or offer for sale any food or merchandise at an event or along the route of any parade or athletic event without first having obtained a vendor permit from the director of parks and recreation. This provision shall not apply to the parade held in connection with the Eagan July 4th Funfest.

C. It is unlawful for any person to participate in an assemblage within the vehicular travel portion of any public right of way unless it is in connection with an event for which a special event permit or block party permit has been issued by the city and is not otherwise in violation of any traffic direction or control order of a police officer.241

Chapter 11: Land use planning (zoning)
Sec. 11.70 – Performance Standards

Standards for temporary outdoor events. Temporary outdoor events shall be subject to the following standards:

a. Adequate off-street parking shall be provided ensuring that no obstruction or interference occurs with existing traffic patterns.

b. No portion of the sale or event shall take place within any public right-of-way. A minimum of ten feet setback shall be maintained from all property lines and no portion of the use shall take place within 100 feet of any property line of any residential use or residential zoned property.

c. The site shall be kept in a neat and orderly manner and the display of items shall not cover more than five percent of the total lot as to not interfere with pedestrian safety, vehicular movement, emergency access and existing business activities.

d. All signs for the event shall comply with City Code sign regulations.

e. Tents and temporary membrane structures having an area in excess of 200 square feet and canopies in excess of 400 square feet shall be subject to a building permit.

f. The owner and/or operator of the sale or event shall have the written permission of the fee owner of the property on which the sale or event is located to use the specific site.

g. Hours of operation shall be subject to this chapter’s regulations governing hours of operation for commercial business.

h. No parking shall be permitted on any adjacent parcel without the prior written permission of the adjacent parcel owner.
i. The owner and/or operator of the sale or event shall obtain a permit for the outdoor use of electronic sound system or audio equipment in accordance with chapter 10 of this Code if the use of such equipment will occur after 10:00 p.m.

4. Standards for seasonal outdoor sales. Seasonal outdoor sales permitted in accordance with subparagraph (A) shall conform to the following standards, in addition to those standards in connection with conditional use permit:

a. The seasonal outdoor sale shall meet the minimum requirements for temporary outdoor events set forth in this chapter.

b. The sale area shall be within an enclosure as necessary to achieve appropriate security and containment or for public safety reasons when determined necessary by the city.

c. The sale area shall not encroach into any required front building setback area or other required setbacks.

d. The sale area shall be screened from view from adjacent residential uses and residential zoned property.

e. The sale area shall not interfere with any pedestrian or vehicular movement.

f. The sale area shall not take up required parking spaces or landscaping areas of the principal use.

g. The sale area shall be surfaced with concrete or an approved equivalent to control dust and erosion. The surface shall be properly maintained to prevent deterioration.

Food Establishments

Chapter 10 – Public Protection, Crimes and Offense

Sec. 10.01. - Storage, deposit and disposal of refuse

Subd. 2 Storage. It is unlawful for any person to store garbage or refuse on commercial establishment [including restaurants] premises for more than one week, or for a shorter period when collection must be made at more frequent intervals to protect the public health or at the direction of the city. It is unlawful for any person to store recyclables on commercial establishment premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so called "dumpsters" with closefitting covers may be substituted.

Subd. 5. Disposal. Garbage and refuse collection. Every household in residential and multidwelling districts and all commercial establishments [including restaurants] shall have garbage and refuse collection. Such collection must be made by a garbage and refuse hauler that is licensed with the city, except commercial establishments and households in a residential district need not contract with a licensed hauler when it hauls its garbage and refuse from its
own property and complies with the standards defined in section 6.37, subdivision 3 of the City Code or provided the garbage and refuse is disposed of in an environmentally sound manner.

Chapter 11: Land use planning (zoning)

Sec. 11.70 – Performance Standards

Minimum number of off-street parking spaces required. Restaurants, cafes, bars, taverns, nightclubs. At least one parking space for each three seats based on capacity design.242

Hours of operation. Hours of operation of any retail business, any restaurant or any motor fuel station shall be confined to the period between 7:00 a.m. and 1:00 a.m., except for those meeting the special use setback, as defined in this chapter, from any residential use and fronting on a major thoroughfare or commercial service road, unless otherwise specifically approved by the council.243

Restrictions. All outdoor dining areas shall comply with this subdivision. An outdoor dining area in conjunction with a Class I or Class II restaurant is a permitted accessory use if the restaurant is a permitted use in the zoning district and a conditional use if the restaurant is a conditional use in the zoning district. Notwithstanding that an outdoor dining area may be a permitted accessory use, an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons shall be subject to a conditional use permit or planned development approval as applicable.

Performance standards and requirements.

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

2. The outdoor dining area shall meet the following setback requirements: 20 feet from a public right-of-way, five feet from side lot line, and five feet from rear lot line.

3. The outdoor dining area shall not interfere with any pedestrian traffic or walkways intended for the general public. A minimum four feet wide area shall remain clear for pedestrian traffic on walkways and for entry into the restaurant building and adjacent uses. An outdoor dining area shall not be permitted to be located in or occupy any parking or other areas intended for vehicular traffic.

4. The outdoor dining area shall be handicap accessible and not restrict accessibility in other areas inside or outside the restaurant.

5. The outdoor dining area shall be used subordinate to the principal restaurant building.

6. The outdoor dining area shall be kept in a clean and orderly manner. No food or beverages may be stored outdoors, unless a suitable means for such storage has been reviewed and approved by the city.
7. The hours of operation of an outdoor dining area shall be restricted to the hours of operation within the principal restaurant's interior space. Notwithstanding the foregoing, the operation of business within an outdoor dining area shall not occur between the hours of 1:00 a.m. and 7:00 a.m. If an outdoor dining area is subject to a conditional use permit or a planned development approval, the city council may be more restrictive in the hours of operation based upon the proximity of the area to residential dwelling units and upon considerations relating to the public health, safety, and welfare of residents, businesses, and other uses near the restaurant establishment.

8. The use of the outdoor dining area shall comply with all noise regulations in this Code. If an outdoor dining area is subject to a conditional use permit or planned development approval, the city council may restrict days, hours, nature and volume, and other aspects of entertainment in any outdoor dining area, including a prohibition against all forms of music, radio, television, and other entertainment, to protect the public health, safety, and welfare of residents, businesses and other uses near the restaurant establishment.

9. A fence, constructed of color and material suitable for the intended use, surrounding the outdoor dining area shall be required if the outdoor dining area provides seating for 24 or more persons or alcoholic beverages are served within the outdoor dining area. If a fence is required, a fencing plan shall be submitted with the site plan for the outdoor dining area for review and approval by the city.

10. If alcoholic beverages are served in the outdoor dining area, the restaurant establishment shall have an on-sale alcohol license that specifically includes and permits the sale or service of alcoholic beverages in the outdoor dining area. All regulations in chapter 5 of the Code shall apply and compliance shall be met.

11. The outdoor dining area must conform to all fire and building codes related to the number and types of exits that are required.

12. The parking regulations related to minimum required spaces for the restaurant establishment, plus one stall for every 12 seats within the outdoor dining area of more than 24 seats, as set forth in this chapter shall apply and compliance met.

13. All sewer availability charges imposed as a result of additional seating in the outdoor dining area shall be paid prior to the operation of any business within the outdoor dining area.244

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Sec. 11.60 – Use districts and overlays.

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<tr>
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<td>Restaurants-Full service and casual only those granted a permit according to applicable City Code provisions to serve 3.2 beer or wine and an outdoor</td>
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dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.\textsuperscript{245}

| **NB Neighborhood Business District.** | Permitted uses. Restaurant-Full service (on-sale liquor subject to conditional use permit) and casual. 
Conditional uses. Restaurant-Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter. 
Permitted accessory uses. An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.\textsuperscript{246} |
| **GB General Business District.** | Permitted uses. Restaurants-Full service and casual (without on-sale liquor). 
Conditional uses. Restaurants-Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter. 
Permitted accessory uses. An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.\textsuperscript{247} |
| **CSC Community Shopping Center District.** | Permitted uses. Restaurant-Full service and casual. 
Conditional uses. Restaurant-Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter. 
Permitted accessory uses. An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.\textsuperscript{248} |
| **I-1 Limited Industrial District.** | Permitted uses. Restaurants-Full service and casual. 
Permitted accessory uses. An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides |
seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter.

<table>
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<tr>
<th>BP Business Park District.</th>
<th>Conditional uses. Restaurants—Full service and casual and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.²⁴⁹</th>
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<tr>
<td>CGD Cedar Grove District.</td>
<td>Permitted uses. Restaurants—Full service and casual. Accessory uses. Within the CGD, the following uses shall be permitted accessory uses: An outdoor dining area in conjunction with a full service or casual restaurant, except an outdoor dining area that does not meet the special use setback from a residential property or that provides seating for more than 24 persons is subject to a conditional use permit or planned development approval as applicable, and any outdoor dining area shall be subject to the regulations thereof elsewhere in this chapter. Conditional uses. Within the CGD, no structure or land may be used for the following uses except by conditional use permit: Restaurant—Fast food and delivery or take-out and any outdoor dining area in conjunction therewith, subject to the regulations thereof elsewhere in this chapter.²⁵⁰</td>
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Food Carts, Mobile Food Units, and Food Stands

Chapter 9 – Parking regulations

Sec. 9.10. - Truck, trailer and commercial vehicle parking.

Subd. 1. It is unlawful to park a detached semitrailer upon any street, city-owned parking lot, or other public property, except streets as specifically designated by the council by resolution and signposted.

Subd. 2. It is unlawful to park a semitrailer, truck tractor, or a combination thereof within an area zoned as a residential district, except for the purpose of loading or unloading the same.

Subd. 3. It is unlawful to park a truck of more than 9,000 pounds gross vehicle weight upon any street in the business district which has been duly signposted prohibiting the same, but parking of such vehicle for a period of not more than 20 minutes shall be permitted in such space for the purpose of necessary access to abutting property while actively loading or unloading when such access cannot reasonably be secured from an alley or from an adjacent street where truck parking is not so restricted.

Subd. 4. It is unlawful to park a truck or other vehicle using or equipped with a trailer or extended body or other extension or projection beyond the original length of such vehicle or any passenger bus diagonally along any street except for a time sufficient to load or unload, and in such case only parallel parking shall be permitted. Provided, however, that a truck may stand
backed up to the curb if the weight or bulk of the load makes parallel parking impracticable, but then only for a period of time sufficient to load or unload.

Subd. 5. Parking of commercial vehicles is permitted in duly designated and signposted loading zones and in alleys, for a period of up to 20 minutes, provided that such alley parking does not prevent the flow of traffic therein, all of which shall be for the purpose of access to abutting or adjacent property while actively loading or unloading.

Subd. 6. It is unlawful to park any detached trailer upon any street for a continuous period of more than 24 hours.

Subd. 7. It is unlawful to park any vehicle in excess of 9,000 pounds gross vehicle weight upon any residential street for a continuous period of more than six hours.

Chapter 11 – Land Use Regulations (Zoning)

| "A" Agricultural District | Permitted uses. Within any agricultural district no structure or land shall be used except for one or more of the following uses or uses deemed similar by the council: 5. Stands for the sale of agricultural products provided said products are raised on the premises.251 |

Transient Merchant

Chapter 6 – Other Business Regulation and Licensing

Sec. 6.36. - Solicitors

Subd. 2. Scope of application. This section shall apply to solicitors, peddlers and transient merchants. This section shall not apply to the following: …

C. Persons who sell products of the farm or garden occupied, grown or cultivated by such person; and

D. Outdoor sales on private property in connection with outdoor seasonal sales or temporary outdoor events if conducted by or with the consent of the owner or occupant of the property on which the sales occur and is permitted under the zoning regulations set forth elsewhere in the City Code...

Subd. 4. Prohibited practices.

A. It is unlawful for any person to engage in solicitation, peddling or transient merchandising for any unlawful business or organizational purpose or unlawful activity.

B. It is unlawful for any solicitor, peddler or transient merchant to commit any conduct constituting harassment, nuisance, theft, deceit, or menacing, troublesome or otherwise unlawful activities during the course of the sales activity.
C. It is unlawful for any solicitor, peddler, or transient merchant to enter or attempt to gain entrance to any residential or business premises displaying at such entrance a sign prohibiting any solicitation.

D. It is unlawful for any solicitor, peddler or transient merchant to refuse to leave any premises when requested by the owner, lessee, or person in charge thereof. It is unlawful for any transient merchant to sell or attempt to sell on private property without the written consent of owner of record of the property.

E. It is unlawful for any person to engage in any activity constituting that of a solicitor, peddler or transient merchant without first obtaining a permit or being registered with the city as herein provided.

F. It is unlawful for any solicitor, peddler or transient merchant to not carry the permit or certificate of registration when engaging in sales activity.

G. It is unlawful for any solicitor, peddler or transient merchant to transfer the permit or registration identification.

H. It is unlawful to obstruct the free flow of either vehicle or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.

I. It is unlawful for any solicitor, peddler or transient merchant to conduct any sales activity between 8:00 p.m. and 8:00 a.m., except a transient merchant may sell after 8:00 p.m. if specifically permitted under the permit.

J. It is unlawful for any solicitor, peddler or transient merchant to use unreasonably loud noises or amplifying devices while engaged in sales activities.

K. It is unlawful to make any false or misleading statements about the product or service being sold, including untrue statements of endorsement. No peddler, solicitor, or transient merchant shall claim to have the endorsement of the city based on the city having issued a permit or certificate of registration to that person.

L. It is unlawful to sell or attempt to sell or solicit a sale within any public right-of-way, except this provision shall not apply to any person who is selling merchandise from a motor vehicle that travels through the streets and stops only to make an immediate sale and does not park to await customers or sales.

M. It is unlawful to sell or attempt to sell or solicit a sale upon any city-owned property that is otherwise a public right-of-way, unless the sale is in connection with an event or special activity that is organized by the city or an organization pursuant to a special event or park facility permit for provided elsewhere in this Code and for which a vendor permit has been issued by the director of parks and recreation in accordance with regulations elsewhere in this Code.

Subd. 5. Permit; exemptions.

A. Permit required. Except as otherwise provided in this section, it is unlawful to conduct business as either a peddler, a solicitor, or transient merchant without first having obtained a
permit from the city. The permit shall be carried by the person soliciting or peddling or selling the goods and shall be shown to any resident or police officer upon demand.

B. Permit application. Application for a city permit to conduct business as a peddler, transient merchant, or solicitor shall be made before the person conducts business. Application for a permit shall be made on a form available from the office of the city clerk. The application shall be signed by the applicant. All applications shall include the following information:

1. Applicant's full legal name;

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

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

4. Full address of applicant's permanent residence;

5. Telephone number of applicant's permanent residence;

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

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

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

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

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

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

12. A statement as to whether the applicant has been arrested or convicted within the last five years for any violation of any state or federal statute or any local ordinance, other than traffic offenses, providing for each violation the offense, the date of the offense, the disposition of the offense, the date of the disposition of the offense, and the city, county and state in which the offense occurred;

13. A statement as to whether the applicant is the subject of any complaint filed with any municipality, Better Business Bureau, attorney general office or other agency, providing the date and location of the complaint and the agency within which the complaint was filed;
14. A statement whether the applicant had a license for solicitation, peddling, or transient merchant from any other municipality and/or county which was revoked within the past five years;

15. A list of the three most recent locations (city, town, county and state) where the applicant has conducted business as a peddler;

16. A general description of the items to be sold or services to be provided;

17. All additional information deemed necessary by the city council;

18. The applicant's driver's license number or other acceptable form of photo identification; and

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

20. If the application is for a transient merchant permit and the applicant is an organization or entity operating an event including the sale of goods by vendors, the applicant shall provide a complete list of all vendors who will sell goods at the event.

C. Fee. All applications for a permit under this section shall be accompanied by the fees established in the city's fee schedule as adopted from time to time by resolution of the city council.

D. Procedure. Upon receipt of the completed application and payment of the required fees, the city clerk shall forward the application to the chief of police or designee. An application shall be determined to be complete only if it is signed and all required information is provided. If the city clerk determines that the application is incomplete, the city clerk shall inform the applicant of the required necessary information which is missing. The chief of police or designee shall review the application and conduct an investigation, including background checks, necessary to verify the information provided with the application. No background investigation shall be required for an applicant that is a non-profit organization or group based or located in the City of Eagan.

1. The permit may be issued by the city clerk when the police department's investigation is completed or within seven business days of application, whichever is earlier.

2. The permit shall be denied if the application is not complete or the applicant is ineligible for a license pursuant to the provisions herein.

E. Duration. A permit granted under this section shall be valid for a period of 364 days from the date on which the permit was issued or a shorter time if otherwise required by the city or other regulation in this Code.

F. Permit exemptions.
1. No permit under this section shall be required for any of the following: Any person to sell or attempt to sell, or to take or attempt to take orders for, any product grown, produced, cultivated, or raised on any farm...

5. Any person to sell or attempt to sell goods at an event or special activity on city-owned property, such as a farmer’s market, art fair, holiday festival or organized fundraiser, marathon or tournament, sponsored or organized by the city or an organization, provided the vendor is a registered vendor for the event and has a vendor permit issued by the director of parks and recreation as provided elsewhere in this Code.

G. Permit ineligibility. An application for a permit under this section shall be denied if any of the following exists:

1. The applicant provides any false, misleading, or misrepresenting information requested by the city as a part of the application, or the failure to sign the application, or the failure to pay the required fee at the time of application.

2. The conviction of the applicant within the past five years from the date of application for any violation of any federal or state statute or regulation or of any local ordinance, which adversely reflects on the person's ability to conduct the business for which the permit is being sought in an honest and legal manner. Violations shall include but not be limited to: burglary, theft or theft-related offenses, larceny, swindling, fraud, unlawful business practices, any form of actual or threatened physical harm against another person; and any offense or violation committed in the course of solicitation or peddling activity.

3. The revocation within the past five years from the date of the application of any license or permit issued to the applicant for the purpose of conducting business as a peddler, solicitor or transient merchant.

4. The applicant is found to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than three complaints against the applicant filed with any municipality, the Better Business Bureau, the attorney general’s office, or other similar business or consumer rights office or agency within the preceding five years of the date of application.

5. For transient merchants, the outdoor sales as proposed by the applicant is not permitted on the proposed property or in the proposed location upon the property under any other regulation of this Code.

6. The applicant is proposing to sell goods upon or within public right-of-way.

7. The applicant is proposing to sell goods upon or within city owned or other public property and the sale is not in connection with and under the operation of a civic or community event or a non-profit organization's activity permitted to occur on the public property or the applicant is not a registered or enrolled vendor for the event or activity otherwise permitted.
8. The applicant is proposing to be a vendor of food or beverages to users of a city park or facility when food or beverage is made available to the users by the city.

Parking

Chapter 7 – Streets and sidewalks generally

Sec. 7.11. - Motorized vehicles prohibited on boulevards and sidewalks.

Except as provided in this chapter or chapter 11, it is unlawful for any person to drive, operate or park a motor vehicle on any boulevard, public sidewalk or public property designated for use as a pedestrian walkway or bicycle trail, except when crossing the same for ingress and egress via a driveway to private property lying on the other side thereof.

Chapter 9 – Parking regulations

Sec. 9.02. - General parking prohibitions.

It is unlawful for any person to stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the specific directions of a police officer or traffic control device in any of the following places: (1) on a sidewalk or trailway; (2) in front of a public or private driveway or trailway; (3) within an intersection; (4) within ten feet of a fire hydrant or mailbox; (5) on a crosswalk; (6) within 20 feet of a crosswalk at any intersection; (7) in a signposted fire lane; (8) within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway; (9) within 50 feet of the nearest rail of a railroad crossing; (10) within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance when properly signposted; (11) alongside or opposite any street excavation or obstruction when such stopping, standing or parking would obstruct traffic; (12) on the roadway side of any vehicle stopped or parked at the edge or curb of a street; (13) at any place where official signs prohibit or restrict stopping, parking or both; (14) in any alley, except for loading or unloading and then only so long as reasonably necessary for such loading and unloading to or from adjacent premises; or (15) on any boulevard which has been curbed.

Sec. 9.08. - Parking hours.

Parking on streets shall be limited as follows:

Subd. 1. The chief of police may, when authorized by resolution of the council, designate certain streets, blocks or portions of streets or blocks as prohibited parking zones, or five-minute, ten-minute, 15-minute, 30-minute, one-hour, two-hour, four-hour, six-hour, eight-hour, 24-hour, morning or afternoon rush hour limited parking zones and shall mark by appropriate signs any zones so established. Such zones shall be established whenever necessary for the convenience of the public or to minimize traffic hazards and preserve a free flow of traffic. It is unlawful for any person to stop, park or leave standing any vehicle in a prohibited parking zone, for a period of time in excess of the signposted limitation, or during signposted hours of prohibited parking.
Subd. 2. It is unlawful for any person to remove, erase or otherwise obliterate any mark or sign placed upon a tire or other part of a vehicle by a police officer for the purpose of measuring the length of time such vehicle has been parked.

Subd. 3. For the purpose of enforcement of this section, any vehicle moved less than one block in a limited time parking zone shall be deemed to have remained stationary.

Sec. 9.11. - Parking rules in city parking lots and ramps.

In city-owned parking lots and ramps, the council may limit the sizes and types of motor vehicles to be parked thereon, hours of parking, and prescribed method of parking, provided that such limitations and restrictions are marked or signposted thereon. It is unlawful to park or leave standing any vehicle backed into a parking place, to drive in a direction opposite the flow of traffic marked by "one-way" signs or arrows, or to park any vehicle in any city-owned parking lot or ramp contrary to the restrictions or limitations marked or signposted therein.

Sec. 9.15. - Parking for the purpose of advertising or selling merchandise.

It is unlawful for any person to park a motor vehicle or vehicle on any street or city-owned property for the purpose of advertising such motor vehicle or vehicle for sale, for the purpose of advertising for sale or selling merchandise thereon or therefrom, or advertising a forthcoming event. This section shall not apply to any person who is selling merchandise from a motor vehicle that travels through the streets and stops only to make an immediate sale and does not park to await customers or sales. This section shall not apply to any person who is (1) a registered vendor with the city or an organization or entity that was granted a park facility permit or special event permit from the city; and (2) granted a vendor permit from the city's director of parks and recreation as governed elsewhere in this Code.

Chapter 11: Land use planning (zoning)

Sec. 11.70 – Performance Standards

Subd. 4. Off-site off-street parking and outdoor storage as conditional use.

A. Scope of application. For purposes of this subdivision only, off-site off-street parking and off-site outdoor storage shall mean such activity as a principal use on a parcel of land which shall be deemed servient to a dominant parcel on which a principal use is located and served by the off-site off-street parking or off-site outdoor storage on the servient parcel. The council intends this provision to provide supplementary off-site off-street parking or off-site outdoor storage that which complements the existing off-street parking or outdoor storage on the dominant parcel. It is not the council's intention to allow off-site outdoor storage or off-street parking in greater amounts, greater number of spaces or greater area on the servient parcel than exists on the dominant parcel.

B. Conditional use permit application. All applications for a conditional use permit for off-site off-street parking and off-site outdoor storage shall include a detailed, to-scale site plan specifying the dimensions, location, design and compliance with the performance standards set forth herein.
C. Performance standards, termination and noncompliance.

1. Standards. No off-street parking or outdoor storage, as described in subparagraph A, shall be permitted unless the following conditions are met, in addition to those standards set forth in section 11.40 subd. 4:

(a) The dominant parcel, which shall be served by the off-street parking or outdoor storage on the servient parcel, cannot physically accommodate the parking or storage needs of the principal use on the dominant parcel.

(b) The parcel on which the off-street parking or outdoor storage is located and the dominant parcel which the off-street parking or outdoor storage serves shall be within the same zoning districts, provided in R-4 districts the servient parcel shall be within a R-4 district, limited business LB, neighborhood business NB, general business GB, community shopping center CSC, limited industrial I-1, general industrial I-2, and research/development RD districts.

(c) The servient parcel on which the off-street parking or outdoor storage area is located is a reasonable distance not to exceed 660 feet at the closest point from the lot line of the dominant lot to be served by the off-street parking or outdoor storage area.

(d) The off-site off-street parking area shall meet the requirements for off-street parking set forth in this chapter.

(e) The off-site outdoor storage area shall meet the requirements set forth in section 11.70, subd. 20, except those provisions governing building or height restrictions.

(f) Off-site off-street parking and off-site outdoor storage on the servient parcel shall have fewer parking spaces, less area, and less outdoor storage area than the dominant parcel.

2. Termination. Any conditional use permit issued under this subdivision or any right to obtain a conditional use permit under this subdivision shall terminate upon the development of the servient lot on which the off-street parking or outdoor storage area is located or upon the termination of the principal use located on the dominant parcel to which the off-street parking or outdoor storage area serves, whichever occurs first.

3. Noncompliance. Failure to comply with any of the standards or conditions set forth herein or in the conditional use permit or any other violation of City Code provisions shall constitute sufficient cause for the termination of the conditional use permit by this council following a public hearing.

Subd. 5. Minimum required off-street parking. The following minimum parking spaces shall be provided and maintained by ownership, easement or lease, for and during the life of the respective uses hereinafter set forth. Where a specific requirement is not stated, the council shall determine the adequacy of parking when approving a site plan.

Minimum number of off-street parking spaces required.

C. Church, club. At least one parking space for each three and one-half seats based on the design capacity of the main assembly hall.
D. Convenience stores with and without motor fuel sales. At least one off-street parking space for each 200 square feet of floor area.

F. Drive-in or drive-through food establishment. At least one space per 60 square feet of gross floor area.

N. Restaurants, cafes, bars, taverns, nightclubs. At least one parking space for each three seats based on capacity design.

O. Retail store. At least one off-street parking space for each 200 square feet of floor area up to a total floor area of 10,000 square feet. At least one off-street parking space for each 250 square feet of floor area between 10,001 and 30,000 square feet. At least one off-street parking space for each 300 square feet of floor area thereafter.

T. Warehousing, wholesaling, furniture stores, appliance stores. At least one parking space for each 400 square feet of gross floor area up to 6,000 square feet and one parking space for each 1,000 square feet of gross floor area over 6,000 square feet.

U. Uses not listed. For those uses not specifically listed, the city shall determine an appropriate standard based on similar uses.

V. Proof of parking. The city may also consider a proof of parking when a business can demonstrate a proposed use will not require the minimum number of spaces as stated in this section. When parking is reduced, the city may require that area to be reserved in open space for future parking needs.

Subd. 6. Joint parking facilities. (Please see code)

Subd. 7. Parking space design. (Please see code)

Subd. 9. Parking ramps. Parking ramps shall meet the setback requirements of the principal structure. The exterior materials and design shall be consistent with the principal structure and shall be located and oriented on the site in a manner that minimizes their impact on adjacent properties.

Subd. 11. Off-street loading areas.

A. All loading areas, including maneuvering area, shall be off-street and shall be located on the same lot as the building or use to be served.

B. Loading areas shall not be permitted along the front side or within a front yard of a building.

C. Where a loading area faces a public street, a minimum 40 foot wide landscaped yard, including berms, and vegetation shall be provided and maintained along said public street.

D. Where a loading area is proposed within 300 feet of any residential district, a conditional use permit shall be required. In issuing said permit, the council shall find that said loading area shall be developed in a manner so as not to have a detrimental effect upon the adjoining residential area.
E. Loading and delivery areas shall not interfere with employee or customer building entrances and/or site circulation.

F. Loading dock doors, railings and other appurtenances shall be compatible with the overall color scheme of the principal structure.

G. In BP zoning districts, loading docks and maneuvering areas shall be solidly screened from all streets and adjacent properties.

Signage

Chapter 10 – Public Protection, Crimes and Offenses

Sec. 10.23. - Rules and regulations governing public parks and recreation areas.

Subd. 1. Unlawful acts (general rules). It is unlawful for any person, in any park or recreation area, to: (G) Paste, affix or inscribe any handbill, poster or sign or distribute handbills, circulars or announcements of any kind for a commercial purpose.

Sec. 10.32 – Obstructions and dumping on public property

Subd. 4. Signs and other structures. It is unlawful for any person to place or maintain a sign, advertisement, or other structure on public property without first having obtained a written permit from the council.

Chapter 11 – Land Use Regulations (Zoning)

Sec. 11.60 - Use districts and overlays

Subd. 21. CGD Cedar Grove District.

C. Accessory uses. 3. Within the CGD, the following uses shall be permitted accessory uses: Signs, fences, and decorative landscape features as regulated herein:

14. Signage:

a. All signs erected on any building or land within the Cedar Grove District must comply with the standards of this section and other applicable sections of this title.

b. Wall signs:

1) Wall signage is allowed on buildings in the Cedar Grove District within a horizontal band no more than three feet in height, at least ten feet and no more than 15 feet above the ground.

2) Wall signage may be either:

a. Attached: flat and parallel to the surface of the building and projecting no more than one foot from it, or
b. Projecting: perpendicular to the surface of the building and no more than one foot in thickness.

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

c. Projecting signs:

1) Projecting signs may project no more than four feet from the front edge of the building and be no more than 12 square feet in area.

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

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

d. Box signs or cabinet signs, whether on a wall, projecting or on canopies/awnings, are prohibited.

e. Signs on canopies are allowed only if they are on a surface perpendicular to the ground and if all other requirements of this section as to area and location are adhered to.

f. Allowable area of wall signs is one and one-half square feet of signage per lineal 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 from one side of a building to another side. In calculating the total allowable area of wall signage, only one side of a two-sided projecting sign shall be counted.

g. Freestanding signs, intended to identify tenant(s), provided said signage does not exceed 12 feet in height, are allowed provided the sign is located within a landscaped area or landscaped island. Such signage shall be constructed with a base, constructed of the same materials and colors as the principal building, with a minimum height of three feet and a total sign area not to exceed 45 square feet. In calculating the total allowable area of identification signage, only one side of a two-sided freestanding sign shall be counted.

h. Directional signs at driveways and within parking areas, if no more than five feet in height and no more than six square feet in area, are allowed. Directional signs must be setback at least two feet from right-of-way, lot lines, and parking spaces.

Sec. 11.70 – Performance Standards

Subd. 28. Placement, erection and maintenance of signs.

A. Purpose, construction and definitions.

1. Purpose. The purpose of this section shall be to regulate the placement, erection and maintenance of signs in the city so as to promote the health, safety and general welfare of the residents of the city.
2. Construction. All terms and words used in this section shall be given their commonsense meaning considered in context, except as hereinafter specifically defined.

3. Definitions. The following terms, as used in this section, shall have the meanings stated:

(a) Business sign means any sign upon which there is any name or designation that has as its purpose business, professional or commercial identification and which is related directly to the use of the premises upon which the sign is located.

(b) Freestanding ground sign means a business sign erected on freestanding shafts, posts or walls which are solidly affixed to the ground and completely independent of any building or other structure. Any business freestanding ground sign which projects more than seven feet above ground level is considered a pylon sign.

(c) Governmental sign means any sign placed, erected or maintained by a governmental entity or agency for identification of or directions to a public facility or street or for traffic control or general public services.

(d) Local street means a street within the city, which is not functionally classified within the City's Comprehensive Guide Plan as a principal arterial, "A" minor arterial, "B" minor arterial, major collector or minor collector.

(e) Nonbusiness sign means any sign such as a personal nameplate or designation as for residences, churches, schools, hospitals, traffic or road signs, which do not contain advertising and are directly related to the premises upon which they are located.

(f) Noncommercial sign means any sign which does not contain advertising for the sale of products or services.

(g) Off-premises sign means a sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered somewhere other than on the property upon which the sign is located.

(h) Product sign means any sign upon which there is any brand name, trademark, logo, distinctive symbol, designation or advertising which has as its purpose the promotion of any business, product, goods, activity or service. Product signs shall be subordinate to business signs.

(i) Public right-of-way or public rights-of-way means the surface, air space above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, trail, avenue, boulevard, drive, court, concourse, bridge, tunnel, park, parkway, skyway, waterway, dock, bulkhead, wharf, pier, easement or similar property or waters within the city owned by or under control of the city, or dedicated or otherwise conveyed to the city for general public use.

(j) Pylon sign means a business sign erected on freestanding shafts, posts or walls which are solidly affixed to the ground, and which projects more than seven feet above ground level. Pylon signs, when authorized, are considered a conditional use, as defined in the zoning chapter, and are subject to all conditions, regulations and fees required for conditional uses.
(k) Sign means any surface, facing or object upon which there is printed, painted or artistic matter, design or lighting.

(l) Sign area means the gross area, exclusive of supportive frame, which contains copy or identifying features such as a logo, character or identifying figure. The gross area shall be calculated as an enclosed area bounded by no more than 12 straight lines.

(m) Sign height means the distance from the lowermost ground point to which the sign is attached, to the highest point on the sign.

(n) Trail means any paved surface within the public right-of-way, outside of the paved street surface, used by pedestrians and cyclists.

B. Permitted uses.

1. Location of business signs. Business signs are permitted on property zoned business, industrial, agricultural, public facilities, RD or PD only in conjunction with an approved business, industrial or agricultural use.

2. Location of business signs in residential areas. Business signs are permitted in residentially zoned areas or areas of PD designation for residential use only under the following cases:

(a) "For sale" or "for rent" signs, four feet by four feet or smaller, advertising the premises upon which such sign is located.

(b) Real estate "for sale" signs, not over 100 square feet, of a land developer, which are located upon the premises offered for sale.

(c) Area identification signs for major apartment complexes.

C. General sign standards.

1. Construction and erection of signs. All signs shall be constructed and erected in a good and workmanlike manner of sound and sufficient materials so as to ensure the safety of the public and in accordance with all reasonable standards employed by professional signmakers.

2. Location on private property. No sign shall be erected, placed or located upon private property without the permission of the property owner or the lessee.

3. Location to property line. No business sign shall be located nearer than ten feet from any property or dividing line.

4. Location on public property. No sign, other than governmental signs, shall be placed upon any city owned public property, or railroad right-of-way. No sign, other than governmental signs, shall be affixed to any utility pole.

5. Moving parts, lights. No signs are allowed which contain moving sections or intermittent or flashing lights, except for intermittent display of time and temperature, governmental signs, and dynamic display signs allowed under subdivision K. below.
6. Obstruction of vision. No sign shall be erected or maintained in such place and manner as obstructs driver vision or is noxious, annoying or hazardous because of method of lighting, illumination, reflection or location.

7. Painted signs on buildings. No signs are allowed which are painted directly upon the walls of a building.

8. Placement within public right-of-way. No sign other than governmental signs, shall be located within any city owned public right-of-way, except as follows:

(a) Residential name and address signs may be located within the public right-of-way when such signs are attached to mail boxes, private lampposts or the like.

(b) Noncommercial signs may be placed in the public right-of-way of a local street only if the sign is located more than five feet from the back of the street curb where no trail exists, or where a trail exists, more than one foot from the edge of the trail furthest from the street curb.

9. Source of lighting. No signs are permitted for which the source of light is directly visible to passing pedestrians or vehicle traffic.

D. Off-premises signs.

1. No off-premises sign shall be permitted in any zone within the city except as permitted under this subparagraph.

2. The owner of an existing off-premises sign may construct a new off-premises sign pursuant to a conditional use permit issued in accordance with the provisions of chapter 11 of the City Code, and under the following criteria:

(a) No sign will be permitted which increases the number of signs beyond the number of signs depicted in Table A (which follows this section), as amended from time to time.

(b) No sign shall be permitted which increases the total square footage of all signs beyond the number of total square feet depicted in Table A (which follows this section), as amended from time to time.

(c) No sign shall be permitted which increases the total number of sign surfaces beyond the total number of sign surfaces depicted in Table A (which follows this section), as amended from time to time.

(d) The maximum square footage of a sign shall be 250 square feet; however, the city may allow a sign in excess of 250 square feet upon (i) the reduction of the total number of signs, square footage or surface areas depicted in Table A (which follows this section), as amended from time to time, and (ii) amendment to said Table A to reflect such reduction, and (iii) further, so long as the total square footage of all signs is not increased beyond the total of sign square footage depicted in said Table A, at the time of application for a new sign.

(e) No sign shall be located nearer to any other off-premises sign than 1,500 lineal feet on the same side of the street or 300 lineal feet on the opposite side of the street.
(f) No sign shall be located on a platted lot which contains a business sign.

(g) No sign shall be located within 300 feet of any freestanding ground sign or pylon sign.

(h) No sign shall be located within 200 feet of any residentially zoned district.

(i) No sign or any part thereof shall exceed 40 feet in height as measured from the land adjacent to the base of the sign.

3. Any new off-premise sign permitted under this paragraph, shall not be placed upon any property upon which a building or structure already exists.

4. Any new off-premise sign permitted under this paragraph, above, shall be located only on property zoned for business or industrial use.

5. Any off-premise sign now existing or permitted to be constructed shall be removed prior to the city approving the platting of the property upon which the sign is located or prior to the city issuing a building permit for the construction of a structure upon the property upon which the sign is located, whichever occurs earlier.

6. Any new off-premise sign pursuant to a conditional use permit issued hereunder shall be subject to the provisions governing conditional use permits as set forth elsewhere in this chapter.

E. Building-mounted, window/door and temporary business signs, standards.

1. Building signs on single-tenant buildings and end units in multi-tenant buildings. On single-tenant buildings, no more than three total signs, distributed on up to two elevations, are allowed in the following combinations, not to exceed the allowed sign area based on zoning:

(a) One elevation displaying a business name sign, and one elevation displaying a business name and a product name sign for a total of three signs; or

(b) One elevation displaying a business name sign, and one elevation displaying either a business name or a product name sign for a total of two signs;

(c) One elevation displaying a business name sign or a product name sign for a total of one sign;

(d) Two signs, each displaying a separate business name if two tenants are occupying one unit space for a total of two signs on one elevation.

2. Building signs on interior units of multi-tenant buildings. On multi-tenant buildings, no more than two signs per tenant on one elevation are allowed in the following combinations, not to exceed the allowed sign area based on zoning:

(a) One sign displaying a business name, and one sign displaying a product name for a total of two signs on one elevation; or

(b) Two signs, each displaying a separate business name if two tenants are occupying one unit space for a total of two signs on one elevation; or
(c) One sign displaying a business name for a total of one sign on one elevation; or
(d) One sign displaying a product name for a total of one sign on one elevation.

3. Design similarity. All business signs mounted on a building shall be similar in design.


5. Product name signs. Product name signs shall be subordinate to business name signs.

6. Roof signs. No sign mounted upon a building is allowed to project above the highest outside wall or parapet wall.

7. Roof signs in BP and RD districts. In BP and RD districts, no roof signs shall be allowed.

8. Sign area.

(a) No signs or combination of signs mounted upon a building shall cover in excess of ten percent of the gross area of a side in the RD and BP zoning districts, and 20 percent of the gross area of a side in all other zoning districts, where business signs are allowed.

(b) A sign displayed on a window or within an area 18 inches from the face of the window, as measured from the interior glass to the building interior, shall not occupy more than 60 percent of the area of the windows and/or doors on the side of the building on which the window/door sign is displayed. The area of a window/door sign shall be included in the calculation of the sign area allowed for building-mounted signs provided herein and shall not exceed the applicable sign area permitted. Window/door signs shall be allowed only on the building façade that has building-mounted signage. Any sign not exceeding a two square feet area that depicts "Open/Closed" or hours of operation shall be exempt from requirements. A sign or display inside the building which is located more than 18 inches from the inside glass face of the window glass is not deemed a "window sign" for purposes of this section.

(c) Any property or business that exceeds the 60 percent window/door area as of the effective date of this ordinance shall be exempt from the 60 percent window/door area restriction, provided the following conditions are met:

1. The property owner/occupant completes and files an "exemption registration" with the city within six months of the effective date of the ordinance. If an exemption is not timely filed with the city, the 60 percent window/door sign area regulation will apply.

2. The property, which is exempt from the 60 percent window/door sign area regulation, is prohibited from exceeding its registered window/door sign coverage.

3. Any change in sign size or type rescinds/voids the exemption and the 60% window/door sign area regulation shall apply.

4. Any change in business located in the subject space rescinds/voids the exemption and the 60 percent window/door sign area regulation shall apply.
5. Any modification to the window or door size rescinds/voids the exemption and the 60 percent window/door sign area regulation shall apply.

Any exemption not voided or rescinded as set forth in this section shall automatically expire and be void on January 1, 2014.

9. Sign projection. No sign mounted upon a building is allowed to project more than 18 inches from the vertical surface of the building.

10. Temporary signs for special business sales. Any commercial use may have up to three signs for the purpose of promoting a special sales event, provided the signs may not be displayed for no more than ten days within a 60-day period. The 60-day period shall commence on the first day of posting a temporary sign and conclude 60 days thereafter. The temporary signs shall not exceed an aggregate total area of 25 square feet. The sign permit application shall specify the days, not to exceed ten, on which the temporary sign will be displayed.

11. Canopy signage. Canopy signage is limited to the business name and/or logo, and shall not exceed 20 percent of the canopy facade, excluding corporate color raceway. No more than one canopy sign for each street frontage shall be permitted on a canopy for the business located upon the property; illumination is limited to business name and/or logo.

F. Freestanding business signs, standards.

1. Freestanding ground signs. Up to one allowed per building. Such signs shall be limited to seven feet total height, with four-foot maximum height of sign area.

2. Pylon signs. Up to one allowed per building. When used, a pylon sign is allowed in lieu of a freestanding sign. No pylon sign may be located within 300 feet of any other pylon sign, measured on the same side of the street. No pylon signs shall project more than 27 feet above the lot level, roadway level, or a specified point between the two levels as determined by the council. The level used shall be based upon visibility factors from the adjacent roadway(s). The applicant shall submit diagrams, drawings, pictures and other information requested by the city prior to action by the council upon the application. No pylon sign shall exceed 125 square feet in area per side except pylon signs authorized under subparagraph C[G], below. In the RD and BP districts, no pylon signs shall be allowed.

3. Major complex. When an area identification is required, such as for a shopping center, major apartment complex, or major industrial building, up to one freestanding or pylon sign may be allowed for each major adjacent street. The council shall determine the maximum size after reviewing the applicable conditions including terrain, safety factors, etc.

4. Freeway locations. An on-premises pylon sign for identification purposes is allowed for a business sign located directly adjacent to a freeway within the city. Any business that acquires a conditional use permit to erect a pylon sign for freeway identification may be allowed an additional freestanding ground sign to be located on the side of the property opposite of the freeway. Notwithstanding the provisions of this subdivision restricting the number of building-mounted signs permitted, a business name sign may be displayed on the elevation facing the
freeway in lieu of an on-premise pylon sign permitted in this paragraph. All signs must comply in all other respects with the provisions of this section. A freeway shall be defined as a principal arterial highway as defined in the comprehensive plan.

5. Multi-lot developments. In multi-lot developments, the design and placement of monument and directional signs shall be coordinated through an overall signage plan.

G. Exemptions. Notwithstanding any other provisions of this section, the following signs are exempt from the permit or fee provisions of this section. No exempt sign shall exceed 16 square feet of area except where stated below:

1. For sale, lease, or rent signs of real estate when located on the property advertised, and when under 16 square feet in total copy area.

2. Church, hospital, or school directional signs, less than six square feet in total copy area.

3. One on-property church sign for each church site.

4. Signs warning of hazardous conditions.

5. Simple information signs, such as “exit,” “loading dock,” etc.

6. Simple nameplate signs on or over the entrance to a place of business or used to identify the parking area of a place of business. Not to exceed three square feet in gross area.

7. Signs erected by a recognized unit of government having jurisdiction in the city, or a school district within the boundaries of the school district.

8. Noncommercial signs.

9. Temporary signs for special civic events or garage or neighborhood sales, for a period not to exceed 20 days.

H. Nonconforming signs.

1. The protective inspections department shall order the removal of any sign erected or maintained in violation of the law as it existed prior to the effective date of this section. Removal shall be in accordance with this subdivision.

2. Other signs existing on the effective date of this section and not conforming to its provisions, but which did conform to previous laws, shall be regarded as nonconforming signs which may be continued if properly repaired and maintained as provided in this section and if in conformance with other provisions of the City Code. If said signs are not continued with conformance of above, they shall be removed in accordance with this subdivision.

I. Sign permits and fees.

1. Sign permits. No signs, except those specified in this subdivision, above, shall be erected or maintained anywhere in the city without first obtaining a sign permit.
2. Application, permit and fees. A formal application together with accompanying documents prescribed by the city shall be submitted to the city to obtain a sign permit. Permit fees are as adopted by resolution of the city council and shall accompany the permit application. If any sign is placed, erected, or installed without first obtaining a sign permit, then the permit fee shall be the amount equal to two times the permit fee.

3. Review of applications. The community development department shall consider approval of all sign permit applications, except that applications for approval of permits for advertising signs, pylon signs and any sign requiring a variance shall be submitted to the council for final approval. Freestanding signs exceeding seven feet in height shall require a footing and foundation inspection by the protective inspections division and all building code requirements shall be met.

4. Return of the fees. In the event said application shall be denied, the city shall return the applicant's permit fee, less a reasonable amount determined by the council which shall be retained as an administrative cost.

J. Removal. All signs which have not been removed within the designated time period may after due notice be removed by the city, and any expense incurred thereof may be charged to the sign owner or assessed against the property on which they are located.

K. Dynamic display signs.

1. Findings. Studies show that there is a correlation between dynamic displays on signs and the distraction of highway drivers. Distraction can lead to traffic accidents. Drivers can be distracted not only by a changing message, but also by knowing that the sign has a changing message. Drivers may watch a sign waiting for the next change to occur. Drivers are also distracted by messages that do not tell the full story in one look. People have a natural desire to see the end of the story and will continue to look at the sign in order to wait for the end. Additionally, drivers are more distracted by special effects used to change the message, such as fade-ins and fade-outs. Finally, drivers are generally more distracted by messages that are too small to be clearly seen or that contain more than a simple message. Time and temperature signs appear to be an exception to these concerns because the messages are short, easily absorbed, and become inaccurate without frequent changes.

Despite these public safety concerns, there is merit to allowing new technologies to easily update messages. Except as prohibited by state or federal law, sign owners should have the opportunity to use these technologies with certain restrictions. The restrictions are intended to minimize potential driver distraction and to minimize proliferation in residential districts where signs can adversely impact residential character.

Local spacing requirements could interfere with the equal opportunity to use such technologies and are not included. Without those requirements, however, there is the potential for numerous dynamic displays to exist along any roadway. If more than one dynamic display can be seen from a given location on a road, the minimum display time becomes critical. If the display time is too short, a driver could be subjected to a view that appears to have constant movement. This impact
would obviously be compounded in a corridor with multiple signs. If dynamic displays become pervasive and there are no meaningful limitations on each sign’s ability to change frequently, drivers may be subjected to an unsafe degree of distraction and sensory overload. Therefore, a longer display time is appropriate.

A constant message is typically needed on a sign so that the public can use it to identify and find an intended destination. Changing messages detract from this way-finding purpose and could adversely affect driving conduct through last-second lane changes, stops, or turns, which could result in traffic accidents. Accordingly, dynamic displays generally should not be allowed to occupy the entire copy and graphic area of a sign.

In conclusion, the city finds that dynamic displays should be allowed on signs but with significant controls to minimize their proliferation and their potential threats to public safety.

2. Dynamic display sign means any sign, except governmental signs, with dynamic display characteristics that appear to have movement or that appear to change, caused by any method other than physically removing and replacing the sign or its components, whether the apparent movement or change is in the display, the sign structure itself, or any other component of the sign. This includes a display that incorporates a technology or method allowing the sign surface to change the image without having to physically or mechanically replace the sign surface or its components. This also includes any rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, "digital ink" or any other method or technology that allows the sign surface to present a series of images or displays.

3. Dynamic display signs are allowed subject to the following conditions:

(a) Dynamic display signs are subordinate to off-premises signs, monument and pylon signs, and business signs. Dynamic displays must not be the predominant feature of the sign surface. The remainder of the sign must not have the capability to have dynamic displays even if not used. Dynamic display signs are allowed only on monument and pylon signs for conditionally permitted uses in residential districts and for all uses in other districts, subject to the requirements of this Section 11.70. Only one, contiguous dynamic display area is allowed on a sign surface;

(b) A dynamic display may not change or move more often than once every 20 minutes, except one for which changes are necessary to correct hour-and-minute, date, or temperature information. Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display. A display of time, date, or temperature must remain for at least 20 minutes before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three seconds;

(c) The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects;
(d) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign;

(e) Every line of copy and graphics in a dynamic display must be at least seven inches in height on a road with a speed limit of 25 to 34 miles per hour, nine inches on a road with a speed limit of 35 to 44 miles per hour, 12 inches on a road with a speed limit of 45 to 54 miles per hour, and 15 inches on a road with a speed limit of 55 miles per hour or more. If there is insufficient room for copy and graphics of this size in the area allowed under clause (a) above, then no dynamic display is allowed;

(f) Dynamic display signs must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the city that it is not complying with the standards of this ordinance;

(g) Dynamic display signs must comply with the brightness standards contained in subdivision L below;

(h) Dynamic display signs existing on October 6, 2007, must comply with the operational standards listed above. An existing dynamic display that does not meet the structural requirements in clause (b) may continue as a non-conforming use subject to the regulations governing non-conforming structures and uses set forth in this chapter. An existing dynamic display that cannot meet the minimum size requirement in clause (e) must use the largest size possible for one line of copy to fit in the available space.

(i) Exceptions. Recognizing that some dynamic displays, such as those used in point of sale dispensers, interactive vending machines and ATMs, often need to change images more frequently than defined by this ordinance in order to perform their intended function and that such image changes can occur in a manner in which they do not create distractions for drivers, dynamic displays with a total area of less than 160 square inches at any point of sale dispenser, interactive vending machines or ATM may be fully animated, provided they do not flash or blink in a manner clearly visible from the roadway and provided they either meet or exceed the building setbacks for the zoning district in which they are located or are at least 30 feet from the public right-of-way, whichever is greater.

4. Incentives. Off-premises signs do not need to serve the same way-finding function as do on-premises signs; they are restricted in number by the city; and they are in themselves distracting and their removal serves public safety. This clause is intended to provide an incentive option for the voluntary and uncompensated removal of off-premises signs in certain settings. This removal results in an overall advancement of one or more of the goals set forth in this section that should more than offset any additional burden caused by the incentives. These provisions are also based on the recognition that the incentives create an opportunity to consolidate outdoor advertising services that would otherwise remain distributed throughout the community and expand the function of off-premises signs to serve a public purpose by providing community and public service messages.
A. Incentive Option A—Reduction of Sign Surfaces.

(a) A person may obtain a permit for an enhanced dynamic display sign on one surface of an existing off-premises sign if the following requirements are met:

(i) The applicant agrees in writing to reduce its off-premises sign surfaces by one by permanently removing, within 15 days after issuance of the permit, one surface of an off-premises sign in the city that is owned or leased by the applicant and is depicted in Table A (which follows this section), which sign surface must satisfy the criteria of parts (ii) and (iii) of this subsection. This removal must include the complete removal of the structure and foundation supporting each removed sign surface. The applicant must agree that the city may remove the sign surface if the applicant does not timely do so, and the application must identify the sign surface to be removed and be accompanied by a cash deposit or letter of credit acceptable to the city attorney sufficient to pay the city’s costs for that removal. The applicant must also agree that it is removing the sign surface voluntarily and that it has no right to compensation for the removed sign surface under any law. Replacement of an existing sign surface of an off-premises sign with an enhanced dynamic display sign does not constitute a removal of a sign surface.

(ii) The city has not previously issued a dynamic display sign permit based on the removal of the particular sign surface relied upon in this permit application.

(iii) If the removed sign surface is one for which a state permit is required by state law, the applicant must surrendered its permit to the state upon removal of the sign surface. The sign that is the subject of the dynamic display sign permit cannot begin to operate until proof is provided to the city that the state permit has been surrendered.

(b) If the applicant complies with the permit requirements noted above, the city will issue an enhanced dynamic display sign permit for the designated off-premises sign. This permit will allow a dynamic display to occupy 100 percent of the potential copy and graphic area and to change no more frequently than once every eight seconds. The designated sign must meet all other requirements of this ordinance.

B. Incentive Option B—Provision of Community and Public Service Messaging.

(a) A person may obtain a permit for an enhanced dynamic display sign on one surface of an existing off-premises sign if the following requirements are met:

(i) The enhanced dynamic display sign replaces an existing surface of an existing off-premises sign;

(ii) The city has not previously issued a dynamic display sign permit based on the replacement of the particular sign surface relied upon in this permit application.

(iii) The applicant shall enter into an agreement with the city to provide to the city no less than five hours (2,250 eight-second spots) per month per enhanced dynamic display sign in the city for community and public service messages at such times as shall be determined by the city.
(b) If the applicant complies with the permit requirements noted above, the city will issue an enhanced dynamic display sign permit for the designated off-premises sign. This permit will allow a dynamic display to occupy 100 percent of the potential copy and graphic area and to change no more frequently than once every eight seconds. The designated sign must meet all other requirements of this ordinance.

L. Brightness standards.

1. All signs must meet the following brightness standards:

(a) No sign may be brighter than is necessary for clear and adequate visibility.

(b) No sign may be of such intensity or brilliance as to impair the vision of a motor vehicle driver with average eyesight or to otherwise interfere with the driver's operation of a motor vehicle.

(c) No sign may be of such intensity or brilliance that it interferes with the effectiveness of an official traffic sign, device or signal.

2. The person owning or controlling the sign must adjust the sign to meet the brightness standards in accordance with the city's instructions. The adjustment must be made immediately upon notice of non-compliance from the city. The person owning or controlling the sign may appeal the city's determination through the following appeal procedure:

(a) After making the adjustment required by the city, the person owning or controlling the sign may appeal the city's determination by delivering a written appeal to the city clerk within ten days after the city's non-compliance notice. The written appeal must include the name of a person unrelated to the person and business making the appeal, who will serve on the appeal panel.

(b) Within five business days after receiving the appeal, the city must name a person who is not an official or employee of the city to serve on the appeal panel. Within five business days after the city names its representative, the city's representative must contact the sign owner's representative, and the two of them must appoint a third member to the panel, who has no relationship to either party.

(c) The appeal panel may develop its own rules of procedure, but it must hold a hearing within five business days after the third member is appointed. The city and the sign owner must be given the opportunity to present testimony, and the panel may hold the hearing, or a portion of it, at the sign location. The panel must issue its decision on what level of brightness is needed to meet the brightness standards within five business days after the hearing commences. The decision will be binding on both parties.

3. All signs installed after October 6, 2007, that will have illumination by a means other than natural light must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions. These signs must also be equipped with a means to immediately turn off the display or lighting if it malfunctions, and the sign owner or operator must
immediately turn off the sign or lighting when notified by the city that it is not complying with the standards in this section.

Sec. 11.65. - S—Shoreland Overlay District.

Subd. 6. Administration.

A. Permits required. The provisions of chapter 4 of the City Code regarding the issuance of building permits shall apply to this section.

1. No buildings, building additions, including fences higher than six feet, decks, signs or sewage treatment systems shall be constructed, installed or altered, and no grading or filling activities not exempted by subdivision 12(I) of this section shall be permitted without first obtaining a permit from the city. Application for a permit shall be filed with the city on the form provided by the city. The application shall include the necessary information so that the city can determine the site's suitability for the intended use and that a conforming sewage treatment system will be provided should any building permits or conditional use permits be issued.

2. Any permit issued hereunder shall state that an identified, existing sewage treatment system, as defined by subdivision 9, shall be reconstructed or replaced in accordance with the provisions of this section.

3. The general provisions of this section shall be complied with before the issuance of the permit.

Subd. 9. General provisions.

M/ Special provisions for public/semipublic, agricultural, forestry and extractive uses.

1. Any surface-water-oriented uses and public or semipublic uses when permitted by Code which have need for access to and use of public waters may be located on parcels or lots with public waters frontage. Uses with water-oriented needs located on parcels or lots with public waters frontage shall comply with the following standards:

   (a) Topographic and vegetative screening of parking areas and structures shall be constructed and maintained;

   (b) No advertising signs or supporting facilities for signs shall be placed in or upon public waters. The city may install and maintain signs conveying information or safety messages...

Chapter 7 – Streets and Sidewalks Generally

Sec. 7.05. - Obstructions and excavations within public rights-of-way (streets or sidewalks/trails).

Subd. 6. Signs and other structures. Except as otherwise permitted by the City Code, it is a misdemeanor for any person to place or maintain a sign, advertisement, or other structure in
any public right-of-way without first having obtained a written permit from the council. In a district zoned for commercial or industrial enterprises, special permission allowing an applicant to erect and maintain signs overhanging into the public right-of-way may be granted upon such terms and conditions as may be set forth in the zoning or construction provisions of the City Code. A violation of this subdivision shall be deemed a public nuisance. Any person who is in violation of this subdivision shall immediately remove the obstruction upon demand by the city and upon failure to do so, the violator shall pay the costs incurred by the city in connection with its removal.

Composting

Chapter 10 – Public Protection, Crimes and Offense

Sec. 10.01. - Storage, deposit and disposal of refuse

F. Backyard composting.

Requirements. No composting shall be permitted except in residential dwelling districts and agricultural districts upon compliance with the following requirements:

(a) Yard waste shall be composted within an enclosure with a minimum of three sides or circular, not to exceed a total of 100 cubic feet in volume for the residential lots of 12,000 square feet or less or 150 cubic feet for residential lots with an area of more than 12,000 square feet. The containers shall be of durable material such as wood, plastic, fiberglass, or metal fencing material;

(b) Only yard waste, sawdust, wood ash, straw, kitchen wastes, which have been placed initially in the center of the compost pile, and commercially available compost ingredients to accelerate composting may be placed in the compost enclosure;

(c) No meat, bones, fat, oils, dairy products, food other than kitchen waste as defined in subdivision 1, subparagraph K, synthetic fibers, human or pet waste, or diseased plants shall be placed in the compost enclosure;

(d) Compost shall be properly maintained to minimize odor generation and to promote effective decomposition of the materials; and

(e) The compost enclosure shall be located behind the residential dwelling and shall not be within 30 feet of any habitable building, 30 feet of a public right-of-way, and five feet of any property line.

(f) The compost enclosure must be located above the 100-year high water level for the closest adjacent pond.

G. Noncompliance. Any violation of or failure to comply with any of the provisions of this subdivision shall constitute a public safety and health hazard and is declared to be a
public nuisance. The abatement of the public nuisance shall be in accordance with this chapter. 252

Chapter 6 – Other Business Regulation and Licensing

Sec. 6.37. - Garbage, refuse and recycling haulers

See Garbage Disposal & Recycling

Garbage Disposal & Recycling

Chapter 6 – Other Business Regulation and Licensing

Sec. 6.37. - Garbage, refuse and recycling haulers

Subd. 2. It is unlawful for any person to haul garbage, refuse, recyclables, yard waste or food waste, without a license therefor from the city, or to haul garbage, refuse, or recyclables, yard waste or food waste from his own residence or business property other than herein excepted. For purposes of this section, a license shall be required for hauling construction or demolition debris only in cases of hauling for hire or with a motor vehicle that has a hauling capacity of four cubic yards or greater.

Subd. 3. Exception. Nothing in this section shall prevent persons from hauling garbage, refuse, recyclables, yard wastes or food wastes from their own residences or business properties provided the following rules are observed:

• That all garbage is hauled in containers that are watertight on all sides and the bottom and with tightfitting covers on top;

• That all refuse, recyclables, yard wastes and food wastes are hauled in vehicles with leakproof bodies and completely covered or enclosed by canvas or other means or material so as to completely eliminate the possibility of loss of cargo;

• That all garbage and refuse shall be dumped or unloaded only at a licensed solid waste facility or county-designated facility;

• That recyclables may be disposed of at a recycling facility, an organized recyclable drive or through a licensed recyclable hauler;

• That yard wastes may be composted privately or be disposed of at a composting facility or through a licensed refuse hauler or recyclable hauler; and

• That food wastes may be disposed of at a food waste composting facility or processing facility or through a licensed food waste hauler.

Chapter 10 – Public Protection, Crimes and Offense

Sec. 10.01. - Storage, deposit and disposal of refuse
Subd. 2. Storage.

A. It is unlawful for any person to store garbage or refuse on residential dwelling premises for more than one week. All such storage shall be in watertight, metal or plastic containers of not less than five gallons with tightfitting covers, which shall be maintained in a clean and sanitary condition; provided, that yard waste may be stored in biodegradable bags, and tree limbs must be stored in watertight, metal or plastic containers of not less than five gallons with tightfitting covers or closable plastic or paper bags, and tree limbs must be stored in bundles weighing no more than 60 pounds and no longer than four feet.

B. It is unlawful for any person to store garbage or refuse or recyclables on multiple dwelling premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so called "dumpsters" with close fitting covers may be substituted.

C. It is unlawful for any person to store garbage or refuse on commercial establishment premises for more than one week, or for a shorter period when collection must be made at more frequent intervals to protect the public health or at the direction of the city. It is unlawful for any person to store recyclables on commercial establishment premises for more than one week. Such storage shall be in containers as for residential dwelling premises, except that so called "dumpsters" with closefitting covers may be substituted.

D. In residential dwelling areas, storage containers for garbage, refuse and recyclables shall be permitted at curbside or other permitted collection point from 6:00 p.m. of the night preceding collection day until 6:00 a.m. on the day after designated collection day. At all other times, such containers must be stored inside the dwelling unit or garage or at a point behind the front of the dwelling unit or garage.

E. Notwithstanding any of the foregoing provisions of this subdivision, it shall be unlawful for any person to store any construction or demolition debris on any premises except in a proper container or enclosure as required herein. Any and all construction and demolition debris shall be stored in a roll-off or dumpster-like container or a wire or other temporary constructed enclosure. Any wire or other temporary constructed enclosure that is used for the storage of construction or demolition debris shall meet the following requirements:

1. Not exceed 160 square feet in area, provided no side of the enclosure shall be greater than 20 feet in length;
2. It shall not exceed five feet in height;
3. It shall be constructed in such a manner that all debris will be adequately maintained if kept within the enclosure;
4. It shall be maintained in good repair and shall not be left at any time in a collapsed conditioned;
5. It shall not be located on an individual lot or parcel for more than six months during any twelve-month period;
(6) It shall not be used for storage of any refuse other than construction or demolition debris; and

(7) The construction or demolition debris stored within the enclosure shall not exceed three feet in height from the top of the enclosure.

The containers and enclosures permitted herein shall be clearly labeled with the name and telephone number of the container owner, on the construction or demolition site.

Subd. 3. Deposit. It is unlawful for any person to deposit garbage or other refuse from any source, in any place other than a licensed solid waste facility or county-designated facility. It is unlawful for any person to deposit recyclables or yard waste from any source in any place other than a licensed recycling facility or yard waste processing facility or use other than proper disposal methods as approved by the council.

Subd. 4. Fire danger. It is unlawful for any person to store, deposit or dispose of any garbage or other refuse which is in flames or heated to the point where it could cause danger of fire in other refuse.

Subd. 5. Disposal.

A. Sanitary landfill. The council may, by resolution, adopt and from time to time amend, adjust and revise such rules, regulations, rates and charges as it deems necessary or proper for the operation and management of a licensed sanitary landfill. It may give notice of any such action as it deems necessary.

B. Garbage and refuse collection. Every household in residential and multidwelling districts and all commercial establishments shall have garbage and refuse collection. Such collection must be made by a garbage and refuse hauler that is licensed with the city, except commercial establishments and households in a residential district need not contract with a licensed hauler when it hauls its garbage and refuse from its own property and complies with the standards defined in section 6.37, subdivision 3 of the City Code or provided the garbage and refuse is disposed of in an environmentally sound manner.

Subd. 6. Joint management hauling contracts. Occupants of residential dwelling properties jointly managed by associations or others shall have the same opportunity to recycle afforded to occupants of other residential dwelling units. It is unlawful for any residential dwelling association or other residential dwelling joint management entity to negotiate, execute or maintain a contract for residential garbage or other refuse collection unless it includes as a part of that contract or as part of a separate contract weekly collection of recyclables occurring on the same day as their refuse collection.

A. Occupants of multiple/residential dwelling properties managed by associations or other management entities shall have the same opportunity to recycle afforded to occupants of other residential dwelling units. It is unlawful for any multiple/residential dwelling association or other multiple/residential dwelling joint management entity to negotiate, execute or maintain a contract for multiple/residential garbage or other refuse collection...
unless it includes as a part of that contract or as part of a separate contract a minimum of weekly collection of recyclables.
APPENDIX G: STATE EXEMPTIONS FROM STATE FOOD HANDLERS LICENSING REQUIREMENTS

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 adopted by the commissioner [of agriculture].” 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 Eagan 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).

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• 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.  

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 EAGAN, MINN., CODE § 11.30.
2 EAGAN, MINN., CODE § 11.30.
4 MINN. STAT. §§ 326B.101, 326B.41.
5 MINN. CONSTIT., art. 13, § 7.
6 MINN. STAT. §§ 157.16, 28A.04; MINN. R. CH. 4626.
7 MINN. RULES CH. 4626.
10 MINN. STAT. § 28A.04.
11 MINN. RULES CH.4626.
13 MINN. RULES 4626.0017; MINN. STAT. § 144.05.
14 MINN. RULES 4626.0017; MINN STAT. § 144.05.
17 MINN. RULES 4626.1785.
18 MINN. STAT. §§ 31.101; 31.11.
19 MINN. RULES 4626.1785.
20 See generally Food, Dairy, Meat & Eggs, MINN. DEP’T OF AGRIC., http://www.mda.state.mn.us/licensing/inspections.aspx (last visited May 19, 2015);
21 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).
22 See generally, MINN. STAT. CH. 410 (home rule charter cities) and MINN. STAT. CH. 412 (statutory cities).
24 MINN. STAT. § 462.352, subd. 15 (2014); see also MINN. STAT. § 394.22, subd. 6 (2014); MINN. STAT. § 473.582, subd. 9 (2014).
26 MINN. STAT. § 412.221 Subd. 32 (2015).
30 Black’s Law Dictionary (2nd ed.) (“Permit”).
32 EAGAN, MINN., CODE § 10.12, Subd. 2
33 MINN. STAT. CH. 462.
34 EAGAN, MINN., CODE § 11.40.
35 MINN. STAT. § 462.351 et seq. (2014).
36 MINN. STAT. § 462.351 (2014).
37 MINN. STAT. § 473.851 (2014).
38 MINN. STAT. § 473.861 (2014).
39 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”).
Sec. 3.20. - Rules and regulations relating to water service.

87 Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), http://www.dli.mn.gov/ccld/OpinionStaffAgriculture.asp.

88 Memorandum from Scott McLennan, Minn. Dept. of Labor & Industry, to Division code staff (Sept. 24, 2013), http://www.dli.mn.gov/ccld/OpinionStaffAgriculture.asp.


95 EAGAN, MINN., CODE § 11.30 (2015).


100 EAGAN, MINN., CODE § 11.30 (2015).


113 EAGAN, MINN., CODE § 11.30 (2015).


120 EAGAN, MINN., CODE § 11.30 (2015).

121 EAGAN, MINN., CODE § 11.30 (2015).


130 EAGAN, MINN., CODE § 11.30 (2015).


133 EAGAN, MINN., CODE § 11.30 (2015).


139 EAGAN, MINN., CODE § 11.30 (2015).

140 EAGAN, MINN., CODE § 11.30 (2015).


143 EAGAN, MINN., CODE § 11.30 (2015).

144 EAGAN, MINN., CODE § 11.30 (2015).


147 EAGAN, MINN., CODE § 11.30 (2015).


Eagan, Minnesota
249 EAGAN, MINN., CODE, § 11.60.
250 EAGAN, MINN., CODE, § 11.60.
251 EAGAN, MINN., CODE, § 11.60.
252 EAGAN, MINN., CODE, § 10.01.
253 MINN. STAT. §28A.02 (2015).
254 “Egg Sales,” Minnesota Institute of Sustainable Agriculture, http://www.misa.umn.edu/FarmFoodResources/LocalFood/EggSales/.