
Section 1: General Provisions

1.1 Title, Purpose, and Effective Date

1.1.1 Title

This **Chapter 35** and the regulations set forth herein shall be known as the UNIFIED DEVELOPMENT CODE OF THE CITY OF BROOKLYN CENTER and will be referred to herein as the “Unified Development Ordinance”. It may also be referenced to **throughout Chapter 35** as “UDO” or “this Chapter.”

1.1.2 Statement of Policy

The provisions of Chapter 35 have been enacted in order to protect and promote health, safety, equity, and the general welfare of the people of Brooklyn Center. This UDO is adopted to achieve the following objectives:

- (a) **Compatibility between different land uses;**
- (b) **Promotion of a more equitable and sustainable community for all people;**
- (c) **Adequate light, air and safety from fire, flood, and other dangers for occupants of structures;**
- (d) **Protection of the character and stability of residential, commercial and industrial locations throughout the city, and to ensure the orderly and beneficial development of those areas;**
- (e) **Protection and conservation of the value of land and buildings;**
- (f) **A balanced tax base between residential, commercial and industrial uses;**
- (g) **Avoidance of business failures through improper location;**
- (h) **Provision for the safe and efficient circulation of all modes of transportation, with particular regard to the avoidance of congestion in the public streets; and**
- (i) **Reasonable standards to which structures and uses shall conform**

1.1.3 Effective Date: Month, date, year

1.2 Authority, Applicability, and Jurisdiction

1.2.1 Authority

This Unified Development Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, [Minnesota Statutes, Section 462.351 to 462.365](#) and other applicable laws.

1.2.2 General Applicability

- (a) Where the conditions imposed by any provision of this Unified Development Ordinance are either more or less restrictive than comparable conditions imposed by other ordinances, rules or regulations of the City, the Unified Development Ordinance, rule or regulation which imposes the more restrictive condition, standard or requirement shall prevail.
- (b) Except as herein provided, no building, structure or premises shall hereafter be used or occupied, and no building permit shall be granted, and no plat approved that does not conform to the requirements of this Unified Development Ordinance.
- (c) No structure shall be erected, converted, enlarged, reconstructed or altered, and no structure or land shall be used for any purpose which is not in conformity with the provisions of this Chapter.
- (d) In any zoning district, whenever a use is neither specifically allowed nor specifically prohibited, the use shall be considered prohibited unless the City Council determines the proposed use is substantially similar to an allowed use in which case the proposed use shall be deemed allowed.
- (e) The City Council or the Planning Commission, on their own initiative or upon request, may conduct a study to determine if a use not listed as allowed or prohibited is acceptable and if so, what zoning district would be most appropriate and the conditions and standards relating to development of the use. The City Council, Planning Commission or property owner, if appropriate, may initiate an amendment to the Unified Development Ordinance to provide for the particular use under consideration or shall find that the use is not compatible for development within the City.
- (f) This Unified Development Ordinance is a comprehensive revision to Chapter 35 of the City Code. Any act done, offense committed, or rights accruing or accrued, or liability, penalty incurred or imposed prior to the effective date of this Unified Development Ordinance is not affected by its enactment.

1.2.3 Jurisdiction

This Unified Development Ordinance applies to all lands within the jurisdiction of the City of Brooklyn Center shown on the official Zoning Map.

1.2.4 Enforcement

This Unified Development Ordinance shall be administered and enforced by the City Manager who is hereby designated as the Zoning Administrator. The City Manager may authorize other employees or agents of the City to perform the various duties of the Zoning Administrator, including:

- (a) **The enforcement of this development ordinance by initiation of appropriate administrative and legal actions, including but not limited to the issuing of citations or written orders, or reference to the city attorney for the issuing of a formal complaint.**
- (b) **Such other actions as reasonable and necessary for the enforcement of this development ordinance.**

1.2.5 Authority of Zoning Administrator

The Zoning Administrator is authorized to perform the following duties for the city:

- (a) Accept applications, determine their completeness, and identify what additional information is required to make an application complete;
- (b) Process and issue permits once they have been approved in accordance with this UDO;
- (c) Issue notices of denial;
- (d) Create reports with recommendations on zoning matters for the planning commission and the city council;
- (e) Provide for notices required under this UDO;
- (f) Conduct inspection as may be needed;
- (g) Administer and issue notices under Minnesota Statutes, section 15.99;
- (h) Enforce this UDO through the issuance of violation notices, cease and desist orders, and correction orders as may be needed; and
- (i) Perform such other duties and responsibilities as identified in this UDO or as may otherwise be needed to administer this UDO as directed by the city manager.

1.2.6 Penalties

Violation of the provisions of this Unified Development Ordinance or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional use permits) shall constitute a misdemeanor. Any person who violates this Unified Development Ordinance or fails to comply with any of its requirements shall, upon conviction thereof by lawful authority, be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than ninety (90) days or both, and in addition, shall pay all costs and expenses of prosecution. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the City of Brooklyn Center from taking such other lawful action as is necessary to prevent or remedy any violation. No provision of this chapter designating the duties of any official or employee of the City shall be so construed as to make such official or employee liable for the penalty provided in this section for failure to perform such duty, unless the intention of the City Council to impose such penalty on such official or employee is specifically and clearly expressed in the section creating the duty.

1.2.7 Severability

Every section, provision, or part of this Unified Development Ordinance is declared separable from every other section, provision, or part to the extent that if any section, provision, or part of the Unified Development Ordinance shall be held invalid, it shall not invalidate any other section, provision, or part thereof. Failure to give mailed notice as maybe required by this Unified Development Ordinance or any defects in the notice shall not invalidate the proceedings.

1.2.8 Official Zoning Map

The boundaries of the zoning districts defined in Section 2 are shown on the map entitled "Zoning Map of Brooklyn Center, Minnesota," as may be amended from time to time. The Zoning Map of Brooklyn Center, Minnesota shall be referred to in this Unified Development Ordinance as the Zoning Map or the Map. The Map and all amendments shall be certified by the City Clerk and maintained in the office of the City Clerk. The Zoning Map and all the notations, references and other information shown thereon shall have the same force and effect as if fully set forth herein and are thereby made a part of this Unified Development Ordinance by reference.

1.3 Interpretation and Conflicting Provisions

1.3.1 Rules of Interpretation

In their interpretation, the provisions of this Unified Development Ordinance shall be held to be the minimum requirements necessary to promote and preserve the public health, safety, morals, and welfare.

- (a) The word “person” includes firm, association, organization, company, partnership, cooperative, or corporation as well as an individual.
- (b) The present tense includes the future tense, the singular number includes the plural, and the plural includes the singular.
- (c) The word “shall” is mandatory and the word “may” is permissive.
- (d) The word “lot” shall include the words “plot,” “piece,” “parcel,” and “property” and shall be interpreted broadly to give full effect of the provisions of this Chapter.
- (e) All distances, unless otherwise specified, shall be measured horizontally.
- (f) References in this Chapter to any statutes, rules, or regulations shall include any amendments to, or successors of, those statutes, rules, or regulations. Furthermore, such references shall serve to incorporate those statutes, rules, or regulations by reference to the extent necessary to achieve the intent and purposes of this Chapter. However, such incorporations are intended only to give effect to this Chapter and are not intended to make the City responsible for the administration or enforcement of the referenced statutes, rules, or regulations.
- (g) Whenever a word or term defined hereinafter appears in the text of this Chapter, its meaning shall be constructed as set forth in such definition. If no set definition is given in this Chapter, the word or term shall have the meaning given it in the Minnesota Statutes, Minnesota Rules, or the most applicable Hennepin County ordinance to the extent the term is given a specific definition therein. Any question as to the meaning of a word or term used in this Chapter shall be determined by the City Council.
- (h) General words are construed to be restricted in their meaning by preceding particular words.
- (i) The listing of examples to further explain a term, concept, requirement, or process is not intended to be, and shall not be interpreted as, an exclusive listing. Unless the context clearly indicates otherwise, such listings are intended to be explanative without being exclusive or limited. The exception to this general rule of interpretation is the listing of uses allowed in a district, which is intended to be limited to only those uses and the uses the City Council finds to be substantially similar as provided in this Chapter.

The Minnesota legislature has adopted various provisions by statute requiring local governments to treat certain uses as permitted or conditional uses within their respective jurisdictions for the purposes of zoning regulations. Notwithstanding the general prohibition contained herein of uses not expressly allowed by this Chapter, this Chapter shall be interpreted as allowing those uses the legislature expressly requires the City to allow. Such uses shall be classified as provided in the legislative mandate and shall only be allowed in those areas described in the applicable statute, and then only to the extent and scope as prescribed in the statute. For example, Minnesota Statutes, section 462.357, subdivision 7 requires a licensed day care facility serving 12 or fewer persons to be considered a permitted single family residential use of property. As such, this Chapter shall be interpreted as allowing that specific use as a permitted residential use, but only up to a capacity of 12 persons. A proposed use that exceeds the scope described in the

statute shall not be allowed unless the expanded use is expressly allowed in the particular zoning district by this Chapter. Furthermore, if the statute indicates the use is to be allowed as a conditional use, the use may only occur upon the submission of an application and receipt of a conditional use permit from the City. All mandated uses shall obtain a land use permit and all other permits and permissions as required by this Chapter and all other applicable laws.

1.3.2 Supremacy

When any condition imposed by any provision of this Unified Development Ordinance upon the use of land or buildings or upon the bulk of buildings is either more restrictive or less restrictive than similar conditions imposed by provisions of another City ordinance or resolution, the more restrictive condition shall prevail.

This Unified Development Ordinance is not intended to abrogate any easements, covenants, or any other private agreement, providing that where the provisions of this Unified Development Ordinance are more restrictive than such easements, covenants, or other private agreements, the provisions of this Unified Development Ordinance shall prevail.

1.4 Transition from Prior Regulations

1.4.1 Prior Zoning Regulations

This Chapter supersedes and replaces Brooklyn Center City Ordinances Chapter 35 Zoning, and all such provisions are hereby repealed. The repeal of the City's previous zoning and subdivision chapters does not itself affect the status of any use, structure, or lot that was not in conformance with the earlier chapters.

1.5 Comprehensive Plan

1.5.1 General

The City Council hereby undertakes to carry on comprehensive study and planning as a continuing guide for land use and development legislation within the municipality. For this purpose, the City Council has adopted a Comprehensive Guide Plan for the City of Brooklyn Center, and the City's Planning Commission aids in such planning as the advisory planning agency.

The Planning Commission shall, from time to time, upon its own motion or upon direction of the City Council, review the Comprehensive Plan and by a majority vote of all members of the Planning Commission recommend appropriate amendments to the City Council. Before recommending any such amendments to the City Council, the Planning Commission shall hold at least one public hearing to consider the proposed amendment.

The City's Planning & Zoning Division shall publish notice of the time, place and purpose of the hearing once in the official newspaper of the City at least ten (10) days before the date of the hearing. Furthermore, the Secretary shall transmit copies of the proposed amendment to the City Council prior to the publication of the notice of hearing.

Following the review and recommendation by the Planning Commission, the City Council shall consider the proposed amendment and may, by resolution of two-thirds of its members, amend the Comprehensive Plan.

1.5.2 Coordination with Other Agencies

In the performance of its planning activities, the Planning Commission shall consult with and coordinate the planning activities of other departments and agencies of the municipality to ensure conformity with and to assist in a development of the comprehensive municipal plan. Furthermore, the Planning Commission shall take due cognizance of the planning activities of adjacent units of government and other affected public agencies.

1.5.3 Relationship between Comprehensive Plan and this UDO

Minnesota statutes require the Unified Development Ordinance be consistent with the approved comprehensive plan.