ORDINANCE NO. 2020 - 1

AN ORDINANCE CREATING ODOR CONTROL STANDARDS FOR NEW FOOD ESTABLISHMENTS; ESTABLISHING A NEW DEFINITION FOR MAJOR AND MINOR CATERING BUSINESSES; ADDING MAJOR AND MINOR CATERING BUSINESSES TO THE USE TABLE; CHANGING RESTAURANTS TO PERMITTED USES IN SOME COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS; ESTABLISHING NEW STANDARDS FOR RESTAURANTS; ESTABLISHING PARKING STANDARDS FOR MAJOR AND MINOR CATERING BUSINESSES AND TAKE-OUT ONLY RESTAURANTS; REDUCING BUILDING SIZE REQUIREMENTS FOR RESTAURANTS IN SOME COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS; AND ADDING ORGANIC MATERIALS TO THE SOLID WASTE AND RECYCLING STORAGE FACILITIES STANDARDS, THEREBY AMENDING CHAPTERS 1, 10, 19, AND 21 OF THE CITY CODE.

The City Council of the City of Bloomington, Minnesota ordains:

Section 1. That Chapter 1 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] with ~~strikethrough~~ text and adding those words that are <u>underlined</u>, to read as follows:

* * *

CHAPTER 1: INTERPRETATION AND ENFORCEMENT OF THE CITY CODE

ARTICLE II: CIVIL HEARING PROCESS

* * *

§ 1.11 CITY CODE PROVISIONS THAT ARE ADMINISTRATIVE OFFENSES

A violation of the following provisions of the city code shall be an administrative offense that may be subject to the administrative mediation and hearing process of this Article II.

* * *

(8) [~~RESERVED~~] <u>Chapter 10, Article III, Odor;</u>

* * *

Section 2. That Chapter 10 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] with ~~strikethrough~~ text and adding those words that are underlined, to read as follows:

* * *

CHAPTER 10: ENVIRONMENTAL CONTROL

* * *

ARTICLE III: [~~RESERVED~~] ODOR

§ 10.22 PURPOSE.
The purpose of this Article III is to mitigate odors from food or grease laden vapors that interfere with the public health, safety and general welfare of the community.

§ 10.23 DEFINITIONS.
The words and terms of this Article III shall have the meaning of the words and terms described and defined in § 14.444 and § 19.03 of this code unless the context clearly indicates otherwise.

§ 10.24 FOOD ESTABLISHMENT AND FOOD PROCESSING PLANT REQUIREMENTS.
(a) *Odor suppression.* All food establishments and food processing plants approved after February 24, 2020 that are located within 250 feet of properties zoned and guided residential or in a mixed use district with residential uses must install an odor suppression system if the food establishment or food processing plant:

(1) Requires a Type I grease exhaust hood, or
(2) Requires a Type II non-dish machine exhaust hood, or
(3) Otherwise vents food odors.

(b) *Measurement.* The 250 feet is measured from the nearest wall of a restaurant space to the nearest wall of a residential dwelling.

(c) *Certification.* The odor suppression system must be certified by a qualified and licensed professional engineer to successfully mitigate odors for surrounding residential uses, and installed and maintained according to the manufacturer's recommendations.

(d) *Existing Food Establishments.* Existing food establishments and food processing plants must comply with the requirements listed above in subsection (a) if applicable to them upon:
(1) Issuance of a new food establishment license after a period of vacancy of over one year from the last date of valid food establishment license; or
(2) Installation of a Type I exhaust hood, Type II non-dish machine exhaust hood or other food ventilation system in an establishment that previously had no such ventilation system.

§ 10.25 PENALTY.
Violation of any provision of this Article III shall be a misdemeanor. Civil penalties may also be issued pursuant to § 12.15 of the City Charter and § 1.19 of this city code. However, nothing in this Article III shall be constructed to limit the city's other available legal remedies for any violation of the law, including without limitation, criminal, civil and injunctive actions.

§ 10.26 SEVERABILITY.
In the event that any section, subsection, sentence, clause or phrase of this Article is for any reason held to be invalid by a court of competent jurisdiction, the invalidity shall extend only to the section, subsection, sentence, clause or phrase affected, and shall not affect the validity of the remaining portions of this

Article. The City Council hereby declares that it would have adopted the Article and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid.

* * *

Section 3. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] with ~~strikethrough~~ text and adding those words that are underlined, to read as follows:

* * *

CHAPTER 19: ZONING

* * *

ARTICLE I. GENERAL PROVISIONS

* * *

DIVISION B. DEFINITIONS

* * *

§ 19.03 DEFINITIONS.

* * *

CATERING BUSINESS, MAJOR. A business that prepares food and/or beverages to be delivered off site for consumption with no on site retail sales. Incidental delivery of prepared individual meals in conjunction with on site food service is not considered a catering function.

* * *

CATERING BUSINESS, MINOR. A business that prepares food and/or beverages to be delivered off site for consumption in a manner that is secondary to and directly related to a permitted principal use, that does not exceed 25% of the total floor area of the related principal use, and that has no on site retail sales.

* * *

DESIGNATED RESIDENTIAL PROPERTY. Any property within the city that is:

(A) Used residentially or subdivided for residential use;

(B) Zoned residentially; and

(C) Guided residentially by the Comprehensive Plan.

* * *

ARTICLE III. ZONING DISTRICT MAP, ZONING DISTRICTS AND DISTRICT USES

* * *

§19.31.01 REGIONAL COMMERCIAL (CR-1) DISTRICTS.

* * *

(b) *Permitted principal uses.*

* * *

(12) Farmers Market subject to standards set forth in Chapter 14, Article IX; [~~and~~]

(13) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[~~.~~];

(14) Restaurant, without drive through and without outdoor or rooftop seating; and

* * *

(c) *Provisional uses.* The uses described below are permitted uses, provided that:

(1) The following uses are located in a structure containing a permitted principle use, or are located in a structure meeting the minimum floor area requirement of the CR-1 District:

(A) [~~Restaurants~~] Catering businesses, major and minor;

* * *

(d) *Conditional uses.*

* * *

(2) [~~Freestanding restaurants~~]Restaurants, with drive through (including drive-in), with outdoor or rooftop seating, or both;

* * *

(e) *Minimum floor area requirements.* The minimum floor area of any building within the CR-1 District [~~shall be~~] must be 6,000 square feet for restaurants and 20,000 square feet for all other uses, except that there shall be no minimum floor area[~~:~~
~~(1) W~~] where the proposed use is listed as a provisional use in subsection (c)(2) above[~~; or~~

~~(2) Where the proposed use is listed as a conditional use in subsection (d) above~~].

* * *

ARTICLE IIIA. ADDITIONAL ZONING DISTRICTS

* * *

§19.40.07 COMMERCIAL SERVICES CS-05 AND CS-1.

* * *

(b) *Permitted principal uses.*

* * *

(9) Farmers Market subject to standards set forth in Chapter 14, Article IX; [~~and~~]

(10) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[~~.~~] ;

(11) Restaurants, without drive through and without outdoor or rooftop seating; and

* * *

(c) *Provisional uses.* If the following uses are developed as a related element to a development primarily devoted to a principal use, they are permitted within the CS Districts:

* * *

(6) [~~Restaurants, without drive-up facilities, and within a building devoted to a permitted principal use, not to exceed 10% of the building area~~] Catering businesses, major and minor;

* * *

(d) *Conditional uses.*

* * *

(10) [~~Freestanding restaurants and restaurants within a building devoted to a permitted principal use which exceed 10% of the building area~~] Restaurants, with drive through (including drive-in), with outdoor or rooftop seating, or both;

* * *

(i) *Special provisions.*

* * *

(3) The minimum floor area for structures in the CS Districts [~~shall~~] must be [~~10,000~~]6,000 square feet for freestanding restaurants and 20,000 square feet for all other uses.

* * *

§19.40.08 COMMERCIAL OFFICE DISTRICT CO-1.

* * *

(b) *Permitted principal uses.*

* * *

(6) Farmers Market subject to standards set forth in Chapter 14, Article IX; [~~and~~]

(7) Arts and crafts festival subject to standards set forth in Chapter 14, Article IX[~~.~~];

(8) Restaurants, without drive through and without outdoor or rooftop seating; and

* * *

(c) *Provisional uses.* If the following uses are within a building primarily devoted to a permitted principal use, and if they have common indoor access to permitted principal uses, they are permitted within the CO District:

* * *

(5) [~~Restaurants~~] Catering businesses, major and minor;

* * *

(d) *Conditional uses.*

* * *

(14) Manufactured home parks pursuant to standards as set forth in § 21.302.10;[~~ and~~]

(15) Major commercial golf facility[~~.~~]; and

(16) Restaurants, with drive through (including drive-in), with outdoor or rooftop seating, or both.

* * *

Section 4. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] with ~~strikethrough~~ text and adding those words that are underlined, to read as follows:

* * *

CHAPTER 21: ZONING AND LAND DEVELOPMENT

* * *

ARTICLE II. DISTRICTS AND USES

* * *

DIVISION H. USES

* * *

§ 21.209 USE TABLES.

* * *

(b) *Table key.* The following labeling conventions apply to each table in this section.

(1) *Uses.* Uses are often defined in § 19.03. Uses not defined are subject to standard dictionary definitions.

(2) *Permitted uses.* Uses identified in the zoning district column with the letter "P" are allowed as permitted uses, primary or accessory, in the respective zoning district.

(3) *Conditional uses.* Uses identified in the zoning district column with the letter "C" are allowed as conditional uses, primary or accessory, in the respective zoning district. Conditional uses must obtain a conditional use permit prior to commencing.

(4) *Interim uses.* Uses identified in the zoning district column with the letter "I" are allowed as interim uses, primary or accessory, in the respective zoning district. Interim uses must obtain an interim use permit prior to commencing.

(5) *Accessory uses.* Uses identified in the zoning district column with the letter "A" are allowed as accessory uses in the respective zoning district as defined in § 19.03.

(6) *Conditional accessory uses.* Uses identified in the zoning district column with the letter "CA" are allowed as conditional accessory uses in the respective zoning district. Conditional accessory uses must obtain a conditional use permit before commencing and are subject to the floor area limitations of accessory uses discussed in subsection (b)(5) above.

(7) *Limited uses.* Uses identified in the zoning district column with the letter "L" are allowed as limited uses in the respective zoning district as defined in § 19.03.

(8) *Conditional limited uses.* Uses identified in the zoning district column with the letter "CL" are allowed as limited uses in the respective zoning district as defined in § 19.03 provided a conditional use permit is issued before the use commences.

(9) *Prohibited uses.* Uses not associated with a letter in the zoning district column are prohibited uses in the respective zoning district. Uses not listed are prohibited in the neighborhood and freeway commercial zoning districts.

(10) *Standards.* For ease of reference, uses for which specific standards apply include a table reference to the applicable code section.

* * *

(d) *Neighborhood and Freeway Commercial Zoning Districts*

Use Type	Zoning District								References; See Listed Section
	B-1	B-2	B-4	C-1	C-2	C-3	C-4	C-5	
* * *									
Restaurants and Food Service									
Catering Business, Major		P		P	P				21.302.19
Catering Business, Minor	P	P		P	P	P	P		21.302.19
Private food service	A	A	A	A	A	A	A	A	
Restaurant, with drive through (including drive-in)		C	C	C	C	CL	CL	CL	21.301.05, 21.302.19
Restaurant, with outdoor or rooftop seating, or both		C	C	C	C	CL	CL	CL	21.301.05, 21.302.19
Restaurant, without drive through and without outdoor or rooftop seating		[~~C~~] P	[~~C~~] P	[~~C~~] P	[~~C~~] P	[~~CL~~] L	[~~CL~~] L	[~~CL~~] L	21.302.19

* * *

(e) *Industrial Zoning Districts*

Use Type	Zoning District						References; See Listed Section
	IT	I-1	I-2	I-3	IP	FD-2	
* * *							
Restaurants and Food Service							
Catering Business, Major		P	P	P			21.302.19
Catering Business, Minor		P	P	P		P	21.302.19
Private food service	A	A	A	A	A	A	
Restaurant, with drive through (including drive-in)							
Restaurant, with outdoor or rooftop seating, or both	CL		C	C		C	21.302.19
Restaurant, without drive through and without outdoor or rooftop seating	[~~CA~~] L		[~~C~~] P	[~~C~~] P		[~~C~~] P	21.302.19
* * *							

(f) *Specialized Zoning Districts*

Use Type	*Zoning District*		*References; See Listed Section*
	CX-2	*LX*	

* * *

Restaurants and Food Service			
Private food service	A	A	
Restaurant, with drive through (including drive-in)			
Restaurant, with outdoor or rooftop seating, or both	P	P	21.301.05, 21.301.14
Restaurant, without drive through and without outdoor or rooftop seating	P	P	21.301.05, 21.301.14

* * *

ARTICLE III. DEVELOPMENT STANDARDS

* * *

DIVISION A. GENERAL STANDARDS

* * *

§ 21.301.01 DEVELOPMENT INTENSITY AND SITE CHARACTERISTICS.

* * *

(d) **Commercial and Industrial Zoning Districts**.

Zoning District	Floor Area Ratio		Building Floor Area	Impervious Surface Area	Site Width	Site Area
	Minimum	Maximum	Minimum	Maximum	Minimum	Minimum

* * *

B-2	NA	0.5	3,000 sq. ft.; 2,000 sq. ft. for restaurants	90%	100 ft.; 150 ft. for corner sites	25,000 sq. ft.

* * *

C-2	NA	0.5	20,000 sq. ft.; [~~10,000~~] 6,000 sq. ft. for restaurants and [~~gas stations~~] convenience facilities with fuel sales	90%	200 ft.; 250 ft. for corner sites	80,000 sq. ft.

* * *

C-4	0.4*	2.0	20,000 sq. ft.; [~~10,000~~] 6,000 sq. ft. for restaurants	90%	200 ft.; 250 ft. for corner sites	120,000 sq. ft.

* * *

IT	0.4	2.0	20,000 sq. ft.; [~~10,000~~] 6,000 sq. ft. for restaurants	90%	200 ft.; 250 ft. for corner sites	80,000 sq. ft.

* * *

§ 21.301.06 PARKING AND LOADING.

* * *

(d) *Number of off-street parking spaces required.*

(1) The minimum number of off-street parking spaces provided within a development must meet the provisions of this subsection (d), varying by land use as provided in the following table. If more than one land use is present on a site, the required parking is determined by adding together the required number of parking spaces for each use.

If the number of off-street parking spaces results in a fraction, each fraction of one-half or more will constitute another space required. A lesser number of constructed off-street parking spaces may be allowed through flexibility measures (see subsection (e) below). The requirements for off-street surface parking space dimensions are set forth in subsection (c) above.

Minimum Off-Street Parking Requirements

* * *

NONRESIDENTIAL

* * *

Catering Business, Major and Minor	One space per 500 gross square feet of floor area plus one space per delivery/catering vehicle.

* * *

Restaurant and/or Club	Indoor or rooftop seating	1 space per [~~2.5~~] 3 seats, plus spaces equal in number to 1/3 capacity in persons for meeting/banquet area;
	Seasonal/outdoor	1 space per 5 seasonal outdoor dining seats
	Restaurant seating	Exception: if seasonal outdoor dining seats exceed 20% of indoor/rooftop seating, the required parking for outdoor dining seats exceeding 20% is one space per 2.5 seats
	With drive through	6 additional queuing spaces per lane

* * *

Restaurant, Take-out	Calculated as a retail sales or service use

* * *

§ 21.301.17 REFUSE, SOLID WASTE, ORGANIC AND RECYCLABLE MATERIALS HANDLING AND STORAGE FACILITIES.

* * *

(c) *Storage Location.*

* * *

(3) All commercial and office uses must have storage facilities for solid waste, organic and recyclable materials in accordance with one of the following requirements:

(A) Within a fully enclosed space designated for the storage of solid waste, organic and recyclable materials. All required solid waste, organic and recyclable materials enclosures must be accessible from within the principal building. The Issuing Authority may waive the interior access requirement [~~for multiple tenant buildings~~] when:

(i) The proposed solid waste, organic and recyclable materials storage facility is not in conflict with the stated purpose in this section of this Code;

(ii) The proposed solid waste, organic and recyclable materials storage facility is accessed by separated walkway to the facility that is illuminated in accordance with Section 21.301.07 of the City Code;

(iii) The proposed solid waste, organic and recyclable materials storage facility will not unreasonably harm or restrict public health, safety and welfare or create a nuisance; and

(iv) The proposed location is attached to the principal structure and does not create a hazard for vehicular or pedestrian traffic.

(B) Power-operated solid waste, organic and recyclable materials processing equipment when loaded from within the principal structure must be screened from all sides except where access is approved by the Issuing Authority. Screening must be constructed using building materials consistent in style, color and composition within the materials on the principal building approved by the Issuing Authority.

(4) All industrial zoning districts (I-1, I-2, I-3, IP, FD-2, and IT) must have storage facilities for solid waste, organic and recyclable materials in accordance with one of the following requirements:

(A) For industrial uses where the solid waste, organic and recyclable materials facilities that are not food preparation or food service uses and are located within 300 feet from a property meeting two of the three following criteria: (1) residential use including multiple family; (2) residential designation on the Comprehensive Land Use Plan; or (3) Zoned R-1, R-1A or RS-1, solid waste, organic and recyclable materials must be within a fully enclosed space designated for the processing and storage of solid waste, organic and recyclable materials. All required solid waste, organic and recyclable materials enclosures must be accessible from within the principal building. The Issuing Authority may waive the interior access requirement when:

(i) The proposed solid waste, organic and recyclable materials storage facility is not in conflict with the stated purpose in this section of this Code;

(ii) The proposed solid waste, organic and recyclable materials storage facility is accessed by separated walkway to the facility that is illuminated in accordance with Section 21.301.07 of the City Code;

(iii) The proposed solid waste, organic and recyclable materials storage facility will not unreasonably harm or restrict public health, safety and welfare or create a nuisance; and

(iv) The proposed location is attached to the principal structure and does not create a hazard for vehicular or pedestrian traffic.

* * *

(d) *Minimum Design Standards.* Solid waste, organic and recyclable materials storage and handling facilities, other than those identified in Section 21.301.17(c)(1), must have an exterior design using building materials consistent with the primary structure. The interior must comply with the following minimum requirements:

* * *

DIVISION B. USE STANDARDS

* * *

§ 21.302.19 RESTAURANTS AND CATERING BUSINESSES. [~~RESERVED~~]

(a) *Purpose.* To reduce the potential negative impacts of restaurant facilities on surrounding uses and public infrastructure, the following standards apply to restaurants and catering businesses in addition to the standards of the underlying zoning district.

(b) *Grease interceptors.* To minimize the amount of fats, oil, grease and wax entering the public wastewater collection system, restaurants and catering businesses must install a grease interceptor system in accordance with Section 11.31. It is the responsibility of the restaurant operator or catering business to maintain the grease interceptor system in good working order.

(c) *Odor control.* See Chapter 10, Article III for applicable standards.

(d) *Outdoor dining*

(1) *Setbacks.* The outdoor dining area must meet the lesser of either the required setbacks of the applicable zoning district or 20 feet.

(2) *Setbacks from residential.* The outdoor dining area must be at least 50 feet away from abutting properties zoned and used residentially.

(3) *Enclosure.* Outdoor dining areas containing 30 seats or more must be enclosed by a fence, structure or barrier as approved by the Issuing Authority. The enclosure must be at least 36 inches in height and have designated openings for ingress and egress.

(4) *Screening.* Screening of the outdoor dining area may be required if the premises is adjacent to Designated Residential Property as determined by the Issuing Authority.

(5) *Vehicle barriers.* If the outdoor dining area is in direct contact with or immediately adjacent to a vehicle parking or driving area, sufficient vehicle barriers must be provided.

(6) *Noise.* Outdoor dining areas must comply with the noise source requirements of Section 10.29.02 of the City Code.

* * *

Passed and adopted this 24th day of February, 2020.

Tim Busse

Mayor

ATTEST:

Secretary to the Council

APPROVED:

City Attorney