ORDINANCE NO. 2009-

AN ORDINANCE ESTABLISING TRANSPORTATION DEMAND MANAGEMENT (TDM) REQUIREMENTS AND PROCEDURES AND MODIFYING EXISTING TEXT PERTAINING TO TDM; THEREBY AMENDING CHAPTERS 19 AND 21 OF THE CITY CODE

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

Section 1. That Chapter 19 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

CHAPTER 19

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

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SEC. 19.29. HIGH INTENSITY MIXED USE WITH RESIDENTIAL (HX-R) DISTRICT.

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(n) **Reserved.** [~~**Travel Demand and Parking Management**~~.

~~(1) Final development plans for office uses within the HX-R zoning district must include a travel demand management (TDM) plan prepared by an independent TDM professional under the supervision of the City and paid for by the applicant. The plan must document TDM measures to be implemented, and performance criteria and compliance enforcement measures.~~]

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ARTICLE III.A. ADDITIONAL ZONING DISTRICTS

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SEC. 19.40.07. COMMERCIAL SERVICE DISTRICTS CS-0.5 AND CS-1.

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(i) **Special Provisions.**

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(2) The maximum floor area ratio in the CS-1 District may be increased to 1.5 square feet of floor area and in the CS-0.5 District to 0.75 square feet of floor area for each one square foot of lot area and maximum building coverage may be increased to 40 percent of lot area provided that peak period project trip generation is equal or less than trip generation from the same type of use with a 1.0 floor area ratio in the CS-1 District and 0.5 floor area ratio in the CS-0.5 District. A [~~trip reduction plan~~] Tier I TDM Program in accordance with the requirements of City Code Section 21.301.09 and a development agreement is required for all uses exceeding the maximum floor area ratio in (f) above.

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SEC. 19.40.08. COMMERCIAL OFFICE DISTRICTS CO-0.5 AND CO-1.

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(i) **Special Provisions.**

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(3) The maximum floor area ratio in the CO-1 district may be increased to 1.5 square feet of floor area and in the CO-0.5 district to 0.75 square feet of floor area for each one square foot of lot area and maximum building coverage may be increased to 40 percent of lot area provided that peak period project trip generation is equal or less than trip generation from the same type of use with a 1.0 floor area ratio in the CO-1 district and 0.5 floor area ratio in the CO-0.5 district. A [~~trip reduction plan~~] Tier I TDM Program in accordance with the requirements of City Code Section 21.301.09 and a development agreement is required for all uses exceeding the maximum floor area ratio in (f) above.

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Section 2. That Chapter 21 of the City Code is hereby amended by deleting those words that are contained in brackets [ ] and adding those words that are underlined, to read as follows:

CHAPTER 21

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ARTICLE III. DEVELOPMENT STANDARDS

Division A. General Standards

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SEC. 21.301.06. PARKING AND LOADING.

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(e) **Parking reduction flexibility measures**.

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(3) **[~~Travel~~] Transportation Demand Management plan (TDM)**.

(A) Off-street parking [~~requirements~~] otherwise required by this ordinance may be reduced by up to 10 percent subject to approval by the City Council of a Tier I TDM Plan consistent with the requirements of City Code Section 21.301.09.[~~, where a TDM plan is submitted and approved by the City Issuing Authority that addresses the transportation impacts of the development and proposed TDM mitigating measures. The TDM measures may include but are not limited to on-site transit facilities, preferential location of car and van pool parking, telecommuting, on-site bicycle and pedestrian facilities and employer subsidies to employees for transit passes. Where a TDM plan is approved by the City Council, the exact terms of the TDM must be memorialized by the applicant in a properly drawn legal instrument, executed by the parties concerned, and filed with the records for that property in the Registrar of Titles' or Recorder's Office of Hennepin County with proof thereof presented to the Issuing Authority.~~

~~(B) **TDM plan content**. The TDM must at a minimum contain the following:~~

~~(i) A description of the TDM goals;~~

~~(ii) A description of the transportation impacts of the development based on full development, forecasts of trips generated and anticipated parking demand;~~

~~(iii) A parking and transportation study demonstrating that peak parking demand would be reduced by the mitigating measures proposed. The parking and transportation study must be conducted in accordance with accepted methodology approved by the City Issuing Authority, prepared by an independent traffic engineering professional under the supervision of the City and paid for by the applicant; and~~

~~(iv) Implementation measures.~~

~~(C) **Revocation**. Failure to comply with the provisions of the approved TDM plan constitutes a violation of this Code. A TDM plan may be revoked only if off-street parking is provided as otherwise set forth in Section 21.301.06 of this Code, or if an alternative TDM plan is approved by the City Issuing Authority.~~]

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SEC. 21.301.09 TRANSPORTATION DEMAND MANAGEMENT (TDM).

(a) Purpose and intent. The purpose of Transportation Demand Management (TDM) is to promote more efficient utilization of existing transportation facilities, reduce traffic congestion and mobile source pollution, and to ensure that new developments are designed in ways to maximize the potential for alternative transportation usage. TDM is a combination of services, incentives, facilities and actions that reduce single occupancy vehicle (SOV) trips to help relieve traffic congestion, allow parking flexibity, and reduce air pollution.

(b) Applicability. Recognizing that development size and land use type directly affect traffic generation, the City has established two levels of TDM program applicability:

(1) A Tier 1 TDM program is required for all new development and/or redevelopment consisting of:

(A) New developments where the City Code requires the provision of more than 350 parking spaces attributable to office, institutional, industrial, and warehouse uses;

(B) New non-residential developments seeking flexibility from the standard parking requirements in accordance with City Code Section 21.301.06 (e) (3);

(C) Redevelopment and/or additions to existing non-residential development that result in a 25 percent or greater increase in parking spaces attributable to office, institution, industrial, and warehouse uses, and the total amount of required parking attributable to office, institution, industrial, and warehouse uses is 350 or more spaces; or

(D) Other development as required by City Council condition.

(2) A Tier 2 TDM program is required for new non-residential development, non-residential redevelopment, and/or additions to existing development over 1,000 square feet in floor area, provided a Tier 1 TDM program is not required.

(3) The following uses shall be exempt from Tier 1 TDM program requirements:

(A) Places of assembly;

(B) Schools (K-12);

(C) Parks and recreational facilities; and

(D) Other institutional uses that are not customarily in operation between the peak weekday traffic period (6:30-9:00 AM and 3:00-6:00 PM)

(c) TDM Plan Requirements. Mandatory TDM Plan requirements for the two levels include:

(1) Tier 1 TDM Program.

(A) A TDM study prepared by a qualified traffic consultant that includes:

(i) A description of the projected transportation and parking impacts of the development at full site development, forecasts of SOV trips generated and the likely timing of those trips, and anticipated parking demand. The TDM study must be conducted in accordance with accepted methodology approved by the Director of Public Works or the Director's designee. If determined to be a Special Study subject to the requirements of City Code Section 19.14 (b) (5), the traffic study must be prepared by an independent traffic engineering professional under the supervision of the Director of Public Works or the Director's designee, and paid for by the applicant.

(B) A TDM plan prepared by the property owner that includes:

(i) A description of the TDM goals, including peak hour SOV trip reduction goals;

(ii) Description of TDM strategies and implementation measures and the anticipated SOV trip reduction associated with each strategy. The TDM measures may include, but are not limited to: on-site transit facilities, preferential location of car and van pool parking, telecommuting, on-site bicycle and pedestrian facilities and employer subsidized transit passes;

(iii) Description of the evaluation measures and process that will be used to determine the effectiveness of the TDM strategies used and progress toward achieving the SOV trip reduction goals; and

(iv) Proposed total expenditures to implement the TDM strategies for at least three years following the issuance of the Certificate of Occupancy.

(C) A TDM agreement prepared by the City Attorney's office, executed by the property owner and the City, and filed by the property owner with the records for that property in the Registrar of Titles' or Recorder's Office of Hennepin County with proof thereof presented to the Issuing Authority prior to issuance of a building permit;

(D) A financial guarantee in the amount established by the TDM program schedule set forth in the TDM Policies and Procedures Document maintained by the Director of Public Works; and

(E) An annual status update report in the format specified in the TDM Policies and Procedures Document maintained by the Director of Public Works, or otherwise approved by the Director or the Director's designee, hereinafter referred to as the "Annual Status Report".

(2) Tier 2 TDM Program.

(A) A basic Tier 2 TDM Plan describing the TDM strategies the property owner agrees to implement to reduce peak SOV trip generation that is prepared in the format specified in the TDM Policies and Procedures Document maintained by the Director of Public Works or otherwise approved by the Director or the Director's designee.

(d) Financial Guarantee. The property owner must provide a financial guarantee prior to the issuance of the Certificate of Occupancy to ensure implementation of TDM strategies and progress towards meeting the approved TDM Plan goals when a Tier 1 TDM plan is required. The financial guarantee rate is established by the TDM program schedule set forth in the TDM Policies and Procedures Document maintained by the Director of Public Works. The financial guarantee may be provided in the form of cash, bond or a letter of credit at the discretion of the property owner.

The City will retain the cash payment, bond or letter of credit for two years from the date the property owner verifies that occupancy of the leasable area of the development has reached 30 percent. This date shall hereinafter be referred to as the "Initial TDM Plan Implementation Date".

(e) Administration. The Director of Public Works or the Director's designee will administer Tier 1 and Tier 2 TDM plans, including, but not limited to:

(1) Review and approval of TDM plans;

(2) Maintenance of files for approved TDM plans;

(3) Monitoring progress toward implementation of TDM strategies and evaluating success of efforts to achieve TDM plan goals;

(4) Holding and releasing TDM financial guarantees; and

(5) Determining compliance in implementing TDM strategies as that relates to the release or forfeiture of TDM financial guarantees.

(f) Compliance. A property owner or its successors and assigns must demonstrate a good faith effort to implement strategies described in an approved Tier 1 TDM Plan by submitting an Annual Status Report within 30 days of the one year and two year anniversary dates of the Initial TDM Plan Implementation Date. The Director of Public Works or the Director's designee will review the Annual Status Reports, within 30 days of receipt, to determine if a good faith effort has been made to implement the strategies described in an approved Tier 1 TDM Plan or otherwise achieve the approved TDM Plan goals. The Annual Status Report must include at least the following:

(1) Results of the survey questions included in the TDM Annual Status Report model specified in the TDM Policies and Procedures Document maintained by the Director of Public Works, compiled using the model format or a format otherwise approved by the Director of Public Works or the Director's designee, to determine the effectiveness and participation in TDM strategies;

(2) Documentation of annual expenditures made to implement TDM strategies; and

(3) Documentation of the implementation of TDM strategies listed in the approved Tier 1 TDM Plan and an evaluation of the success of each strategy based on the survey results, as well as, at the option of the property owner, any other verifiable method of measurement such as a follow-up traffic study.

(g) Release of the TDM Financial Guarantee. If the property owner or its successors and assigns demonstrates a good faith effort to implement the strategies set forth in the approved Tier 1 TDM Plan as

demonstrated by the data contained in the consecutive Annual Status Reports, the TDM financial guarantee will be released to the property owner within seven working days of that determination by the Director of Public Works or the Director's designee.

(h) Forfeiture of the TDM Financial Guarantee. Failure to comply with the provisions of an approved Tier 1 TDM plan constitutes a violation of this Section of the City Code.

(1) If the property owner or its successors or assigns fails to submit timely Annual Status Report that document a good faith effort to implement the strategies set forth in their approved Tier 1 TDM Plan, the Director of Public Works or the Director's designee may direct that the TDM financial guarantee continue to be held for a period of up to another 12-months at the end of which an additional Annual Status Report must be submitted. The TDM financial guarantee at the end of the additional period will be either released or forfeited based upon the Director of Public Works or the Director's designee's determination of whether or not the property owner has demonstrated a good faith effort to implement the TDM strategies set forth in the approved TDM Plan or otherwise achieve the TDM Plan goals.

(2) If the Director of Public Works of the Director's designee determines on the basis of the Annual Status Reports that the failure to implement the strategies set forth in the Tier I TDM Plan or otherwise achieve the TDM Plan goals is attributable to inexcusable neglect on the part of the property owner or its successors and assigns, the financial guarantee will be immediately forfeited to the City.

(i) Appeals. The property owner or its successors or assigns may appeal the forfeiture or continued holding of the TDM financial guarantee or imposed sanctions to the City Council within 30 days following the mailing of the notice of forfeiture, continued holding or sanctions. The City will provide the appellant with at least ten days notice of the time and place of the hearing before the City Council.

Passed and adopted this _____ day of _____ , 2009.

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Mayor

ATTEST:

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Secretary to the Council

APPROVED:

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City Attorney