

## CHAPTER 20. FEES

### Section 2000 – Fee Schedule

**2000.01 Authorization and Establishment of Fees.** The City of Norwood Young America is authorized by law and does hereby establish and impose certain fees, charges, costs and rates for licenses, permit applications, information, services, and other matters required or provided by the City.

**2000.02 Fee Schedule.** The fees, charges, costs and rates for such licenses, permits, applications, information, services and other matters are adopted as set forth on Schedule A attached and made a part of this ordinance. These fees and charges are deemed appropriate and reasonable. The fee schedule and this ordinance may be amended or revised from time to time by subsequent ordinance adopted by the City Council. The fees and charges shall be collected by city staff as required and collected prior to the issuance of a license or permit or acceptance of an application as the case may be. Fees are not refundable unless otherwise provided by ordinance or council action.

**2000.03 Conflict.** In the event of any conflict between this ordinance and any other provisions of the Municipal Code of Norwood Young America, this ordinance shall control.

**2000.04 Non-Exclusive.** This ordinance shall not limit or preclude any other fees, charges, costs or rates as required by the Municipal Code of Norwood Young America or as otherwise established by ordinance or resolution.

**2000.05 Assessment of Unpaid Fees.** Any fees imposed under the authorization of Section 2000 shall be paid in full. In the event of non-payment, the City Clerk may certify the entire unpaid amount and any penalty to the County Auditor to levy the charges in the same manner as special assessments against the real estate involved, or the real estate of the person or entity responsible for the fee.

*(Adopted by Ord. 203, 01-14-08).*

**CHAPTER 13. WETLAND PROTECTION****Section 1300 – General Regulations****1300.01 Scope and Effect.**

**Subd. 1 Applicability.** Every applicant for subdivision approval, or a permit to allow land disturbing activities must submit a storm water management plan to the city. No building permit involving land disturbing activities, subdivision approval, or permit to allow land disturbing activities shall be issued until approval of the storm water management plan or a waiver of the approval requirement has been obtained in strict conformance with the provisions of this Code.

**Subd. 2 Waiver.** The City Council, upon recommendation of the Planning Commission, may waive any requirement of this section upon making a finding that compliance with the requirement will involve an unnecessary hardship and the waiver of such requirement will not adversely affect the standards and requirements set forth in this section. However, a waiver by the City Council does not release the applicant from complying with other agency permits. The City Council may require as a condition of the waiver, such dedicating or construct as may be necessary to adequately meet said standards and requirements.

**1300.02 Storm Water Management Plan Approval Procedures.**

**Subd. 1 Application.** A written application for a storm water management plan approval, along with the proposed storm water management plan, shall be filed with the city and shall include a statement indicating that the proposed use is permitted by right or as an exception in the underlying zoning district, and adequate evidence showing that the proposed use will conform to the standards set forth in this Code.

Two sets of clearly legible blue or black lined copies of drawings and required information shall be submitted to the city and shall be accompanied by a receipt from the City Clerk evidencing the payment of all required fees for processing and approval as set forth in this code, and bond when required. Drawings shall be prepared to a scale appropriate to the size of the project and suitable for the review to be performed. At a minimum the scale shall be 1 inch equals 100 feet.

**Subd. 2 Storm Water Management Plan.** At a minimum, the storm water management plan shall contain the following information:

- A. Existing Site Map. A map of existing site conditions showing the site and immediately adjacent areas, including:
  - 1. The name and address of the applicant, the section, township and range, north point, date and scale of drawing and number of sheets;
  - 2. Location of the tract by an insert map at a scale sufficient to clearly identify the location of the property and giving such information as the names and numbers of adjoining roads, railroads, utilities, subdivisions, towns and districts or other landmarks;

3. Existing topography with a contour interval appropriate to the topography of the land but in no case having a contour interval greater than 2 feet;
4. A delineation of all streams, rivers, public waters and wetlands located on and immediately adjacent to the site, including a statement of general water quality and any classification given to the water body or wetland by the Minnesota Department of Natural Resources, the Minnesota Pollution Control Agency, and/or the United States Army Corps of Engineers;
5. Location and dimensions of existing storm water drainage systems and natural drainage patterns on and immediately adjacent to the site delineating which direction and at what rate storm water is conveyed from the site, identifying the receiving stream, river, public water, or wetlands and setting forth those areas of the unaltered site where storm water collects;
6. Vegetative cover and clearly delineating any vegetation proposed for removal; and
7. 100 year floodplains, flood fringes and floodways.

B. Site Construction Plan. A site construction plan including:

1. Locations and dimensions of all proposed land disturbing activities and any phasing of those activities;
2. Locations and dimensions of all temporary soil or dirt stockpiles;
3. Locations and dimensions of all construction site erosion control measures necessary to meet the requirements of this Code;
4. Schedule of anticipated starting and completion date of each land disturbing activity including the installation of construction site erosion control measures needed to meet the requirements of this Code; and
5. Provisions for maintenance of the construction site erosion control measures during construction.

C. Plan of Final Site conditions. A plan of final site conditions on the same scale as the existing site map showing the site changes including:

1. Finished grading shown at contours at the same interval as provided above or as required to clearly indicate the relationship of proposed changes to existing topography and remaining features;
2. A landscape plan, drawn to an appropriate scale, including dimensions and distances and the location, type, size and description of all proposed landscape materials which will be added to the site as part of the development;
3. A drainage plan of the developed site delineating in which direction and at what rate storm water will be conveyed from the site and setting forth the areas of the site where storm water will be allowed to collect. Any collection of storm water must be designed and signed by a professional engineer and a copy of the hydrology and hydrologic calculations must be submitted for review;
4. The proposed size, alignment and intended use of any structures to be erected on the site;

5. A clear delineation and tabulation of all areas which shall be paved or surfaced, including a description of the surfacing material to be used; and
6. Any other information pertinent to the particular project which in the opinion of the applicant is necessary for the review of the project.

### **1300.03 Plan Review Procedure for Wetlands Regulations.**

**Subd. 1 Process.** Storm water management, for subdivisions, commercial and industrial plans meeting the requirements of this Code shall be submitted by the city staff to the Planning Commission for review. Any subdivision project including four (4) lots or more must be reviewed by the City Engineer, also any project involving 1 acre or more must be reviewed by the City Engineer, prior to Planning Commission review. The Commission shall recommend approval, recommend approval with conditions, or recommend denial of the storm water management plan. Following Planning Commission action, the storm water management plan shall be submitted to the City Council, at its next available meeting. For storm water management plans involving new homes and other land disturbing activities, the city planning department will review and approve, disapprove or modify the plan. The city staff may, at their discretion, submit any plan to the Planning Commission or the City Council for approval.

**Subd. 2 Duration.** Approval of a plan submitted under the provision of this Code shall expire one year after the date of approval unless construction has commenced in accordance with the plan. However, if prior to the expiration of the approval, the applicant makes a written request to the city for an extension of time to commence construction setting forth the reasons for the requested extension, the planning department may grant one extension of not greater than one single year. Receipt of any request for an extension shall be acknowledged by the city within 15 days. The city planning department shall make a decision on the extension within 30 days of receipt. Any plan may be revised in the same manner as originally approved.

**Subd. 3 Conditions.** A storm water management plan may be approved subject to compliance with conditions reasonable and necessary to insure that the requirements contained in this Code are met. Such conditions may, among other matters, limit the size, kind or character of the proposed development, require the construction of structures, drainage facilities, storage basins and other facilities, require replacement of vegetation, establish required monitoring procedures, stage the work over time, require alteration of the site design to insure buffering, and require the conveyance to the city or other public entity of certain lands or interests therein.

**Subd. 4 Performance Bond.** Prior to approval of any storm water management plan, for subdivision, commercial, industrial development, and at the discretion of the planning department residential building permits, the applicant shall submit an agreement to construct such required physical improvements, to dedicate property or easements, or to comply with such conditions as may have been agreed to. Such agreement shall be accompanied by a bond to cover the amount of the established cost of complying with the agreement. The agreement and bond shall guarantee completion and compliance with conditions with a specific time, which time may be extended in accordance with this section. The adequacy,

conditions and acceptability of any agreement and bond shall be determined by the City Council.

**1300.04 Storm Water Plan – Approval Standards.** No storm water management plan which fails to meet the standards contained in this section, shall be approved by the City Council.

**Subd. 1 Site De-watering.** Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upflow chambers, hydro-cyclones, swirl concentrators or other appropriate controls as appropriate. Water may not be discharged in a manner that causes erosions or flooding of the site or receiving channels or a wetland.

**Subd. 2 Waste and Material Disposal.** All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials) shall be properly disposed of off-site and not allowed to be carried by runoff into a receiving channel or storm sewer system.

**Subd. 3 Tracking.** Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each workday.

**Subd. 4 Drain Inlet Protection.** All storm drain inlets shall be protected during construction until control measures are in place with a straw bale, silt fence or equivalent barrier meeting accepted design criteria, standards and specifications contained in the MPCA publication "Protecting Water Quality in Urban Areas".

**Subd. 5 Site Erosion Control.** The following criteria (A through D) apply only to construction activities that result in runoff leaving the site.

- A. Channeled runoff adjacent areas passing thorough the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described below. Sheet flow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas, unless shown to have resultant runoff rates of less than 0.5 ft./sec. across the disturbed areas for the one year storm. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels.
- B. All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time.
- C. Runoff from the entire disturbed area on the site shall be controlled by meeting any of subparagraphs 1, 2, or 3, described below.
  - 1. All disturbed ground left inactive for fourteen or more days shall be stabilized by seeding or sodding (only available prior to September 15) or by mulching or covering or other equivalent control measure.
  - 2. For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, one or more temporary or permanent

- sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least one percent of the area draining to the basin and at least three feet of depth and constructed in accordance with accepted design specifications, sediment shall be removed to maintain a depth of three feet. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
3. For sites with less than ten acres disturbed at one time, silt fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, silt fences shall be placed along the channel edges to reduce sediment reaching the channel. The use of silt fences, straw bales, or equivalent control measures must include a maintenance and inspection schedule.
- D. Any soil or dirt storage piles containing more than ten cubic yards of material should not be located with a downslope drainage length of less than 25 feet from the toe of the pile to a roadway or drainage channel. If remaining for more than seven days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than seven days shall be controlled by placing straw bales or silt fence barriers around the pile. In-street utility repair or construction soil or dirt storage piles located closer than 25 feet of a roadway or drainage channel must be covered with tarps or suitable alternative control, if exposed for more than seven days, and the storm drain inlets must be protected with straw bale or other appropriate filtering barriers.

### **1300.05 Storm Water Management Criteria for Permanent Facilities.**

**Subd. 1 Facilities.** An applicant shall install or construct, on or for the proposed land disturbing or development activity, all storm water management facilities necessary to manage increased runoff so that the two-year, ten year and 100-year storm peak discharge rates existing before the proposed development shall not be increased and accelerated channel erosion will not occur as a result of the proposed land disturbing or development activity. An applicant may also make an in-kind or monetary contribution to the development and maintenance of community storm water management facilities designed to serve multiple land disturbing and development activities undertaken by one or more persons, including the applicant.

**Subd. 2 Facilities.** The applicant shall give consideration to reducing the need for storm water management facilities by incorporating the use of natural topography and land cover such as wetlands, ponds, natural swales and depressions as they exist before development to the degree that they can accommodate the additional flow of water without compromising the integrity or quality of the wetland or pond.

**Subd. 3 Plan Practices.** The following storm water management practices shall be investigated in developing a storm water management plan in the following descending order of preference:

- A. Natural infiltration of precipitation on site;

- B. Flow attenuation by use of open vegetated swales and natural depressions;
- C. Storm water retention facilities; and
- D. Storm water detention facilities.

**Subd. 4 Successive Practices.** A combination of successive practices may be used to achieve the applicable minimum control requirements specified in Subdivision 1. Justification shall be provided by the applicant for the method selected.

**1300.06 Design Standards for Storm Water Detention Facilities.** Storm water detention facilities constructed into the city shall be designed according to the most current technology as reflected in the MPCA publication "Protecting Water Quality in Urban Areas," and shall contain, at a minimum, the following design factors:

- A. A permanent pond surface area equal to two percent of the impervious area draining to the pond or one percent of the entire area draining to the pond, whichever amount is greater;
- B. An average permanent pool depth of four to ten feet;
- C. A permanent pool length-to-width ratio of 3:1 or greater;
- D. A protective buffer strip of vegetation surrounding the permanent pool at a minimum width of one rod (16.5 feet);
- E. All storm water detention facilities shall have a device to keep oil, grease, and other floatable material from moving downstream as a result of normal operations;
- F. Storm water detention facilities for new development must be sufficient to limit peak flows in each subwatershed to the flow that existed before the development for the 10 year storm event. All calculations and hydrologic models/information used in determining peak flows shall be submitted along with the storm water management plan;
- G. All storm water detention facilities must have a forbay to remove coarse-grained particles prior to discharge into a watercourse or storage basin.

#### **1300.07 Wetlands.**

**Subd. 1 Runoff.** Runoff shall not be discharged indirectly into wetlands without pre-settlement of the runoff.

**Subd. 2 Protective Buffer.** A protective buffer strip of natural vegetation shall surround all wetlands. The width of the required buffer will be dependent on the functional value of the wetland (low, medium, or high), as determined by the Carver County Water Management Plan and the following Chart:

Wetland Value	Minimum Buffer Width
Low	25 ft
Medium	35 ft
High	50 ft

*(Amended by Ord. 183, 7/10/2006)*

**Subd. 3 Draining and Filling.** Wetlands must not be drained or filled, wholly or partially, unless replaced by restoring or creating wetland areas of at least equal public value. (The Federal, State, and County government also require permits and approval for wetland draining and filling, check with the appropriate agencies to obtain any necessary permits).

Replacement must be guided by the following principles in descending order of priority.

- A. Avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
- B. Minimizing the impact by limiting the degree or magnitude of the wetland activity and its implantation;
- C. Rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
- D. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity; and
- E. Compensating for the impact by replacing or providing substitute wetland resources or environments.

**1300.08 Steep Slopes.** No land disturbing or development activities shall be allowed on slopes of 25 percent (4:1) or more.

**1300.09 Catch Basins.** All newly installed and rehabilitated catch basins shall be provided with a sump area for the collection of coarse-grained material, such basins shall be cleaned when they are half filled with material.

**1300.10 Drain Leaders.** All newly constructed and reconstructed buildings will route drain leaders to pervious areas wherein the runoff can be allowed to infiltrate. The flow rate of water exiting the leaders shall be controlled so no erosion occurs in the pervious areas.

**1300.11 Inspection and Maintenance.** All storm water management facilities shall be designed to minimize the need of maintenance, to provide access for the maintenance purposes and to be structurally sound. All storm water management facilities shall have a plan of operation and maintenance that assures continued effective removal of pollutants carried in storm water runoff. The Director of Public Works, or designated representative shall inspect all storm water management facilities during construction, during the first year of operation, and at least once every five years thereafter. The inspection records will be kept on file by the city for a period of 6 years. It shall be the responsibility of the applicant to obtain any necessary easements or other property



interest to allow access to the storm water management facilities for inspection and maintenance purposes.

**1300.12 Models/Methodologies/Computations.** Hydrologic models and design methodologies used for the determination of runoff and analysis of storm water management structures shall be approved by the City Engineer. Plans, specification and computations for storm water management facilities submitted for review shall be sealed and signed by a registered professional engineer. All computations shall appear on the plans submitted for review, unless otherwise approved by the City Engineer.

**1300.13 Watershed Management Plans/Groundwater Management Plans.** Storm water management plans shall be consistent with adopted watershed management plans and groundwater management plans prepared in accordance with Minnesota Statutes section 103B.231 and 103B.255 respectively, and as approved by the Minnesota Board of Water and Soil Resources in accordance with state law.

**1300.14 Easements.** If a storm water management plan involves direction of some or all runoff of the site, it shall be the responsibility of the applicant to obtain from adjacent property owners any necessary easements of other property intersects concerning flowage of water.

**1300.15 Lawn Fertilizer Regulations.**

**Subd. 1 Use of Impervious Surfaces.** No person shall apply fertilizer deposit grass clippings, leaves, or other vegetative materials on impervious surfaces, or within storm water drainage systems, natural drainage ways, or within wetland buffer areas.

**Subd. 2 Unimproved Land Areas.** Except for driveways, sidewalks, patios, areas occupied by structures of areas which have been improved by landscaping, all areas shall be covered by plants or vegetative growth.

**Subd. 3 Fertilizer Content.** Except for the first growing season for newly established turf areas, no person shall apply liquid fertilizer which contains more than one-half percent by weight of phosphorus, or granular fertilizer which contains more than three percent by weight of phosphorus, unless the single application is less than or equal to one-tenth pound of phosphorus per one thousand square feet. Annual application amount shall not exceed one-half pound of phosphorus per one thousand square feet of lawn area.

**Subd. 4 Buffer Zone.** Fertilizer applications shall not be made within one rod (16.5 feet) of any wetland or water resource.

**CHAPTER 12. ZONING****Section 1200 – Introductory Provisions**

**1200.01 Title.** This Ordinance shall be known and referred to as the “Norwood Young America Zoning Ordinance” except as referred to herein, where it shall be known as “this Ordinance”.

**1200.02 Intent.** It is the intent of this Ordinance to protect the public health, safety and general welfare of the community and its people through the establishment of minimum regulations in regard to location, construction, alteration and use of structures and land in the City of Norwood Young America. Such regulations are established to:

1. Support the compact and orderly growth of urban development and redevelopment;
2. Promote quality development;
3. Enhance community character and identity;
4. Enhance community and neighborhood livability;
5. Protect historic community resources including districts, buildings, sites or events;
6. Provide adequate light, air, and convenience of access to property;
7. Provide for compatibility of different land uses;
8. Minimize land use conflicts;
9. Provide for administration of this Ordinance;
10. Provide for amendments and;
11. Prescribe penalties for the violation of such regulations.

**1200.03 Authority.** This Ordinance is enacted pursuant to the authority granted by the Municipal Planning Act, Minnesota Statutes, Sections 462.351 to 462.364 as amended.

**1200.04 Definitions.** The following words and terms, as they occur in this Ordinance, shall be interpreted as herein defined.

**Accessory Use or Structure.** A subordinate detached building or use, which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such main building or use.

**Adult Arcade.** Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of “specified sexual activities” or “specified anatomical areas.”

**Adult Bookstore, Adult Video Store, or Adult Store.** A commercial establishment which devotes 10% or more of the floor area of the business (not including storerooms, stock areas, bathrooms, basements, or any portion of the business not open to the public) to the barter, sale or rental for any form of consideration any one (1) or more of the following:

- A. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe “specified sexual activities” or “specified anatomical areas” or
- B. Instruments, devices, or paraphernalia which are designed for use in connection with “specified sexual activities.” (*Amended by Ord. 153, 7/28/03*)

**Adult Cabaret.** A nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- A. Persons who appear in a state of nudity: or
- B. Live performances which are characterized by the exposure of “specified sexual activities”, or
- C. Films, motion pictures, videocassettes, slides, or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**Adult Massage Parlor.** A massage parlor which excludes minors by reason of age, or which provides, for any form of consideration, the rubbing, stroking, kneading, tapping, or rolling of the body, if the service provided by massage parlor is distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas.”

**Adult Motel.** A hotel, motel or similar commercial establishment which:

- A. Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmission, films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas,” and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- B. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
- C. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

**Adult Motion Picture Theater.** A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

**Adult Theater.** A theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of “specified sexual activities” or “specified anatomical areas.”

**Adult Uses.** Adult uses include:

- A. Adult arcades,
- B. Adult bookstores; adult video stores; adult stores,
- C. Adult cabarets,
- D. Adult motels/hotels,

- E. Adult massage parlors,
- F. Adult motion picture theaters,
- G. Adult theaters,
- H. Escort agencies,
- I. Nude model studios, and
- J. Sexual encounter centers.

**Amendment.** Any modification of the Ordinance text or map. A map amendment shall be known as a rezoning.

**Amusement/Entertainment Facilities.** A business devoted primarily to entertain and amuse its customers including bowling alleys, billiard halls, and video arcades.

**Antenna.** A system of wires, poles, rods, reflecting discs, or similar devices used for the transmission or reception of electromagnetic waves, which system is external to or attached to the exterior of any structure.

**Appeal.** An action brought by an applicant where it is alleged that there is an error in any order, request, decision or determination by the City Administrator in the enforcement of the Zoning Ordinance.

**Automobile repair, major.** General repair, rebuilding or reconditioning of engines, motor vehicles or trailers, including body work, frame work and major painting service.

**Automobile repair, minor.** Incidental repairs, replacement of parts and motor service to automobiles, but not including any operation specified under *Automobile repair, major*.

**Automobile service station.** Any building or premises used for the dispensing or sale of automobile fuels, lubricating oil or grease, tires, batteries or minor automobile accessories. Services offered may include the installation of tires, batteries or minor accessories; minor automobile repairs; and greasing or washing of individual automobiles. When sales, services and repairs as detailed here are offered to the public, the premises will be classified as a public garage. Automobile service stations shall not include the sale or storage of vehicles; shall not include premises offering major automobile repairs, automobile wrecking or detached car washes.

**Basement.** A portion of a building located partly underground, but having half or less of its floor-to-ceiling height below the average grade of the adjoining ground.

**Bed and Breakfast.** An owner-occupied single-family dwelling where lodging, in up to four guest rooms, and breakfast are provided to the traveling public by the resident owner for compensation. (*Amended by Ord. 220; 2-22-2010*)

**Bluff.** A topographic feature such as a hill, cliff, or embankment having the following characteristics (an area with an average slope of less than 18 percent over a distance for 50 feet or more shall not be considered part of the bluff):

- A. Part or all of the feature is located in a shoreland area;
- B. The slope rises at least 25 feet above the ordinary high water level of the waterbody;

- C. The grade of the slope from the toe of the bluff to a point 25 feet or more above the ordinary high water level averages 30 percent or greater; and
- D. The slope must drain toward the waterbody. (*Amended by Ord. 170; 9-12-2005*)

**Bluff Impact Zone.** A bluff and land located within 20 feet from the top of a bluff  
(*Amended by Ord. 170; 9-12-2005*)

**Board.** The Board of Adjustment and Appeals. The City Council shall act as the Board of Adjustment and Appeals.

**Boarding House.** A building, other than a hotel, where for compensation and by prearrangement for definite periods, meals, or lodging and meals, are provided for three (3) or more non-transient persons, but not exceeding ten (10) persons.

**Boathouse.** A structure designed and used solely for the storage of boats or boating equipment.  
(*Amended by Ord. 170; 9-12-2005*)

**Building.** Any structure used or intended for supporting or the sheltering of any use or occupancy.

**Building Height.** The vertical distance measured from the average elevation of the finished grade along the front of the building to: the cornice of a flat roof, the deck line of a mansard roof, a point on the roof directly above the highest wall of a shed roof, the uppermost point on a round or other arch-type roof, or the mean distance of the highest gable on a pitched or hip roof.  
(*Amended by Ord. 216; 8-24-2009*).

**Building Line.** The line parallel to a lot line or the ordinary high water level at the required setback beyond which a structure may not extend

**Cellar.** That portion of the building having more than one-half of the floor to ceiling height below the average grade of the adjoining ground.

**Cemetery.** Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums, and mortuaries.

**Commercial Recreational Uses.** Uses including, miniature golf, waterslides, amusement centers, bowling alley, pool hall, dance hall, skating and similar uses.

**Commissioner.** The commissioner of the Department of Natural Resources.  
(*Amended by Ord. 170; 9-12-2005*)

**Conditional Use.** A land use or development as defined by ordinance that would not be appropriate generally but may be allowed with appropriate restrictions as provided by official controls upon a finding that certain conditions as detailed in the zoning ordinance exist, the use or development conforms to the comprehensive land use plan of the community, and the use is compatible with the existing neighborhood. (*Amended by Ord. 170; 9-12-2005*)

**Condominium.** A multiple dwelling or development containing individually owned dwelling units and jointly owned and shared areas and facilities, which dwelling or development is subject to the

provisions of the Minnesota Condominium Act, Minnesota Statutes, Chapter 515, or the Uniform Condominium Act, Minnesota Statutes, Chapter 515A.

**Contractor Operations.** An area and/or building devoted to use by a business that contracts to supply materials or work in the building trade field.

*(Amended by Ord. 181, 5/22/2006)*

**Convenience Store.** A retail establishment, which generally sells a limited range of food products, nonprescription drugs, candy and other perishable goods. This includes soda and similar beverage dispensing and food products, which can be heated and/or prepared onsite, and has over 400 square feet of floor area for retailing of nonautomotive goods.

**Convenience Store with Motor Fuel Sales.** A convenience store as defined herein that also sells gasoline from pump islands.

**Converted Single Family Dwelling.** A single-family dwelling which has been converted or modified for use as two or more family dwellings. *(Amended by Ord. 117, 8-24-1998)*

**Cutoff Angle.** The angle formed by a line drawn from the direction of the light rays at the light source and a line perpendicular to the ground from the light source beyond which no light is emitted. *(Amended by Ord. 152, 7/28/03)*

**Day Care Facility.** Any state licensed facility, public or private, which provides one or more persons with care, training, supervision, habitation, rehabilitation, or developmental guidance on a regular basis, for periods of less than twenty-four (24) hours per day, in a place other than the person's own home. Day care facilities include, but are not limited to: family day care homes, group family day care homes, day care centers, day nurseries, nursery schools, daytime activity center, day treatment programs, and day services as defined by Minn. Stat. Section 245.782, Subd. 5.

**Deck.** A horizontal, unenclosed platform with or without attached railings, seats, trellises, or other features, attached or functionally related to a principal use or site and at any point extending more than three feet above ground. *(Amended by Ord. 170; 9-12-2005)*

**Drive-In Establishments.** Any use where products and/or services are provided to the customer under conditions where the customer does not have to leave the car or where fast service to the automobile occupants is a service offered regardless of whether service is also provided within a building.

**Dwelling.** A building or portion thereof designed or used exclusively for residential occupancy, including single-family, two-family and multiple-family dwelling units, but not including hotels, motels, boarding or lodging houses.

**Dwelling Unit.** One or more rooms in a dwelling designed for occupancy by one family for living purposes and having separate permanently installed cooking and sanitary facilities.

**Earth Sheltered.** A building constructed so that more than 50% of the exterior surface area of the building, excluding garages or other accessory buildings, is covered with earth and the building code standards are satisfied.

**Escort.** A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

**Escort Agency.** A person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

**Family.** Any number of individuals related by blood, legal adoption or marriage, or three or less unrelated individuals living together on the premises or in a single housekeeping unit.

**Farm.** Any tract of land, with a house and usually a barn plus other buildings on which crops and livestock are raised but excluding feedlots.

**Farm Animals.** Cattle, hogs, bees, sheep, goats, chickens, turkeys, horses and other animals commonly accepted as farm animals in the State of Minnesota.

**Feedlot.** A confined drylot area for finish feeding of cattle, swine, sheep, etc. on concentrated feeds with no facilities for pasturing or grazing.

**Fence.** A lineal structure including walls, footings and posts, or similar barriers used to prevent access by persons or animals or prevent visual or sound transference.

**Fence, ornamental.** A fence through which clear vision is possible from one side to the other for 50 percent or more of the structure, as viewed on a horizontal plane. Such fence may include picket, post and rail, split rail, but not chain link.

**Fence, privacy.** A fence, which when constructed provides 100% opaqueness from either side. A privacy fence shall be constructed of wood, vinyl or similar materials that is characteristic of surrounding improvements and shall not include chain-link with slats or other attachments that provide screening.

**Finance, Insurance and Real Estate.** Establishments operating primarily in the fields of finance, insurance and real estate including, but not limited to, depository institutions, credit institutions, investment companies, security and commodity exchanges, insurance agents and brokers, real estate developers, buyers, agents and lessees.

**Foot-candle.** The international unit of illumination produced on a surface.  
(Amended by Ord. 152, 7/28/03)

**Frontage.** That part of a lot fronting on one side of a street between the side lot lines or between a street right-of-way and a side lot line.

**Garden Center.** A place of business where retail and wholesale products and produce are sold to the retail consumer. These centers, which may include a nursery and/or greenhouses, import most of its items sold. These items may include paints, handicrafts, nursery products and stock, fertilizers, potting soil, hardware, lawn and garden power equipment and machinery, hoes, rakes, shovels and other garden and farm tools and utensils.

**Glare.** The effect produced by the intensity and direction of any artificial illumination sufficient to cause annoyance, discomfort, or temporary loss or impairment of vision. (*Amended by Ord. 152, 7/28/03*)

**Gross Floor Area.** The sum of the gross horizontal areas of the several floors of the building, measured from the exterior faces of the exterior walls including basements but excluding cellars.

**Guest Cottage.** A building solely used for one or more of the following purposes: scrap booking, stamping, greeting card making, quilting, beading, hosting a book club, hosting a wedding or hosting a baby shower. Such a building may include lodging for persons then using the building for a permitted use. No part of such a building, however, shall be used by its owner or operator as a dwelling. (*Amended by Ord. 220; 2-22-2010*)

**Hardship.** A situation where property in question cannot be put to a reasonable use if used under the conditions allowed by the official controls; the plight of the landowner is due to circumstances unique to the property, not created by the landowner, and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the official control. (*Amended by Ord. 170; 9-12-2005*)

**Home Occupation.** Any occupation or profession carried on by members of the immediate family residing on the premises.

**Hotel/Motel.** A building in which there are more than ten (10) sleeping rooms usually occupied singly and temporarily by individuals who are lodged with or without meals and where no provision is made for cooking in any individual room.

**Impervious Surface.** An artificial or natural surface through which water, air, or roofs cannot penetrate including roofs, driveways, parking lots, sidewalks and similar hard surfaces.

**Industry, Heavy.** The manufacture, compounding, processing, packaging, treatment or assembly of products and material that may emit objectionable and offensive influences beyond the lot on which the use is located. Uses such as bulk storage, outdoor storage of large amounts of raw materials or finished product, agricultural processing, manufacture or fabrication of large, bulky items, and potentially hazardous or explosive product manufacture, production, or distribution generally qualify as heavy industrial.

**Industry, Light.** All uses which include the compounding, processing, packaging, treatment or assembly of products and materials, provided such use will not generate offensive odors, glare, smoke, dust, noise, vibration or other objectionable influences that extend beyond the lot on which the use is located. Uses such as on-site administrative offices, company headquarters, incidental retail sales, wholesale trade, warehousing, mini-storage, assembly, contractor yards, contractor shops, repair services, goods production, truck terminals, distribution facilities, greenhouses/nurseries, data centers, and material processing generally qualify as light industrial.

**Intensive Vegetation Clearing.** The complete removal of trees or shrubs in a contiguous patch, strip, row, or block.



**Interim Use.** A temporary use of property until a particular date, until the occurrence of a particular event, or until the use is no longer allowed by zoning regulations. (*Amended by Ord. 163, 1/24/05*)

**Interim Use Permit.** A permit issued by the City Council in accordance with procedures specified in this Chapter. (*Amended by Ord. 163, 1/24/05*)

**Kennels.** An establishment licensed to operate a facility housing dogs, cats, or other household pets and where grooming, breeding, boarding, training or selling of animals is conducted as a business.

**Light Distribution Plan.** A point-by-point plan formulated according to standard practices of the Illuminating Engineering Society (IES), depicting the intensity and location of lighting on the property. (*Amended by Ord. 152, 7/28/03*)

**Livestock.** Farm animals, raised for home use or for profit.

**Lot.** A parcel of land, separated from other parcels by description, intended for building development or for transfer of ownership.

**Lot Area.** The area of a horizontal plane within the lot lines.

**Lot, Corner.** A lot abutting on two or more streets other than an alley, at their intersection.

**Lot Coverage.** The area of a lot occupied by impervious surface.

**Lot Depth.** The shortest horizontal distance between the front lot line and the rear lot line measured from a ninety (90) degree angle from the street right-of-way within the lot boundaries.

**Lot, Double Frontage/Through.** A lot having its front and rear yards each abutting on a street, not including an alley.

**Lot Line.** The property line bounding a lot.

**Lot Line, Front.** The lot line separating the lot from the street other than the alley. In the case of a corner lot, the front lot line is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a front lot line.

**Lot Line, Rear.** The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line 10 feet in length within the lot paralleled to and at a maximum distance from the front lot line.

**Lot Line, Side.** Any lot line not a front or rear lot line.

**Lot Width.** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line at the minimum required setback line. Lots width on a cul-de-sac shall be measured from the building setback line.

**Lot of Record.** A lot or parcel for which a deed has been recorded in the office of the County Register of Deeds prior to the date of adoption of this Ordinance.

**Luminaire.** A complete lighting unit consisting of a light source and all necessary mechanical, electrical and decorative parts. A luminaire does not include a pole or other support. *(Amended by Ord. 152, 7/28/03)*

**Manufactured Dwelling.** A structure, not affixed to or part of real estate, transportable in one or more sections and built on a permanent chassis and designed to be used as a single-family dwelling with or without a permanent foundation.

**Manufactured Home Park.** Any site, lot, field or tract of land upon which two or more occupied manufactured homes are located, either free of charge or for compensation, and includes any building, structure, tent, vehicle or enclosure used or intended for use as part of the equipment of the manufactured home park.

**Multiple-Family Dwelling.** A dwelling containing three or more dwelling units designed with more than one dwelling unit connecting to a common corridor or entranceway.

**Home based Business Sign.** A sign, which bears the name or address of the home business.

**Nonconforming Lot.** A lot or parcel which does not meet the lot size requirements of the district within which located.

**Nonconforming Structure.** A structure, which is used in accordance with the use requirements of the zoning district but does not meet the dimensional requirements (setbacks, etc.) of the district within which located.

**Nonconforming Use.** A use of land or structure, which is not permitted in the zoning district within which located.

**Nonconformity.** Any use, structure or lot of record existing or authorized before this Ordinance became effective but prohibited thereafter.

**Nonconforming lot, expansion of.** Any proposed decrease in the existing dimensions of a lot of record that does not meet the minimal standards set forth for the district in which the lot is located. Intensifying the use shall mean any use of the property that increases the outdoor storage or any of the performance standards established in Section 1245.01 of this Chapter from currently established conditions. *(Amended by Ord. 216; 8-24-2009)*

**Nonconforming structure, expansion of.** Any addition to a nonconforming structure that encroaches further into the nonconforming setback of the structure, increases the existing nonconforming lot coverage or surpasses the existing nonconforming height.

**Nonconforming use, expansion of.** Any alteration of a nonconforming use that increases the footprint of the principal structure or intensifies the use of the property.

**Nude Model Studio.** Any place where a person who appears in a state of nudity or displays “specified anatomical areas” is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

**Nudity or State of Nudity.** The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or a state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

**Nurseries or Greenhouses.** A place where plants are grown for sale, transplanting or experimentation.

**Nursing Home, Rest Home or Convalescent.** A private home for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders, but not containing equipment for surgical care or for treatment of disease or injury.

**Office.** A building or portion of a building wherein services are performed involving predominantly administrative, professional, or clerical operations.

**On-sale liquor establishment.** Any establishment wherein alcoholic beverages are sold, served or given away for consumption on the premises. Typical on-sale uses include but are not limited to the following establishments: ballrooms, dance bars, piano bars, billiard and/or game parlors, nightclubs, or other private clubs. This definition shall not include standard restaurants as defined herein, or veterans clubs.

**Ordinary High Water Level (OHWL).** The boundary of public waters and wetlands, and shall be an elevation delineating the highest water level which has been maintained for a sufficient period of time to leave evidence upon the landscape, commonly that point where the natural vegetation changes from predominantly aquatic to predominantly terrestrial, as determined by the Department of Natural Resources. For watercourses, the ordinary high water level is the elevation of the top of the bank of the channel.

**Personal Services.** An establishment or place of business primarily engaged in providing individual services generally related to personal needs, such as a beauty salon, spa, tanning salon, tailor shop, or similar.

**Planned Unit Development.** An integrated development involving two or more principal uses or structures, including but not specifically limited to single-family residential uses, multiple-family residential uses, offices, or commercial uses, or any combination thereof, and similar such uses or combinations.

**Principal Use or Structure.** The main building on a lot in which the intended allowable use of the property is conducted and any additions thereof.

**Public Waters.** Any waters as defined in Minnesota Statutes, Section 103G.005, Subd. 15, 15a. (*Amended by Ord. 170; 9-12-2005*)

**Restaurant, Fast Food.** An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption:

- A. Within restaurant building;
- B. Within a motor vehicle parked on the premises; or
- C. Off the premises as carry-out orders; and whose principal method of operation includes the following characteristics:
  - 1. Food and/or beverages are usually packaged prior to sale and are served in edible containers or in paper, plastic, or other disposable containers;
  - 2. The customer is not served food at a table by an employee, but receives it at a counter window, or similar facility and carries it to another location on or off the premises for consumption.

**Restaurant, Standard.** An establishment whose principal business is the sale of food and beverages, including alcohol, to customers in a ready-to-consume state, but not including an on-sale liquor establishment, and whose method of operation includes one or both of the following characteristics:

- A. Customers, normally provided with an individual menu, are served their food and beverages by a restaurant employee at the same table or counter at which food and beverages are consumed;
- B. A cafeteria-type operation where food and beverages generally are consumed within the restaurant building.

**Retail Trade.** Establishments engaged in selling merchandise to the general public for personal or household consumption and rendering services incidental to the sale of the goods. Retail trade includes the selling and renting of goods and products including but not limited to apparel, health and beauty products, food, appliances, furniture, tools, hardware, toys, and sporting goods.

**Right-of-way.** The area between property lines of a road, street, alley, pedestrian way or easement or other street

**Satellite Dish.** Any combination of: antenna or dish antenna whose purpose is to receive communication or other signals from orbiting satellites and other extraterrestrial sources.

**Semipublic Use.** The use of land by a private, nonprofit organization to provide a public service that is ordinarily open to some persons outside the regular constituency of the organization. (*Amended by Ord. 170; 9-12-2005*)

**Sensitive Resource Management.** The preservation and management of areas unsuitable for development in their natural state due to constraints such as shallow soils over groundwater or bedrock, highly erosive or expansive soils, steep slopes, susceptibility to flooding, or occurrence of flora or fauna in need of special protection. (*Amended by Ord. 170; 9-12-2005*)

**Setback.** The minimum horizontal distance between a structure, sewage treatment system, or other facility and an ordinary high water level, sewage treatment system, top of a bluff, road, highway, property line, or other facility. (*Amended by Ord. 170; 9-12-2005*)

**Sewage Treatment System.** A septic tank and soil absorption system or other individual or cluster type sewage treatment system as described and regulated in Subsection 1277.05 Subd. 8 of this Chapter. *(Amended by Ord. 170; 9-12-2005)*

**Sewer System.** Pipelines or conduits, pumping stations, and force main, and all other construction, devices, appliances, or appurtenances used for conducting sewage or industrial waste or other wastes to a point of ultimate disposal. *(Amended by Ord. 170; 9-12-2005)*

**Sexual Encounter Center.** A business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex, or
- B. Activities between male and female persons and/or persons of the same sex when one (1) or more of the persons is in a state of nudity or semi-nude

**Significant Historic Site.** Any archaeological site, standing structure, or other property that meets the criteria for eligibility to the National Register of Historic Places or is listed in the State Register of Historic Sites, or is determined to be an unplatted cemetery that falls under the provisions of Minnesota Statutes, section 307.08. A historic site meets these criteria if it is presently listed on either register or if it is determined to meet the qualifications for listing after review by the Minnesota state archaeologist or the director of the Minnesota Historical Society. All unplatted cemeteries are automatically considered to be significant historic sites. *(Amended by Ord. 170; 9-12-2005)*

**Shore Impact Zone.** Land located between the ordinary high water level of a public water and a line parallel to it at a setback of 50 percent of the required structure setback.

**Shoreland.** Land located within the following distances from public water: 1,000 feet from the ordinary high water level of a lake, pond, or flowage; and 300 feet from a river or stream, whichever is greater. The limits of shorelands may be reduced whenever the waters involved are bounded by topographic divides which extend landward from the waters for lesser distances.

**Single-family Dwelling.** A detached dwelling designed exclusively for occupancy by one family.

**Specified Anatomical Areas.**

- A. Less than completely and opaquely covered human genitals, pubic region, buttock, anus, or female breast(s) below a point immediately above the top of the areola, and
- B. Human male genitals in a discernibly turgid state, even if completely and/or opaquely covered. *(Amended by Ord. 153, 7/28/03)*

**Specified Sexual Activities.** Includes any of the following:

- A. The fondling or touching of human genitals, pubic region, buttock, anus, or female breasts,
- B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, anal intercourse, oral-anal copulation, bestiality or sodomy; direct physical stimulation of unclothed genitals; flagellation or torture in the context of a sexual relationship,
- C. The use of human or animal ejaculation, sodomy, oral copulation, coitus, or masturbation,

- D. The use of excretory functions in the context of a sexual relationship; anilingus; buggery; coprophagy; coprophilia; cunnilingus; fellatio; necrophilia; pederasty; pedophilia; piquerism; sapphism; or zooerastia,
- E. Clearly depicted human genitals in the state of sexual stimulation, arousal, or tumescence,
- F. Situations involving a person or persons, any of whom are nude, clad in undergarments or in sexually revealing costumes and engaged in the flagellation, torture, fettering, binding, or other physical restraint of any person; or
- G. Erotic or lewd touching, fondling, or other sexually oriented contact with an animal by a human being. (*Amended by Ord. 153, 7/28/03*)

**Stables.** An accessory building in which horses are kept for private or commercial use including boarding, hire, or sale.

**Steep Slope.** Land where agricultural activity or development is either not recommended or described as poorly suited due to slope steepness and the site's soil characteristics, as mapped and described in available county soil surveys or other technical reports, unless appropriate design and construction techniques and farming practices are used in accordance with the provisions of these regulations. Where specified information is not available, steep slopes are lands having average slopes over 12 percent, as measured over horizontal distances of 50 feet or more.

**Story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or, if there is no such floor above, the space between such floor and the ceiling next above it.

**Street.** A public way for vehicular traffic, whether designated as a street, highway, arterial, arterial parkway, throughway, road, avenue, lane, place, or however otherwise designated.

**Street, cul-de-sac.** A street with a single common ingress and egress and with a turn-around at the end. (*Amended by Ord. 220; 2-22-2010*)

**Street, dead-end.** A local street open at one end only and without a special provision for vehicles turning around. (*Amended by Ord. 220; 2-22-2010*)

**Street Frontage.** That portion of a parcel of land abutting one or more streets. An interior lot has one street frontage and a corner lot two such frontages.

**Street, loop.** A short, independent street that usually terminates along the same collector street of its origin. (*Amended by Ord. 220; 2-22-2010*)

**Street, through.** A major collector or arterial street that serves more than one neighborhood, or carries traffic between neighborhoods, or streets that extend continuously between other major street in the community. Through Streets shall not include Cul-De-Sac Streets, Dead-End Streets or Loop Streets. (*Amended by Ord. 220; 2-22-2010*)

**Structural Alteration.** A change to the supporting members of a structure including foundations, bearing walls or partitions, columns, beams, girders, or any structural change in the roof or in the exterior walls.

**Structure.** Anything constructed or erected including buildings and streets, the use of which requires permanent location of the ground or attachment to something having a permanent location on the ground.

**Substandard Use or Structure.** Any use in existence prior to the date of this Ordinance which is permitted within the applicable zoning district but does not meet the minimum dimensional requirements of this Ordinance.

**Surface Water-Oriented Commercial Use.** The use of land for commercial purposes, where access to and use of a surface water feature is an integral part of the normal conductance of business. Marinas, resorts, and restaurants with transient docking facilities are examples of such use. *(Amended by Ord. 170; 9-12-2005)*

**Swimming Pool.** “Swimming Pool” is a structure that holds water, the filter unit, pump, heating unit, and any other equipment needed to operate the pool.

**Toe of the Bluff.** The lower point of a 50-foot segment with an average slope exceeding 18 percent. *(Amended by Ord. 170; 9-12-2005)*

**Top of the Bluff.** The higher point of a 50-foot segment with an average slope exceeding 18 percent. *(Amended by Ord. 170; 9-12-2005)*

**Townhouse.** A single structure consisting of three or more dwelling units having the first story at or near the ground level with no other dwelling unit connected to the other dwelling unit except by a party wall with no openings.

**Twin Home.** A single structure consisting of two dwelling units, each designed for occupancy by one family with separate entrances connected only by a party wall with no openings.

**Two-family Dwelling.** A dwelling with two units designed with a common corridor or entryway exclusively for occupancy by two families living independently of each other.

**Use.** The purpose of which land or a structure is designated, arranged or intended, or for which it is occupied or maintained.

**Variance.** A modification or variation of the provisions of this chapter, as applied to a specific piece of property.

**Water-Oriented Accessory Structure or Facility.** A small, above ground building or other improvement, except stairways, fences, docks, and retaining walls, which, because of the relationship of its use to a surface water feature, reasonably needs to be located closer to public waters than the normal structure setback. Examples of such structures and facilities include boathouses, gazebos, screen houses, fish houses, pump houses, and detached decks. *(Amended by Ord. 170; 9-12-2005)*

**Wetland.** A surface water feature classified as a wetland in the United States Fish and Wildlife Service Circular No. 39 (1971 edition). *(Amended by Ord. 170; 9-12-2005)*

**Wholesale Trade.** Establishments primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, farm, construction contractors, or professional business users; or to other wholesalers; or acting as agents or brokers in buying merchandise for or selling merchandise to such persons or companies.

**Yard.** Means an open space on the same lot with a building or structure, which is unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in this chapter.

**Yard, Front.** An unoccupied space extending across the front of a lot between the side yard lines and lying between the front street line of the lot and the front principal building line. For corner lots, the front yard shall be that yard having the least street frontage.

**Yard, Rear.** The space between the rear principal building line and the rear lot line, extending for the full width of the lot.

**Yard, Side.** The space between the side principal building lines and the adjacent side lot line, extending from the front to the rear building lines.

**Yard, Street Side.** The space between the side principal building line and the street.

**Zoning Map.** The map or maps incorporated into this chapter as a part thereof designating the zoning districts.

### Section 1205 – General Provisions

**1205.01 Interpretation.** In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals, and welfare.

**1205.02 Compatibility with Other Regulations.** Where the conditions of this Ordinance are comparable with conditions imposed by any other law, ordinance, statute, resolution, or regulation, the regulations, which are more restrictive shall prevail.

**1205.03 Conformance to Ordinance.** No building or structure shall be erected, converted, enlarged, reconstructed, moved or structurally altered nor shall any building or land be used except for the purpose permitted in the district in which the building or land is located.

**1205.04 Maintenance of Minimum Requirements.** No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance, and no lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard or other space for another use.

**1205.05 Application.** All applications required by this Ordinance shall be fully completed and filed in the Planning Commission records.



**1205.06 Fees and Expenses.** Any person filing a petition for an application required by this Ordinance shall pay a prescribed fee according to a fee schedule established by the City Council. All fees shall be set annually by Ordinance of the City Council.

**1205.07 Building Permits.** As required, no person shall erect, alter, or move any building or part thereof without first securing a building permit.

## **1210 – Administration and Enforcement**

**1210.01 Zoning Administrator.** The specific duties of the Zoning Administrator include:

- A. Providing Zoning Information. Providing zoning information upon request.
- B. Receiving/Referring Applications. Receiving applications for conditional use permits, variances, site plans, amendments and appeals, referring such applications to the appropriate official body, notifying affected property owners of required public hearings, and publishing notice of such hearings.
- C. Notifying Applicants. Notifying applicants for Conditional Use Permits, variances, amendments and appeals of actions taken by the official bodies relative to their application.
- D. Inspections. Conducting inspections to determine and assure compliance with Ordinance provisions
- E. Violations. Investigate violations, notifying persons guilty of violations and describing the nature of such, and initiating appropriate actions against violators as provided by law.
- F. Records. Maintaining permanent and current records of this Ordinance and the official Zoning Map including, but not limited to, Conditional Use Permits, variances, amendments, appeals and applications thereof.

### **1210.02 Board of Appeals.**

**Subd. 1 Establishment.** The City Council is hereby established as the required board of appeals and adjustments, such board to be hereinafter referred to as the board of appeals or the board. The City Council, acting as the board of appeals, shall be vested with such administrative authority as is hereinafter provided or as provided by state law.

**Subd. 2 Duties.** The duties of the board of appeals shall be to:

- A. Hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the zoning administrator.
- B. Hear and decide requests for variances from the literal provisions of this Chapter, pursuant to Section 1210.04.

### **Subd. 3 Proceedings.**

- A. The board of appeals shall adopt rules necessary to the conduct of its affairs and in keeping with the provisions of this chapter. Meetings shall be held at the call of the chairperson and at such other times as the board may determine. The chairperson, or in his or her absence the acting chairperson, may request the attendance of witnesses. All meetings shall be open to the public.

- B. The board of appeals shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and be immediately filed in the office of the clerk-treasurer.

#### **Subd. 4 Appeals.**

- A. Appeals to the board of appeals may be taken by any person aggrieved or by any official or department of the city affected by any decision of the zoning administrator. Such appeals shall be taken within 60 days of such decision by filing with the zoning administrator a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- B. The board shall fix a time for the hearing of the appeal, which hearing shall be held not less than ten (10) days nor more than 45 days after filing of said appeals. Hearings before the Board under Minnesota Statutes Sec. 462.359 Subd. (4) (Official Maps) shall require notice published in the official newspaper ten (10) days before the hearing; for all other hearings before the Board, notice of the date, time and place of such hearing shall be given to all interested parties. A decision on said appeal by the Board shall be made within a reasonable time after the hearing. At the hearing, any party may appeal in person by agent or attorney.
- C. Appeal request decisions of the Board shall be final. Appeals of Board decisions shall be made to the District Court within sixty (60) days.

#### **1210.03 Planning Commission.**

**Subd. 1 Duties.** Planning Commission duties in zoning administration shall be to:

- A. Hold public hearings on applications for amendments to this chapter. The commission shall not have the authority to make changes or amendments to this chapter, it shall act in a purely advisory manner to the City Council making its recommendation in all cases referred to it, and transmitting them to the City Council for final action.
- B. Consider applications for conditional use and interim use permits provided for within this chapter and to transmit its recommended action to the City Council for final action.
- C. Consider applications for variances and appeals provided for within this chapter and to transmit a recommendation to the board of appeals.
- D. Consider applications for site plans provided for within this chapter and to transmit its recommended action to the City Council for final action.

#### **1210.04 Variances.**

**Subd. 1 Purpose.** The City Council may grant variances from the literal provisions of this Ordinance where their strict enforcement would cause practical difficulties because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in harmony with the general purpose and intent of this Ordinance, and consistent with the comprehensive plan.

- A. *Practical Difficulties.* Practical difficulties as used in connection with the granting of a variance means that

1. the property owner proposed to use the property in a reasonable manner not permitted by the zoning ordinance.

2. the plight of the landowner is due to circumstances unique to the property not created by the landowner, and

3. the variance, if granted, will not alter the essential character of the locality.

Practical difficulty also includes, but is not limited to, inadequate access to direct sunlight for solar energy systems.

- B. *Economic Considerations.* Economic considerations alone shall not constitute a practical difficulty
- C. *Use Variances Prohibited.* The board of appeals may not permit as a variance any use that is not permitted under the Ordinance for property in the district where the affected person's land is located. The City Council may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The City Council may impose conditions in the granting of a variance to insure compliance and to protect adjacent properties.
- D. *Restrictions and Conditions of Approval.* The board may impose such restrictions and conditions upon the premises benefited by a variance to ensure compliance and protect the public health, safety and general welfare of adjacent properties. Such restrictions and/or conditions must be directly related to and must bear a rough proportionality to the impact created by the variance.

**Subd. 2 Procedure.** The procedure for applying for a variance from the regulations of this chapter shall be as follows:

- A. The property owner or agent of the property owner shall meet with the zoning administrator to explain the situation, learn the procedures and obtain an application form.
- B. The applicant shall file the completed application form, together with the required exhibits, with the zoning administrator and shall pay the required filing fee.
- C. The zoning administrator shall transmit the application and one copy of the exhibits to the chairperson of the board of appeals and planning commission. Written notice of the public hearing shall be mailed at least ten days before the date of the hearing to the property owners adjacent to the property in question. Failure of any property owner to receive notification shall not invalidate the proceedings.
- D. The Planning Commission shall conduct a public hearing and consider application for variance and make recommendations to the board of appeals.
- E. The Board of Appeals may hold such public hearings as it may consider necessary on a proposed variance, consider application materials and the recommendation of the planning commission and make a final decision on the variance request.

**Subd. 3 Revocation of Variance.** The granting of a variance from the provisions of this Ordinance shall be subject to the following conditions, which conditions shall apply to all variances granted and said conditions shall be continuing:

- A. The variance shall be effective only for the specific purposes set forth in the variance grant. A violation of any condition set forth in granting a variance shall be a violation of this Ordinance and shall automatically terminate the variance;
- B. The variance shall become null and void without further action by the Planning Commission or City Council upon failure of the applicant to utilize such variance by commencement of

construction or installation of the specific purpose within one (1) year of variance grant and completion within a reasonable time after commencement.

**Subd. 4 Extensions.** A variance may be renewed by the board of appeals for good cause should the applicant file for an extension. Such extension shall be requested in writing and filed with the Zoning Administrator at least thirty (30) days before the expiration of the original variance. The extension may be granted for up to a period of one (1) year.

**Subd. 5 Filing.** A certified copy of any variance shall be filed with the Carver County Recorder or Registrar of Titles and shall include a legal description of the subject property.

#### **1210.05 Amendments.**

**Subd. 1 Adoption.** This chapter may be amended, changed or altered only by a favorable (two-thirds) majority vote of all members of the City Council, and only after a public hearing has been duly advertised and held by the Planning Commission.

**Subd. 2 Kinds of Amendments.** An amendment to this chapter may be one of the following:

- A. A change in a district's boundary (rezoning).
- B. A change in a district's regulations.
- C. A change in any other provision of this chapter.

**Subd. 3 Initiation of Proceedings.** Proceedings for amending this chapter shall be initiated by at least one of the following three methods:

- A. By petition of an owner or owners of property which is proposed to be rezoned, or for which district regulations changes are proposed.
- B. By recommendation of the Planning Commission.
- C. By action of the City Council.

**Subd. 4. Procedure.** The procedure for a property owner or owners to initiate a rezoning or district regulation change applying to their property is as follows:

- A. The property owner or their agent shall meet with the zoning administrator to explain the situation, learn the procedures and obtain an application form.
- B. The applicant shall file the completed application form together with the required exhibits with the zoning administrator and shall pay the required filing fee.
- C. The zoning administrator shall transmit the application and required exhibits to the Planning Commission. When the amendment involves changes in district boundaries (rezoning) affecting an area of five (5) acres or less, written notice of the public hearing shall be mailed at least ten (10) days before the date of the hearing to the property owners within the affected zone and within 350 feet of the outer boundaries of the area in question. Failure of any property owner to receive notification shall not invalidate the proceedings.
- D. The zoning administrator shall have notice of the required public hearing published in the official municipal newspaper not less than ten (10) calendar days prior to the date of the hearing.

- E. The Planning Commission shall hold the public hearing, consider the application materials and provide a recommendation to the City Council for its official action.
- F. The City Council may hold such public hearings as it may consider necessary on a proposed amendment, consider application materials and the recommendation of the planning commission and make a final decision on the amendment request.

#### **1210.06 Conditional Use Permits.**

**Subd. 1 Purpose.** In order to give the district use regulations of this Ordinance the flexibility necessary to achieve the objectives of the Comprehensive Plan, certain uses are permitted subject to the granting of a Conditional Use Permit. Because of their unusual characteristics, such conditional uses require special consideration so they may be located properly with respect to the objectives of the Comprehensive Plan and with respect to their effects on surrounding properties. In order to achieve these purposes, the City Council is empowered to grant and to deny applications for Conditional Use Permits and to impose reasonable conditions upon the granting of these permits.

**Subd. 2 Procedure.** The procedure for obtaining a conditional use permit is as follows:

- A. The property owner or their agent shall meet with the zoning administrator to explain the situation, learn the procedures and obtain an application form.
- B. The applicant shall file the completed application form together with the required exhibits and filing fee with the zoning administrator.
- C. The zoning administrator shall transmit the application and exhibits to the Planning Commission. Written notice of the public hearing shall be mailed at least ten days before the date of the hearing to the property owners within 350 feet of the outer boundaries of the area in question. Failure of any property owner to receive notification shall not invalidate the proceedings.
- D. The zoning administrator shall have notice of the required public hearing published in the official municipal newspaper not less than ten (10) calendar days prior to the date of the hearing.
- E. The Planning Commission shall hold a public hearing, study the application to determine possible adverse effects of the proposed conditional use, determine what additional requirements may be necessary to reduce such adverse effects and provide a recommendation to the City Council for its official action.
- F. The City Council may hold such public hearings as it may consider necessary on a proposed conditional use permit, consider application materials and the recommendation of the planning commission and make a final decision on the conditional use permit request.

**Subd. 3 Standards for Granting a Conditional Use Permit.** No conditional use permit shall be granted, unless the City Council determines that all of the following standards, along with standards for a specific use and any other conditions the City Council deems necessary to protect the health, safety and general welfare of the public, will be met:

A. General Standards.

- 1. The use is consistent with goals, policies and objectives of the Comprehensive Plan.
- 2. The use is consistent with the intent of this Ordinance.

3. The use does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements.
4. The use does not have an undue adverse impact on the public health, safety or welfare.
5. The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
6. The use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
7. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
8. Adequate measures have been or will be taken to provide for vehicular and pedestrian safety and convenience to, from and within the site.
9. The use meets all of the performance criteria requirements as established in Section 1245.01 of this chapter.
10. The use shall, in all other respects, conform to the applicable regulations of the district in which it is located.

B. Specific Conditional Use Provisions. In addition to the general standards specified in Subd. 3.A. of this Section, no conditional use permit shall be granted unless the City Council determined that each of the following specific standards have been met for the following uses.

1. Adult Entertainment Uses/Sexually Oriented Businesses.

- a. A sexually oriented business shall not be located within six hundred (600) feet of any of the following:
  - i. A public or private preschool, elementary, junior or high school site;
  - ii. A licensed day care center;
  - iii. A residential zoning district boundary or site used for residential purposes;
  - iv. A public park adjacent to a residential district;
  - v. Church site;
  - vi. Civic site;
  - vii. Another sexually oriented business site.
- b. A sexually oriented business:
  - i. Shall be prohibited from serving or locating in any place, which is also used to dispense or consume alcoholic beverages.
  - ii. Shall require all entrances to the business, with the exception of emergency fire exits, which are not useable by patrons to enter the business, be visible from a street-facing public right-of-way.
  - iii. Shall have no customer parking at the rear of the building.
  - iv. Shall have no doors on video viewing booths.
  - v. Shall have the layout of the display areas designed so that the management of the established and any law enforcement personnel inside the store can observe all patrons while they have access to any merchandise offered for sale or viewing including but not limited to books, magazines, photographs, video tapes, or any other material.
  - vi. Shall have no display of sexual activity, sexually explicit material or paraphernalia that is visible by the public from the exterior of the building.

- vii. Shall be limited in operation to the house of 10:00 a.m. to midnight.
- viii. Shall have signage that complies with the sign ordinance regulations addressed in Section 1260 of this Chapter. In addition, signs for sexually oriented businesses shall not contain representational depiction of an adult nature or graphic descriptions of the adult theme of the operation.
- ix. Shall have lighting that complies with the lighting ordinance addressed in Section 1245.08 of this Chapter. In addition, illumination of the premises exterior shall be adequate to observe the location and activities of all persons on the exterior premises.

2. Reserved. (*Ord 298; 3-26-18*)

3. Bed and Breakfast

- a. The owner must reside on the premises and be the operator of the facility.
- b. There is a maximum of four (4) guest rooms in the principal structure.
- c. All units are located within the principal structure.
- d. Occupancy shall be event driven and no stay shall be permitted for longer than thirty (30) consecutive days.
- e. A building code inspection is conducted and any necessary building permit is issued prior to occupancy to assure conformance to Health, Building and Fire Codes.
- f. The exterior façade shall not be altered from its Single Family character.
- g. On-premise advertising signs shall be limited to either one wall sign up to 4 square feet or a free-standing sign up to 2 square feet.
- h. The sign shall be designed in character with the principal structure, identifying not more than the name and address of the facility.
- i. The facility shall be located on a through street.
- j. A minimum of one off-street parking stall for each guest room plus two off-street parking stalls for the permanent residents shall be provided, and the facility must be able to accommodate all guest parking off-street without the need to alter the existing off-street parking arrangement. A piggy-back or tandem parking arrangement is permitted.
- k. On-site dumpsters or other waste containers shall be screened from public view.  
(*Amended by Ord. 220, 2-22-2010*)

4. Cemeteries. Cemeteries shall conform to the following standards:

- a. Shall be located at least 25 feet from adjacent uses.
- b. Shall have adequate off-street parking.

5. Churches, schools and similar public uses.

- a. The site shall have access on a collector or arterial roadway or shall be otherwise located so that access can be provided without generating significant traffic on local residential streets.
- b. Parking areas shall be set back at least ten (10) feet property lines.
- c. An off-street passenger loading area shall be provided.
- d. The structure must be setback at least 50 feet from a residential use.

- e. Outdoor recreation and play areas shall be located at least 25 feet from a residential use and buffered by appropriate landscape materials.
  - f. No more than seventy (70) percent of the site shall be covered with impervious surface.
  - g. Site plan approval shall be obtained pursuant to Section 1210.08 of this Chapter.
6. Contractor Operations. Contractor Operations in the C-3, Downtown District shall conform to the following standards:
- a. No outdoor storage of any kind, including but not limited to materials, equipment or machinery shall be permitted.
  - b. All business vehicles shall be accommodated by off-street parking.
  - c. The office area shall be maintained at the front (street-facing) side of the building to the greatest extent possible.
- (Amended by Ord. 216; 8-24-2009)*
7. Day Care Centers. State Licensed Commercial Day Care Centers shall conform to the following standards:
- a. The site shall have loading and drop off points designed to avoid interfering with traffic and pedestrian movements.
  - b. Outdoor recreation and play areas shall be located at least 25 feet from a residential use and buffered by appropriate landscape materials.
  - c. Each center shall obtain applicable licenses.
8. Farms, including Livestock. Farms including Livestock shall conform to the following standards:
- a. The structures used in conjunction with the livestock operation must be in compliance with Chapter 5.
  - b. The site must be located on a collector street.
  - c. The structures must be a minimum of two hundred feet from a wetland area.
  - d. The use shall be setback a minimum of 500 feet from a residential district.
9. Group Homes. The following applies to state licensed residential facilities for seven to sixteen persons. State licensed residential facilities shall conform to the following standards:
- a. The structure must be in compliance with the state licensing requirements.
  - b. The structure must be in compliance with local building and fire codes.
  - c. The site shall have adequate off-street parking to accommodate one parking space for each employee on the major shift.
10. Guest Cottages
- a. The owner must be the operator of the facility.
  - b. There is a maximum of four (4) guest rooms in the principal structure, all of which are located within the principal structure.



- c. No more than 12 guests per overnight stay are permitted.
  - d. Occupancy shall be event driven and no stay shall be permitted for longer than seven (7) consecutive days to one entity.
  - e. A building code inspection is conducted and any necessary building permit is issued prior to occupancy to assure conformance to Health, Building and Fire Codes. This information, including contact information for the owner/operator, shall be posted in a conspicuous location in the facility.
  - f. The exterior façade shall not be altered from its Single Family character.
  - g. On-premise advertising signs shall be limited to either one wall sign up to 4 square feet or a free-standing sign up to 2 square feet, and designed in character with the principal structure, identifying not more than the name and address of the facility.
  - h. The facility shall be located on a through street.
  - i. The site shall be able to accommodate a minimum of four off-street parking spaces and must be able to accommodate all guest parking off-street without altering the existing off-street parking arrangement. A piggy-back or tandem parking arrangement is permitted.
  - j. On-site dumpsters or other waste containers shall be screened from public view.  
(Amended by Ord. 220, 2-22-2010)
11. Industry. Industry shall conform to the following standards for both light and heavy industrial uses:
- a. Landscaping: all open areas of any site, lot, tract or parcel shall be graded to provide proper drainage, and except for areas used for parking, drives or storage, shall be landscaped with trees, shrubs or planted ground cover. Such landscaping shall conform with the planting plan approved by the City Council. It shall be the owner's responsibility to see that this landscaping is maintained in an attractive and well-kept condition. All vacant lots, tracts or parcels shall also be properly maintained.
  - b. All raw materials, supplies, finished or semi-finished products and equipment shall be stored within a completely enclosed building, provided, however, that motor vehicles necessary to the operation of the principal use and of not more than three-quarter ton capacity may be stored within the permitted parking lot space.
  - c. Building Design and Construction. In addition to other restrictions of this Chapter and any other regulations of the City, any industrial building or structure shall meet the following standards:
    - i. All exterior wall surfaces shall employ high exterior finishes such as glass, brick and stone. Specifically designed pre-cast concrete units shall be allowed if the surfaces have been integrally treated with an applied decorative material or texture. Factory fabricated and finished metal-framed panel construction, if the panel materials be any of those named above, other than unpainted galvanized iron or plastic.
    - ii. All subsequent additions and outbuildings constructed after the erection of an original building or buildings shall be constructed of the same materials as the original construction and shall be designed in a manner conforming with the original architectural design and general appearance.
  - d. Heavy Industry. In addition to meeting the above requirements for light industry, heavy industry shall conform to the following additional standards:
    - i. Shall be located at least 50 feet from non-heavy industrial uses.

- ii. The site shall have direct access to collector or arterial streets.
- iii. Shall encourage shared parking with like heavy industrial uses.

12. Hospitals and Health Care Facilities. Hospitals and health care facilities shall conform to the following standards:

- a. The site shall have direct access to collector or arterial streets.
- b. Emergency vehicle access shall not be adjacent to or located across a street from any residential use.

13. Kennels. The following applies to commercial kennels:

- a. The use shall not be located within 500 feet of any residential district.
- b. Any outdoor exercise area shall be screened from view from abutting property with a landscaping buffer strip having a minimum width of eight (8) feet, consisting of coniferous and deciduous trees.
- c. The site must be located on a collector street.
- d. The structures associated with the kennel operation must be a minimum of two hundred feet from a wetland area.

14. Manufactured Home Park. Manufactured Home Parks shall conform to the following standards:

15. Multiple Family. Multiple family shall conform to the following standards:

- a. Adequate off-street parking and off-street loading is provided.
- b. The development is adequately served by a collector or arterial street or shall be otherwise located so that access can be provided without generating significant traffic on local residential streets.
- c. Development is compatible in design and layout with existing and planned use of the area.
- d. The lot, setback and building requirements are complied with.
- e. The following requirements are established to provide uniform building design and to insure the quality of construction to provide adequate protection to all persons residing within the structure:
  - i. Window glass should be a minimum of 10% of the floor space of the living area in each unit.
  - ii. All below grade units shall have a floor grade not greater than 36 inches below ground.
  - iii. No building of a height greater than three (3) stories shall contain below grade dwelling units.
  - iv. Any multiple dwelling over three stories in height shall contain an elevator.
  - v. A multiple dwelling building over three stories shall supply building plans including site plans that are certified by an architect registered in the State of Minnesota, stating that the design of the building and the site has been prepared under their direct supervision. Any building of Type I or Type II construction, as provided in the Uniform Building Code, shall have its electrical, mechanical

or structural systems designed by engineers registered in the State of Minnesota.

- vi. The minimum floor area of an efficiency dwelling unit shall not be less than four hundred square feet. That of a one bedroom unit shall not be less than six hundred and fifty (650) square feet, and that of a two bedroom unit shall not be less than eight hundred (800) square feet.

16. Outdoor Auto, Truck, Recreational Vehicle, Equipment Sales and Display. Outdoor auto, truck, recreational vehicle, equipment sales and display shall comply with the following standards:

- a. Shall have adequate off-street parking.
- b. All access drives, parking and storage areas shall be surfaced with concrete or bituminous with curb and gutter.
- c. Shall be screened from adjacent residential districts by buffer fence of adequate design or a planting buffer screen.
- d. All used vehicles associated with the use shall comply with the following additional standards:
  - i. Shall be in an operable condition.
  - ii. Shall not be extensively damaged, with the damage including such things as broken or missing tires and wheels, motor, body parts, windows, drive train or transmission.
  - iii. Shall have a fair market value greater than the approximate value of the scrap in it.

17. Outdoor Dining.

- a. Outdoor dining on public sidewalks shall comply with the following standards:
  - i. Sidewalk pedestrian pass-by area must be wide enough to accommodate the six-foot (6') seating and pedestrian pass-by requirement.
  - ii. Outdoor dining and related obstructions shall be prohibited from the pedestrian pass-by area.
  - iii. Outdoor dining and seating shall not be placed in areas that negatively impact the line-of-sight of vehicles, specifically at intersections.
  - iv. Outdoor dining hours shall be restricted to the hours of 11 a.m. to 8 p.m.
  - v. Noise levels from the outdoor dining activity shall not exceed those levels stated within the City Code.
  - vi. The sale of alcoholic beverages in the outdoor dining area shall be prohibited entirely.
  - vii. The permit holder must show that the outdoor area is in compliance with federal, state, and local regulations regarding the preparation, sale, and service of food.
  - viii. The permit holder must reapply annually for a permit.
  - ix. Along with the application, a diagram indicating the location and size of tables, chairs, and walk area and exits must be submitted. The location of entryways and exits to the restaurant, with dimensions, must also be included along with any other information deemed necessary for the provision of the permit.

- x. Fencing or an acceptable barrier shall be used to surround the outdoor dining area, separating the dining area from the pedestrian space.
- xi. Tables, chairs and other items associated with the outdoor dining operation shall be removed at the end of each business day, thus restoring the sidewalk to its normal condition.
- b. Outdoor dining areas on private property on decks and patios shall comply with the following standards:
  - i. Outdoor dining may be allowed between the hours of 11:00 a.m. to 1:00 a.m.
  - ii. Railings or fencing shall be used to surround the outdoor dining area.
  - iii. Noise levels from the outdoor dining area shall not exceed levels stated within the City Code.
  - iv. Dining areas shall be constructed in compliance with all standards in the Zoning Ordinance and applicable Building and Fire Codes.
  - v. The sale of alcoholic beverages in the outdoor dining area shall be regulated and subject to the requirements of Chapter 4 Alcoholic Beverages of the City Code. All outdoor alcohol sales shall comply with the standards in Section 440 – Outdoor Sales.

*(Amended by Ord. 179, 4/24/2006)*

18. Outdoor Storage. Outdoor storage shall conform to the following standards:

- a. All outdoor storage yards shall be completely screened from roads or developed areas with a solid fence or wall 6 feet or more in height, maintained in good condition, and screened with suitable planting.
- b. No un-screened outdoor storage yards established after the effective date of this Chapter shall be located closer than 500 feet to existing State and Federal roads, nor closer than 100 feet to any other City streets.

19. Recreational Facilities in the C-2, or C-3 District. Recreational facilities in the C-2, or C-3 District shall comply with the following standards:

- a. Recreational facilities may be permitted as a conditional accessory use of one of the following permitted uses:
  - i. Restaurant
  - ii. Hotel/Motel
  - iii. Bar/Licensed Liquor Establishment
- b. The recreational facility shall be fenced in its entirety with a 6-foot privacy fence, with access of ingress from the principal structure only. The privacy fence shall be constructed of wood, vinyl or similar, but shall not include chain link and slats.
- c. The recreational facilities, including the fenced area, shall conform to the setback requirements for the District.
- d. Recreational facilities shall not be permitted in any front yard or side street yard.
- e. A diagram of the proposed facility, including walk areas and exits, must be submitted for review. The number of egress points shall be determined by the Fire Inspector or Code Official, based on occupant load. At least one point of egress shall be provided from the fenced in area directly to the outside of the fenced in area. The proposed plan must meet the minimum requirements of the current Fire and Building codes and shall be approved by the Fire Inspector or Code Official prior to issuance of a permit.

- f. Use of the facility may be allowed between the hours of 9:00 a.m. to 10:00 p.m.
- g. Noise levels from the recreational activity shall not exceed those levels stated within the City Code.
- h. The sale of alcoholic beverages in the recreational area shall be prohibited entirely.
- i. Any lighting associated with the recreational facility shall meet the standards of Section 1230.

## 20. Stables

- a. Submittal of a site plan showing stable operation, fencing, drainage, buildings, sewage treatment and well systems.
- b. A minimum lot size of ten (10) acres.
- c. Applicable animal densities may be increased for in-house operations pending submittal of the stables' functional plans showing that the animals' needs will be adequately cared for and including an area for daily exercise. In no event shall in-house confinement areas be less than 100 square feet per horse.
- d. All structures, parking lots and storage areas shall be located at least 300 feet from an existing residential use or district boundary.
- e. Submittal of a plan for removal and distribution of manure and other waste materials, which meets all requirements of the Minnesota Pollution Control Feedlot Rules. The plan shall provide for the storage of manure and other waste materials at least 300 feet from an existing residential use or district boundary and at least 100 feet from a well.
- f. Depending upon the size of the operation, one or more caretaker units may be allowed as part of a public stable operation.

## 21. Vocational and Technical Schools. Vocational and Technical Schools shall conform to the following standards:

- a. Any automotive and/or machine repair or similar uses shall be contained entirely within a building.
- b. The site shall have access on a collector or arterial roadway or shall be otherwise located so that access can be provided without generating significant traffic on local residential streets.
- c. An off-street passenger loading area shall be provided.
- d. Buildings associated with the school must be setback at least 75 feet from a residential use.

## 22. Custom or limited manufacturing, assembly, or treatment of articles or merchandise from previously prepared materials, such as cloth, fiber, leather, metal, paper, plastic, stone, wax, wood, and wool in the C-3, Downtown Districts shall conform to the following standards:

- a. No outdoor storage of any kind, including but not limited to materials, equipment, or machinery shall be permitted.
- b. All business vehicles shall be accommodated by off-street parking.
- c. Office or retail sales areas shall be maintained at the front (street-facing) side of the building.

- d. The standards of Section 1245.01 (Performance Standards) and 1245.02 (Architectural Standards and Guidelines) apply. (*Amended by Ord. 261, 5-11-2015*)
23. Veterinary clinic, animal care, animal shelter, pet daycare, pet training, or animal hospitals shall conform to the following standards:
- a. Animals are allowed outside only under control and direct supervision of a responsible employee. When not in an approved, enclosed exercise/run area, animals shall at all times be under direct control on a leash.
  - b. Other than approved, enclosed exercise/run areas there shall be no outside storage on site.
  - c. A maximum number of animals allowed at the facility shall be established at the time of use permit issuance.
  - d. There shall be no animals outside the building from 9:00 p.m. to 6 a.m.
  - e. Dogs barking for one minute or longer shall be defined as excessive barking. Excessive barking is prohibited. If corrective measures, to the satisfaction of the City, are not taken to prevent continued excessive barking behavior, the conditional use permit may be revoked.
  - f. Indoor and outdoor facilities are kept in a clean, dry, and sanitary condition.
  - g. Animal waste shall be picked up immediately and disposed of in a sealed container. Animal exercise/run areas shall be designed to enable washing of surfaces to eliminate urine retention throughout all seasons.
  - h. Adequate storage and refrigeration shall be provided to protect food supplies against contamination and deterioration.
  - i. Indoor facilities shall be adequately ventilated and have ample light and heat.
  - j. Adequate screening shall be provided, as determined by the City Council at the time of conditional use permit issuance.
  - k. The facility and operation shall comply with all applicable city, county, state, and federal regulations.

**Subd. 4 Amendment of a Conditional Use Permit.** Any modification to the conditions of a conditional use permit shall be required to complete a conditional use permit amendment. A conditional use permit amendment is subject to all conditions and approvals required for conditional use permit review as specified in Section 1210.06. (*Amended by Ord. 216; 8-24-2009*).

**Subd. 5 Revocation of Conditional Use Permits.**

- A. A conditional use permit shall become null and void without further action by the Planning Commission or City Council unless work thereon commences within one year of the date of granting such conditional use.
- B. A conditional use shall expire if that use shall cease for more than 12 consecutive months.
- C. Inspections will be conducted at least annually and an update provided to the City Council to determine compliance with the terms of a conditional use permit.
- D. Failure to comply with any condition set forth in a conditional use permit shall be a misdemeanor and shall also constitute sufficient cause for the revocation of the conditional use permit by the City Council following a public hearing. The property owner shall be notified in advance of the City Council's review of the permit. A public hearing established

to consider the revocation of a conditional use permit shall be conducted pursuant to the provisions of Subd. 2.C. of this Section.

**Subd. 6 Uses by Conditional Use Permit not Nonconforming Uses.** Uses authorized by conditional permit under this section shall not be deemed a nonconforming use, but shall without further action be considered a conforming use, but only in accordance with the conditions set forth in the conditional use permit.

**Subd. 7 Filing.** A certified copy of any Conditional Use Permit shall be filed with the Carver County Recorder or Registrar of Titles and shall include a legal description of the subject property.

#### **1210.07 Interim Use Permits.**

**Subd. 1 Purpose and Intent.** The purpose and intent of allowing interim uses is:

- A. To allow a use for a brief period of time until a permanent location is obtained or while the permanent location is under construction.
- B. To allow a use that is presently judged acceptable by the City Council, but that with anticipated development or redevelopment, will not be acceptable in the future or will be replaced in the future by a permitted or conditional use allowed within the respective district.
- C. To allow a use which is reflective of anticipated long-range change to an area and which is in compliance with the Comprehensive Plan provided that said use maintains compatibility with surrounding uses.
- D. To establish predictable and balanced regulations for the establishment of interim uses in the location and circumstances under which the uses may be established without detriment to the public health, safety, and welfare of neighboring property owners or occupants.

**Subd. 2 Procedure.** Uses defined as interim uses which do not presently exist within a respective zoning district shall be processed according to the criteria and procedures for a conditional use permit as established by Section 1210.06 of this chapter.

**Subd. 3 General Standards.** An interim use shall comply with the following:

- A. Meet the standards of a conditional use permit set forth in Section 1210.06 of this chapter.
- B. Conform to the applicable performance standards of Section 1245.01 of this chapter.
- C. The use is allowed as an interim use in the respective zoning district.
- D. The date or event that will terminate the use can be identified with certainty.
- E. The use will not impose additional unreasonable costs on the public.
- F. The user agrees to any conditions that the City Council deems appropriate for permission of the use.
- G. All obsolete and unused buildings and equipment shall be removed within six (6) months of cessation of operation at the site, unless an exemption is granted by the City Council.

**Subd. 4 Termination.** An interim use shall terminate subject to any of the following events, whichever occurs first:

- A. The date of termination stated within the approving resolution
- B. Upon violation of conditions under which the permit was approved.

- C. Upon change in the City's zoning regulations, which render the use nonconforming.
- D. The redevelopment of the use and property upon which it is located to a permitted or conditional use as allowed within the respective zoning district.

### **1210.08 Site Plan Review.**

**Subd. 1 Purpose and Intent.** The purpose of this Section is to establish a formal site plan review procedure for commercial, industrial, institutional, and multi-family development projects and provide regulations pertaining to the enforcement of site design standards consistent with the requirements of this Section. The site plan review process is intended to ensure that the negative impacts of newly developed properties or redeveloped properties are minimized to the greatest extent possible while maintaining and improving the City's tax base, preserving and enhancing the built environment, promoting the orderly and safe flow of traffic, ensuring compatibility with adjacent developments, the proper orderly development of the City, and compliance with the City Code.

**Subd. 2 Scope.** Site Plan approval shall be required as a condition to issuance of a building permit for construction or enlargement of any building or structure other than the following:

- A. Single and two-family dwellings and associated accessory structures.
- B. Buildings for agricultural uses on land zoned and utilized for agricultural purposes.

### **Subd. 3 Procedures.**

- A. Application. A written application for site plan approval, along with the proposed site plan, application fee and any other information required, shall be filed with the City.
- 1. Required Materials. The applicant shall file with the City ten (10) 24" x 36" copies and two (2) 11" x 17" copies of the site plan, drawn to scale and dimensioned, with North arrow showing, completed and signed by a registered architect, civil engineer, landscape architect or other licensed design professional as approved by the City. At a minimum, the site plan shall contain the following information:
  - a. A current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
    - i. Scale of plan, at one (1) inch equals fifty (50) feet or less.
    - ii. North point indication.
    - iii. Existing boundaries with lot dimensions and area.
    - ii. Existing site improvements.
    - iii. All encroachments.
    - iv. Easements of record.
    - v. Legal description of the property.
    - vi. Two-foot contours and spot elevations
    - vii. Ponds, lakes, rivers or other water features bordering on or running through the subject property.
    - viii. Species, quantity and diameter of existing vegetation.
  - b. A site plan utilizing a copy of the current certificate of survey as a base for the subject property, depicting the following:



- i. Name and address of developer/owner.
- ii. Name and address of architect/designer.
- iii. Date of plan preparation.
- iv. Dates and descriptions of all revisions.
- v. Name of project or development
- vi. All proposed improvements, including, but not limited to:
  - (1). Required and proposed setbacks.
  - (2). Location, setback, and dimensions of all proposed buildings and structures.
  - (3). Location of all adjacent buildings located within one-hundred (100) feet of the exterior boundaries of the property in question.
  - (4). Location, number, and dimensions of proposed parking and loading spaces.
  - (5). Location, width, and setbacks of proposed curb cuts and driveways.
  - (6). Vehicular circulation.
  - (7). Sidewalks, trails, and walkways.
  - (8). Location and type of all proposed lighting, including details of all proposed fixtures.
  - (9). Species, quantity and diameter of all existing vegetation to be removed.
  - (10). Location of recreation and service areas.
  - (11). Location of rooftop equipment and proposed screening.
  - (12). Provisions of storage and disposal of waste, garbage and recyclables, including details for screening exterior trash/recycling enclosures.
  - (13). Location, size and type of water and sewer system mains and proposed service connections.
- vii. A grading/storm water management plan in accordance with the provisions established in Chapter 13 of the City Code.
- viii. A landscaping plan in accordance with the provisions of Section 1255
- ix. A lighting plan in accordance with the provisions of Section 1245.08
- x. Other plans and information as required by the Zoning Administrator, including but not limited to:
  - (1). Architectural elevations, color drawings or renderings, and sample building materials or all principal and accessory buildings, identifying type and color of materials used on all exterior surfaces.
  - (2). Typical floor plan and room plan drawn to scale with a summary of square footage for each use or activity.
  - (3). Type, location, and size of all proposed signage.
  - (4). Vicinity map showing the property in relation to nearby highways or major street sections.
  - (5). Sound source control plan.

#### **Subd. 4 Process.**

- A. *Staff Review.* Upon acceptance of a complete site plan application, the Zoning Administrator shall forward the plans to the appropriate review committee members, including but not limited to the City Administrator, City Engineer, City Attorney, Public Works Director, Fire Chief, Police Chief, Building Inspector and any outside agencies or consultants determined

necessary for review. The site plan shall be evaluated based on its compliance with the Comprehensive Plan, provisions of this Title, and other applicable City codes and policies.

1. *Revision of Plan Sets.* Upon receipt of comments, the Zoning Administrator shall forward them to the applicant for inclusion in revised plan sets. The Zoning Administrator shall determine when the plan sets are sufficient to be forwarded to the Planning Commission for their review.
- B. *Planning Commission Review.* Upon completion of the Staff Review, the Zoning Administrator shall forward the site plan and a summary of Staff's findings to the Planning Commission. The Planning Commission shall make a recommendation on the site plan to the City Council. The Planning Commission may recommend approval, approval subject to conditions or that the site plan be denied. The reasons for any recommendation shall be stated in the record.
- C. *City Council Review.* The City Council shall, upon receipt of the recommendations of the Planning Commission, either approve, approve with conditions, or disapprove the site plan. The reasons for any decision shall be stated in the record.
- D. *Filing of Approved Plans.* Upon final action by the City Council on any site plan, five (5) copies consistent with the City Council's approval shall be provided and stamped approved by the Zoning Administrator and kept on file. One copy of the approved site plan shall be returned to the applicant.
- E. *Building Permit Review.* Upon receipt of the approved site plan, the building official will be authorized to release a building permit for the proposed project pursuant to adopted building and fire codes. The site plan approval process does not imply compliance with the requirements of said building and fire codes.

**Subd. 5 Minor Modifications.** In the case of minor modifications of the site plan, the Zoning Administrator may give approval if the decision does not modify the overall theme of the development, affect public safety, or result in the reduction of any minimum standard as provided in this zoning chapter. Nothing contained herein shall be construed to allow the Zoning Administrator to vary the provisions of any statute, ordinance, city policy, or previous directives of the City Council. The Zoning Administrator shall have the discretion to refer any minor modification requests to the Planning Commission and City Council for their review and approval. Minor modifications may include the following:

- A. Lighting location and fixture type;
- B. Location, height, and style of fences and walls;
- C. Location of trash enclosures;
- D. Location and size of building signs and monument signs;
- E. Location and construction of on-site sidewalks, except on City right-of-way;
- F. Location, type, and size of plantings, provided the modification would have the same effective cover and screening;
- G. Location and construction of accessory buildings of less than 400 square feet;
- H. Minor relocation or addition of driveways or parking spaces.

**Subd. 6 Site Plan Amendment.** Any modification deemed not to be minor pursuant to Section 1210.08, Subd 5. of this Chapter shall be required to complete a site plan amendment. A site plan amendment is subject to all conditions and approvals required for site plan review.

**Subd. 7 Financial Guarantee.** The City may require a performance bond or escrow in an amount equal to one hundred (100) percent of the estimated cost to complete the site and landscape plan improvements, exclusive of structures, to be filed with the City.

**Subd. 8 Fees.** The applicant shall provide an application fee. The fee shall be set by Ordinance of the City Council in the fee schedule from time to time. In addition to the application fee, the applicant shall pay all cost incurred by the City for legal services, engineering services, and services of other persons or entities employed by the City (other than City Staff personnel) for, or in any way involved in, the review and inspection of the site plan. Under no condition shall the fee be refunded or waived for failure of the City to approve the site plan.

**Subd. 9 Expiration.** A site plan approved under the provisions of this chapter shall expire one year after the date of approval unless the property owner or applicant received a building permit and commenced construction of improvements on-site in accordance with the approved plan.

**Subd. 10 Extension of Approval.** If, at least 30 days prior to the expiration of the site plan approval, the applicant makes a written request to the zoning administrator for an extension of time to commence construction, setting forth the reasons for the requested extension, the City Council may grant one extension of not greater than one year. Extension requests shall state facts showing a good faith effort to complete work permitted under the original approval.

#### **1210.09 Zoning Administrator Approval and Zoning Permit Approval Process.**

**Subd. 1 Purpose.** The purpose of this Section is to establish a procedure for administrative review by the Zoning Administrator and the issuance of administrative permits where necessary.

**Subd. 2 Scope.** Approval by the Zoning Administrator or designee is required as specified within a zoning district, individual zoning standard, or for certain activities as provided within Chapter 12 of the City Code. An administrative permit is required as specified within a zoning district or zoning standard contained in Chapter 12 of the City Code. This Section does not apply where a specified process exists for review, including by not limited to those prescribed under Sections 1210.04 (Variance), 1210.05 (Amendment), 1210.06 (Conditional Use Permit), 1210.07 (Interim Use Permit), or 1240.02 (Planned Unit Development).

**Subd. 3 Procedures, Administrative Permit.** The Applicant shall file a written application for an administrative permit, along with any proposed plans, application fee, and any other information required by the Zoning Administrator. The written application shall be on a form provided by the City. The Zoning Administrator may waive information required under Section 1210.09, Subd. 3(A).

- A. Information Requirement. The information required for all administrative permit applications shall include:
1. A concise statement describing the proposed use, event or activity, including the purpose, type of merchandise involved, dates and times of operation, number of employees involved, provisions for on-site security, provisions for on-site parking, and other pertinent information required by the Zoning Administrator to fully evaluate the application.

2. A copy of the approved site plan for the property or a sketch using an approved “as built” survey as the basis which accurately represents existing conditions on the site, including entrances and exits, bona fide parking and driving areas, and which accurately indicates any proposed temporary structures, including tents, stands and signs.
  3. An accurate floor plan, when in the judgment of the Zoning Administrator, such a plan is necessary to properly evaluate the location of the event and the effectiveness of available entrances and exits.
  4. Information identified in Subsection 500.03.10, Subd. 3 of this Chapter as required by the Zoning Administrator.
- B. The Zoning Administrator shall review the application and related materials to determine whether or not the application is complete. If the application is not complete the Zoning Administrator shall notify the applicant in writing of an incomplete application within fifteen (15) days of the date the application was submitted.
- C. When the application is complete, the Zoning Administrator shall review the proposal to determine whether or not the activity proposed is consistent with required standards contained in the applicable section of Chapter 12. The Zoning Administrator shall make a determination and notify the Applicant of the decision in writing within sixty (60) days of filing a complete application. In making a determination, the Zoning Administrator shall consider possible adverse effects of the proposed events or activity. Judgment shall be based upon (but not limited to) the following factors the following:
1. Compliance with and effect upon the Comprehensive Plan and public facilities plans, as may be amended.
  2. The establishment, maintenance or operation of the use, event or activity will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety or welfare.
  3. The use event, or activity will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted.
  4. The establishment of the use, event or activity will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
  5. Adequate public facilities and services are available or can be reasonably provided to accommodate the use, event or activity which is proposed.
  6. The use, event or activity shall, in all other respects, conform to the applicable regulations of the district in which it is located.
- D. If approval is contemplated, a written permit shall be issued to the applicant when a determination of compliance has been made. Specific conditions to assure compliance with applicable evaluation criteria, codes, ordinances and the standards of this Chapter shall be attached to the permit.
- E. If denial is contemplated, a determination of non-compliance with applicable codes, ordinances and the standards in this paragraph shall be communicated to the applicant in writing and the application for the permit shall be considered denied; unless, within ten (10) days of the date of such notice, the applicant submits revised plans and/or information with which the Zoning Administrator is able to determine compliance.

- F. Unresolved disputes as to administrative application of the requirements of this paragraph shall be subject to appeal as defined by Section 1210.02 (Appeals) of the City Code.

**Subd. 4 Administrative Approval (Non-Permit) Process.** In instances where administrative review and approval is required but a written administrative permit is not required, review by the Zoning Administrator shall follow the general procedures required under Section 1210.09, Subd. 3. All uses, events or activities allowed by administrative approval shall conform to the applicable standards outlined in the zoning district in which such use, event or activity is proposed and any/all standards applicable to the proposed request. *(Amended by Ord. 259, 4-27-15)*

### **Section 1215- Nonconforming Uses, Structures and Lots**

**1215.01 Purpose.** It is the purpose of this section to provide for the regulation of existing structures, uses and lots that do not conform to the requirements of the district in which they are located and to specify the requirements, circumstances and conditions under which the nonconformity may be continued.

#### **1215.02 Regulations.**

- A. Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the effective date of this chapter may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, unless:
  - 1. The nonconformity or occupancy is discontinued for a period of more than one year; or
  - 2. Any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no building permit has been applied for within 180 days of when the property is damaged. In this case, the City may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property.
- B. A nonconforming use shall not be changed to another nonconforming use. When any nonconforming use has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
- C. A nonconforming use may be changed to lessen the nonconformity of that use. Thereafter, the use may not be so altered as to increase the nonconformity.
- D. A nonconforming lot shall be deemed buildable if it is a lot of record as of the date of adoption of this Ordinance, the proposed building meets all of the setback requirements and is a conforming use of the zoning district within which located and the site is able to be connected to city sewer and water systems.

#### **1215.03 Exceptions.**

- A. This section does not apply to sexually oriented business, as defined by this chapter.
- B. The City may impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare and safety.
- C. Notwithstanding Section 1215.02 A. the City shall regulate the repair, replacement, maintenance, improvement, or expansion of nonconforming uses and structures in floodplain and shoreland areas to the extent necessary to maintain eligibility in the National Flood Insurance Program and not increase flood damage potential or increase the degree of obstruction to flood flows in the floodway.

**Section 1220- General Exceptions**

**1220.01 Permitted Height Exceptions.** The following shall be permitted to exceed the height restrictions for the district within which the use is located, including the Shoreland Overlay District, provided they are not for human occupancy:

- A. Ornamentation such as church spires, belfries, bell towers, cupolas, domes, monuments and flagpoles.
- B. Mechanical appurtenances such as solar collectors, chimneys, smoke stacks, elevators, and public utility facilities (i.e. water towers, transmission and power lines)
- C. Communication towers such as television antennae and radio and telephone transmissions towers.
- D. Buildings used for agricultural purposes such as grain elevators and silos.

**1220.02 Permitted Yard Encroachments.** Elements such as the following shall be permitted to encroach into required yards.

- A. Steps and ramps provided they do not encroach to a distance less than five (5) feet from a side yard and rear lot lines, or more than five (5) feet into a required front yard. No encroachment shall be permitted in existing or required drainage and utility easements.
- B. Architectural features such as cantilevers, cornices, eaves, canopies, sunshades, gutters, chimneys and flutes.
- C. Additions to an existing nonconforming principal structures in the R-2, R-3, and RC-1 District may encroach into the required front, rear or side yard setback provided that they are no closer to the property line than the established structure, are not constructed in any easement, drainage way or adjacent property and do not endanger the public health, safety or welfare.
- D. Construction in the R-3 and RC-1 District may encroach into the front yard setback at a distance equal to the average front yard setback of the houses located on the same side of the street within the same block provided that:
  - 1. There is a minimum setback of five (5) feet from the front property line;
  - 2. Construction does not occur in any easement or drainage way; and,
  - 3. Construction does not endanger the public health, safety or welfare of the surrounding properties and/or general public.

For purposes of this provision, there must be at least two other houses within the same block in order to compute the average, otherwise the front yard setback shall be established per the regulations of Section 1230.06

**Section 1225 – Establishment of Districts**

**1225.01 Classification of Districts.** For the purpose of this Ordinance, the following districts are hereby established:

T-A Transition/Agriculture District  
R-1 Low Density Single Family Residential District  
R-2 Medium Density Single Family Residential District  
R-3 Medium Density Mixed Residential District  
R-4 Multiple Family Residential District

RC-1 Residential Neighborhood Commercial District  
C-2 General Commercial District  
C-3 Downtown District  
B-1 Business Industrial District  
I-1 Light Industrial District  
P-1 Parks/Open Space  
(Amended by Ord. 216; 8-24-2009)

**1225.02 Location of Districts.** The boundaries for the zones listed in this Ordinance are indicated on the Zoning Map, which is hereby adopted by reference. The boundaries shall be modified in accordance with zoning map amendments, which shall be adopted by reference.

**1225.03 Interpretation of District Boundaries.** Where uncertainty exists with respect to the boundaries of any zoning district indicated on the Zoning Districts Map, the following rules shall apply:

- A. Boundaries indicated as approximately following the center lines of streets or highways shall be construed as following the center lines of streets or highways.
- B. Boundaries indicated as approximately following lot lines shall be construed as following such lot lines.
- C. Boundaries indicated as approximately following City boundary lines shall be construed as following such City boundaries.
- D. Boundaries indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance there from as may be indicated on the Zoning Districts Map. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Zoning Districts Map.
- E. Boundaries following the shoreline of a stream, lake or other body of water shall be construed to follow the ordinary high water elevation (OHWE) and in the event of change in the shoreline shall be construed as moving with the OHWE. Boundaries indicated as approximately following the center-line of streams, rivers, channels or other bodies of water shall be construed to follow such center lines.
- F. Where the application of the aforementioned rules leaves a reasonable doubt as to the boundaries between two districts, the regulations of the more restrictive district shall govern the entire parcel in question, unless otherwise determined by the City Board of Adjustments after recommendation from the City Planning Commission.

**1225.04 Official Zoning Map.** The zoning map or zoning map amendment shall be dated with the effective date of the ordinance that adopts the map or map amendment. A certified print of the adopted map or map amendment shall be maintained in the office of the Zoning Administrator.

**1225.05 Annexations.** All territory which may hereafter be annexed to the City shall be considered zoned as T-A, Transition/Agriculture until otherwise classified.

## Section 1230 –Districts

**1230.01 Purpose of Districts.** The districts are established with the following purposes established in each district below. These districts correlate with the Comprehensive Plan land use categories.

**1230.02 Use Regulations.**

**Subd. 1. Prohibited Uses.** It shall be unlawful to use or permit the use of any building or premises within the City of Norwood Young America for any purpose other than as listed or described below. Uses not listed or described within this Section or within any Planned Development District shall be prohibited, except as provided in Subd. 3 below. Accessory uses or structures shall not be permitted unless the property has already been occupied by a principal structure. Unless otherwise provided in this Chapter, only one principal structure per lot of record shall be permitted.

**Subd. 2. Additional Regulations.** In addition to regulations and standards contained within this Section, all uses and structures shall be subject to all regulations contained within Section 1245 through 1265 of this Ordinance, all performance criteria established in the Comprehensive Plan and shall comply with all applicable local, State and Federal laws, rules and regulations.

**Subd. 3. Determination of Use Classification.** Any landowner may request a determination of the use classification (permitted, not permitted, conditional, interim or accessory) for a use not expressly listed as permitted, conditional, interim or accessory or which involves a combination of uses. An application for a determination shall be submitted to the Community Development Director and referred to the planning commission for recommendation to the council for decision. Use determinations shall be based on substantial similarity to existing use classifications and shall not be detrimental to the integrity of the applicable District. Use determinations shall become of future-binding force and effect and be maintained on file by the city clerk.

#### **1230.03 T/A Transition/Agricultural District.**

**Subd. 1 Intent.** The T/A, Transition/Agricultural District, is intended to serve as the district which will allow suitable areas of the City and newly annexed land to be retained and utilized by low density residential, open space and/or agricultural uses until such time as the land on which these uses lie are ready for urban development. The specific intent of this district is:

- A. To protect such areas against development patterns that may hinder their ultimate transition to the intended urban use.
- B. To prohibit those uses and densities, which would require the premature extension of urban public facilities and services.
- C. To promote logical and orderly development in the best interest of the health, safety, and welfare of the citizens of the community.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Transition/Agricultural District.

- A. Farms, excluding livestock;
- B. Nurseries and Greenhouses;
- C. Single-family detached dwellings provided that:
  - 1. No more than one dwelling is located per quarter quarter section and;
  - 2. The dwelling shall be located within the quarter quarter section on a separately owned parcel at least 2.5 acres in size.
- D. A State licensed residential facility serving six (6) or fewer persons, a State licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;



- E. Parks, wildlife refuges or preserves, open space preservation areas, and other recreational facilities of a non-commercial nature.

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Transition/Agricultural District.

- A. Home occupations, subject to Section 1245.09
- B. Swimming pools and other recreational facilities, subject to Section 1245.06
- C. Decks, patios, gazebos and porches, subject to Section 1245.04
- D. Fences, subject to Section 1245.05
- E. Detached garages, tool houses, sheds and outbuildings for storage of domestic supplies and noncommercial recreation equipment subject to Section 1245.04;
- F. Buildings used for agricultural purposes such as grain elevators and silos.

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

- A. Farms, including livestock, at a maximum of one animal unit per acre:

<u>Animal</u>	<u>Animal Unit</u>	<u>Animal/Acre</u>
Horse	1.0	1.0
Cattle	1.0	1.0
Sheep, goats, or similar	0.2	5.0
Large poultry (turkeys, duck, or similar)	0.04	25.0
Small poultry and animals (chickens, rabbits, or similar)	0.02	50.0

- B. Cemeteries;
- C. Kennels;
- D. Reserved; (*Ord 298; 3-26-18*)
- E. Stables

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the T/A District, with the exception of “Lot Coverage” and “Building Height” which shall be the maximum amount allowed:

- A. Lot Area:
  - Farmstead: 40 acres
  - Single-Family: 2.5 acres (one per quarter-quarter section)
  - Stable/Kennel: 10 acres
  - All other uses: 10 acres
- B. Lot Width: 200 feet
- C. Lot Coverage: 30%
- D. Building Height: 35 feet (principal structure)  
25 feet (accessory structure\*)

\*Agriculture accessory structures may exceed maximum height requirements per Section 1220.01

- E. Setbacks:

***Principal Structures:***

Front yard:	50 feet
Side yard:	10 feet
Street side yard:	30 feet
Rear yard:	50 feet

***Accessory Structures:***

Front yard:	not permitted in front yards
Side yard:	5 feet
Street side yard:	30 feet
Rear yard:	5 feet
Alley rear yard:	10 feet

**1230.04 R-1 Low Density Single Family Residential District.**

**Subd. 1 Intent.** The R-1, Low Density Single Family Residential District, is intended to provide and preserve areas within the City currently established or primarily designated for low-density residential development by the Comprehensive Plan.

**Subd. 2 Permitted Uses.** The following uses are permitted in the R-1, Low Density Single Family Residential District:

- A. Single-family dwellings;
- B. A State licensed residential facility serving six (6) or fewer persons, a State licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;
- C. Public parks, open spaces and other recreational uses, non-commercial in nature;

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the R-1, Low-Density Single Family Residential District.

- A. Home occupations, subject to Section 1245.09
- B. Swimming pools and other recreational facilities, subject to Section 1245.06
- C. Decks, gazebos, patios and porches, subject to Section 1245.04
- D. Fences, subject to Section 1245.05
- E. Detached garages, tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreation equipment, subject to Section 1245.04

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

- A. Bed and Breakfasts
- B. Churches, schools and similar public uses.
- C. Guest Cottages

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are established as the minimum amount allowed in the R-1 District, with the exception of “Lot Coverage” and “Building Height” which shall be the maximum amount allowed:

- A. Lot Area: 10,000 square feet

- B. Lot Width: 80 feet
- C. Lot Coverage: 30%
- D. Building Height: 35 feet (principal structure)  
25 feet (accessory structure)
- E. Setbacks:
  - Principal Structures:***
    - Front yard: 30 feet
    - Side yard: 10 feet
    - Street side yard: 30 feet
    - Rear yard: 25 feet
  - Accessory Structures:***
    - Front yard: not permitted in front yards
    - Side yard: 5 feet
    - Street side yard: 30 feet
    - Rear yard: 5 feet
    - Alley rear yard: 10 feet
- F. Minimum foundation size for detached and attached single family residential units: 900 square feet. (*Amended by Ord 265, 7-27-15*).

### **1230.05 R-2 Medium Density Single Family Residential District.**

**Subd. 1 Intent.** The R-2, Medium Density Single Family Residential District, is intended to provide and preserve areas within the City currently established for low-medium density residential development by the Comprehensive Plan at densities slightly higher than the R-1 District.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Medium Density Single Family Residential District:

- A. Single-family dwellings;
- B. Twin Homes;
- C. A State licensed residential facility serving six (6) or fewer persons, a State licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;
- D. Public parks, open spaces and other recreational uses, non-commercial in nature;

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Medium-Density Single Family Residential District.

- A. Home occupations, subject to Section 1245.09
- B. Swimming pools and other recreational facilities, subject to Section 1245.06
- C. Decks, gazebos, patios and porches, subject to Section 1245.04
- D. Fences, subject to Section 1245.05
- E. Detached garages, tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreation equipment, subject to Section 1245.04

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

- A. Churches, schools and similar public uses
- B. Bed and Breakfast
- C. Guest Cottages

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the R-2 District, with the exception of “Lot Coverage” and “Building Height” which shall be the maximum amount allowed:

- A. Lot Area: 8,500 square feet (single-family)  
7,000 square feet (per unit, Twin Home)
- B. Lot Width: 70 feet
- C. Lot Coverage: 30%
- D. Building Height: 35 feet (principal structure)  
25 feet (accessory structure)
- E. Setbacks:
  - Principal Structures:***
    - Front yard: 25 feet
    - Side yard: 5 feet  
0 feet (twin home common wall side lot line)
    - Street side yard: 25 feet
    - Rear yard: 20 feet
  - Accessory Structures:***
    - Front yard: not permitted in front yards
    - Side yard: 5 feet
    - Street side yard: 25 feet
    - Rear yard: 5 feet
    - Alley rear yard: 10 feet
- F. Minimum foundation size for detached and attached single family residential units: 900 square feet. (*Amended by Ord 265, 7-27-15*).

### 1230.06 R-3 Medium Density Mixed Residential

**Subd. 1 Intent.** The R-3, Medium Density Mixed Residential District, is intended to preserve the residential areas established with the City’s original plat and provide for a variety of housing types to be developed at densities slightly higher than the traditional single-family dwelling as guided by the Comprehensive Plan.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Medium Density Mixed Residential District:

- A. Single-family dwellings;
- B. Twin homes;
- C. Two-family dwellings;
- D. Townhomes, up to 4 units per attached group;
- E. A State licensed residential facility serving six (6) or fewer persons, a State licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;

G. Public parks, open spaces and other recreational uses, non-commercial in nature;

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Medium Density Mixed Residential District.

- A. Home occupations, subject to Section 1245.09
- B. Swimming pools and other recreational facilities, subject to Section 1245.06
- C. Decks, gazebos, patios and porches, subject to Section 1245.04
- D. Fences, subject to Section 1245.05
- E. Detached garages, tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreation equipment, subject to Section 1245.04

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

- A. Churches, schools and similar public uses
- B. Bed and Breakfast
- C. Guest Cottages
- D. Multi-family dwellings, up to 4 units per structure;

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the R-3 District, with the exception of “Lot Coverage” and “Building Height” which shall be the maximum amount allowed:

- A. Lot Area: 7,000 square feet (single-family detached structure)  
6,000 square feet (per unit, twin homes and two- family structures)  
3,000 square feet (per unit up to four units)
- B. Lot Width: 50 feet (single-family)  
70 feet (two-family, multi-family up to 4 units)  
30 feet (town home)
- C. Lot Coverage: 35%
- D. Building Height: 35 feet (principal structure)  
25 feet (accessory structure)
- E. Setbacks:
  - Principal Structures:***
    - Front yard\*: 20 feet  
10 feet (unenclosed porches, decks, patios)
    - Side yard: 5 feet  
0 feet (twin home and town home common wall side lot line)
    - Street side yard: 20 feet
    - Rear yard: 20 feet
  - Accessory Structures:***
    - Front yard: not permitted in front yards
    - Side yard: 5 feet
    - Street side yard: 20 feet
    - Rear yard: 5 feet
    - Alley rear yard: 10 feet

\*See additional provisions regarding front yard setbacks in Section 1220.02- Permitted Yard Encroachments

- F. Minimum foundation size for detached and attached single family residential units: 900 square feet. (*Amended by Ord 265, 7-27-15*).

### **1230.07 R-4 Multiple Family Residential District.**

**Subd. 1 Intent.** The R-4, Multiple Family Residential District, is intended to provide for multifamily residential structures at a maximum net density of 18 dwelling units per acre on land guided for high density residential uses by the city comprehensive plan.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Multiple Family Residential District:

- A. Multiple-family dwellings of 5 or more units per structure;
- B. Nursing homes, assisted living and retirement homes;
- C. Public parks, open spaces and other recreational uses, non-commercial in nature;

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Multiple Family Residential District.

- A. Home occupations, subject to Section 1245.09
- B. Swimming pools and other recreational facilities, subject to Section 1245.06
- C. Decks, gazebos, patios and porches, subject to Section 1245.04
- D. Fences, subject to Section 1245.05
- E. Detached garages, tool houses, sheds and similar buildings for storage of domestic supplies and noncommercial recreation equipment, subject to Section 1245.04

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

- A. Licensed Daycare Center
- B. Manufactured Home Parks
- C. A state licensed residential facility serving from 7 through 16 persons
- D. Churches, schools and similar public uses

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the R-4 District, with the exception of “Lot Coverage” and “Building Height” which shall be the maximum amount allowed:

- A. Lot Area:
 

2,400 square feet per unit	(efficiency units)
3,000 square feet per unit	(1-bedroom units)
3,500 square feet per unit	(2-bedroom units)
4,000 square feet per unit	(3-bedroom units)
30,000 square feet	(all other uses)

  - 1. *Lot area reduction.* Up to 400 square feet may be deducted from the total required lot area for every tuck-under or underground garage proposed.
- B. Lot Width:
 

150 feet	(up to 7 multi-family units)
200 feet	(8+ multi-family units and all other uses)

- C. Lot Coverage: 50%
- D. Building Height: 45 feet (principal structure) (*Amended by Ord. 216; 8-24-2009*)  
25 feet (accessory structure)

E. Setbacks:

***Principal Structures:***

- Front yard: 35 feet
- Side yard: 10 feet
- Street side yard: 35 feet
- Rear yard: 35 feet

***Accessory Structures:***

- Front yard: not permitted in front yards
- Side yard: 10 feet
- Street side yard: 35 feet
- Rear yard: 10 feet
- Alley rear yard: 10 feet

### **1230.08 RC-1 Residential/Neighborhood Commercial District**

**Subd. 1. Intent.** The intent of the RC-1 District is to provide certain areas of the City for the development of specialty service and commercial focusing on neighborhood related business in areas where residential dwellings predominate. The District is intended to include primarily established residential areas where changing conditions have made certain commercial uses suitable and not incompatible with the basic residential character of the district. The district is also intended for certain residential areas which, by reason of proximity to existing commercial areas and major streets, would be suitable for limited office use. It is further the intention of this Section that the classification as RC-1 of an area will aid in the preservation and stabilization of property values. To this end, it is the intention that the conversion and alteration of existing residential structures or construction of new residential structures be compatible by means of landscaping, open space, and architectural treatment with neighboring residences and that new commercial buildings be compatible with the requirements set forth in Section 1245.02.

**Subd. 2. Permitted Uses.** The following uses are permitted in the Residential Neighborhood Commercial District

- A. Single-family dwellings;
- B. Twin homes;
- C. Two-family dwellings;
- D. Townhomes, up to 4 units per attached group;
- E. A State licensed residential facility serving six (6) or fewer persons, a State licensed day care facility serving 12 or fewer persons, and a group family day care facility licensed under Minnesota Rules, parts 9502.0315 to 9502.0445 to serve 14 or fewer children;
- F. Public parks, open spaces and other recreational uses, non-commercial in nature;
- G. Professional services, such as medical/dental clinics, law offices, and accounting offices
- H. Finance, Insurance and Real Estate
- I. Personal or Business Services
- J. Retail Trade
- K. Specialty shops, such as book and stationary stores, candy stores, ice cream parlors, tobacco, coffee, gift and florist shops.

- L. Standard Restaurants
- M. Residential uses in conjunction with commercial uses permitted in this district

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Residential/Neighborhood Commercial District:

- A. Off-street parking and loading facilities, subject to Section 1250
- B. Fences, subject to Section 1245.05
- C. Lighting, subject to Section 1245.08
- D. Decks, patios and porches in conjunction with the principal use;
- E. Signs, subject to Section 1260
- F. Home occupations for residential uses
- G. Detached garages, tool houses, sheds and similar buildings for use accessory to the principal use, subject to Section 1245.04

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

*Principal Uses:*

- A. Churches, schools and similar public uses
- B. Condominiums
- C. Contractor Operations (*Amended by Ord. 216; 8-24-2009*)
- D. Licensed Daycare Facilities, other than those permitted in Subd. 2.E. above
- E. Converted residential dwellings for lodging services, such as hotels, motels and bed and breakfasts.
- F. Multifamily, up to 4-units per dwelling

*Accessory Uses:*

- A. Outdoor Dining

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the RP-1 District, with the exception of “Lot Coverage” and “Building Height” which shall be the maximum amount allowed:

- A. Lot Area: 7,000 square feet
- B. Lot Width: 50 feet
- C. Lot Coverage: 70%
- D. Building Height: 35 feet (principal structure)  
25 feet (accessory structure)
- E. Setbacks\*:

*Principal Structures:*

- Front yard: 10 feet
- Side yard: 5 feet
- Street side yard: 10 feet
- Rear yard: 10 feet

*Accessory Structures:*

- Front yard: not permitted in front yards
- Side yard: 5 feet
- Street side yard: 10 feet



Rear yard: 5 feet  
Alley rear yard: 10 feet

\*See additional provisions regarding setbacks in Section 1220.02- Permitted Yard Encroachments

F. Minimum foundation size for detached and attached single family residential units: 900 square feet. (*Amended by Ord 265, 7-27-15*).

### **1230.09 C-2 General Commercial District**

**Subd. 1 Intent.** The C-2, General Commercial District is intended to recognize development opportunity and the need for commercial establishments fronting on or with direct access to major highways, a frontage road, or a major street intersecting a highway, serving area residents as well as vehicular traffic generated from the surrounding area.

**Subd. 2 Permitted Uses.** The following uses are permitted in the General Commercial District:

- A. Banking/Financial institutions.
- B. Churches and schools
- C. Commercial recreational uses.
- D. Convenience stores, without motor fuel facilities.
- E. Daycare Centers
- F. Dwelling Units, if located above the street level in non-residential structures
- G. Funeral homes/Mortuaries
- H. Garden Centers
- I. Grocery stores.
- J. Medical, professional and commercial offices.
- K. Motels/hotels
- L. Personal Services
- M. Retail Trade
- N. Standard restaurants.

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the General Commercial District.

- A. Commercial or business buildings and structures for a use accessory to the principal use;
- B. Fences, subject to Section 1245.05;
- C. Lighting, subject to Section 1245.08;
- D. Signs, subject to Section 1260;

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

*Principal Uses:*

- A. Auto, Truck, Recreational Vehicle and Equipment Sales and Display;
- B. Automobile Service Station
- C. Convenience stores with motor fuel sales;
- D. Fast Food Restaurant

- E. Hospitals;
- F. Veterinary clinic, animal care, animal shelter, pet daycare, pet training, or animal hospital.

*Accessory Uses:*

- A. Recreational Facilities in association with an on-sale liquor establishment or standard restaurant.
- B. Outdoor Dining;
- C. Outdoor Storage;

**Subd. 5 Interim Uses.** The following uses are permitted as an interim use, subject to the provisions of Section 1210.07:

- A. Outdoor Storage

**Subd. 6 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the C-2 District; with the exception of “Lot Coverage” which shall be the maximum amount allowed:

- A. Lot Area: 20,000 square feet
- B. Lot Width: 200 feet
- C. Lot Coverage: 80%
- D. Building Height: 35 feet (principal structure)  
25 feet (accessory structure)
- E. Setbacks:
  - Principal Structures:***
    - Front yard: 25 feet
    - Side yard: 5 feet
    - Side yard: 30 feet (if adjacent to a residential district)
    - Street side yard: 25 feet
    - Rear yard: 20 feet
    - Rear yard: 30 feet (if adjacent to a residential district)
  - Accessory Structures:***
    - Front yard: not permitted in front yards
    - Side yard: 5 feet
    - Street side yard: 25 feet
    - Rear yard: 5 feet
    - Alley rear yard: 10 feet

**Subd. 7 Architectural Standards and Guidelines.** Architectural Standards and Guidelines shall follow the provisions of Section 1245.03 of this Chapter.

## 1230.10 C-3 Downtown Districts

**Subd. 1 Intent.** The C-3, Downtown Districts, which include the original Norwood downtown, known as “Downtown Business” and the original Young America downtown, known as “Community Uptown”, is intended to serve as the specialized service, retail, employment, and public business district for the community. The specific intent of this district is:

- A. To be the focal point for specialty services and goods focusing on neighborhood service related businesses;
- B. To allow for mixed commercial and residential uses since the district offers convenient access to services.
- C. To promote pedestrian-friendly design and development and encourage gathering areas.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Downtown District:

- A. General commercial office space;
- B. Professional Services, such as medical/dental clinics, law offices, and accounting offices;
- C. Finance, Insurance and Real Estate;
- D. Personal or Business Services, such as laundry, barber, shoe repair, beauty salons, photography studios and physical fitness centers less than 5,000 square feet
- E. Public facilities serving all or portions of the city, such as municipal offices, library, post office.
- F. Retail Trade, such as grocery, hardware, drug, clothing, appliance and furniture stores.
- G. Dwelling units, if located above the street level in nonresidential structures.
- H. Specialty Shops, such as book and stationary stores, candy stores, ice cream parlors, tobacco, coffee, gift and florist shops;
- I. Standard restaurants
- J. On and off-sale liquor establishments
- K. Public Parks
- L. Residential uses on the first floor of commercial structures provided:
  - 1. The residential use does not compose greater than fifty (50) percent of the ground floor area;
  - 2. A store front is retained in the front of the building adjacent to public streets;
  - 3. A separate entry is provided for the residential use;
  - 4. The residential use is not adversely impacted by the adjoining commercial use of odor or noise, or increased traffic generation;
  - 5. Off-street parking is provided for the residential use.

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Downtown Districts.

- A. Off-street parking and loading facilities, subject to Section 1250
- B. Fences, subject to Section 1245.05
- C. Lighting, subject to Section 1245.08
- D. Decks, patios and porches in conjunction with the principal use;
- E. Signs, subject to Section 1260

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

*Principal Uses:*

- A. Contractor Operations (*Amended by Ord. 216; 8-24-2009*)
- B. Lodging Services, such as hotels, motels and bed and breakfasts.
- C. Entertainment Services, such as motion picture theaters and bowling alleys
- D. Licensed Daycare Facilities

- E. Custom or limited manufacturing, assembly, or treatment of articles or merchandise from previously prepared materials, such as cloth, fiber, leather, metal, paper, plastic, stone, wax, wood, and wool (*Amended by Ord. 261, 5-11-2015*)
- F. Auto Dealership Sales, Storage, and Display with or without ancillary minor auto repair and service, provided:
  - i. Sales, display, and storage are limited to new and used passenger automobiles.
  - ii. A valid dealership license is maintained.
  - iii. Office space devoted to perform transactions in conjunction with the business is provided on site.
  - iv. Service and repair, if provided, are clearly secondary and subordinate to the use of the property for auto dealer sales, display, and storage.
  - v. Auto service and repair, if provided, shall be conducted indoors and all automobiles undergoing service or repair shall be stored off-street.
  - vi. Auto repair shall not include vehicle painting or auto body work.  
(*Amended by Ordinance 274, 6-27-16*)
- G. Veterinary clinic, animal care, animal shelter, pet daycare, pet training, or animal hospital.

*Accessory Uses:*

- A. Outdoor Dining;
- B. Recreational Facilities;

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the C-3 District, with the exception of “Lot Coverage” and building height, which shall be the maximum amount allowed:

- A. Lot Area: no minimum established
- B. Lot Width: no minimum established
- C. Lot Coverage: no maximum established
- D. Building Height: 45 feet (principal structure) (*Amended by Ord. 216; 8-24-2009*)  
25 feet (accessory structure)

## E. Setbacks:

***Principal Structures:***

- Front yard: 0 feet
- Side yard: 0 feet
- Side yard: 5 feet (if adjacent to a residential district)
- Street side yard: 0 feet
- Rear yard: 0 feet
- Rear yard: 10 feet (if adjacent to a residential district or alley)

***Accessory Structures:***

- Front yard: not permitted in front yards
- Side yard: 5 feet
- Street side yard: 0 feet
- Rear yard: 5 feet
- Alley rear yard: 10 feet

**Subd. 6 Architectural Standards and Guidelines.** Architectural standards and guidelines shall follow the provisions of Section 1245.02 of this Chapter.

**1230.11 B-1 Business Industrial District**

**Subd. 1 Intent.** The B-1, Business Industrial District is intended to provide an area identified for light industrial and large-scale office-park development.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Business Industrial District:

- A. Automobile repair, major
- B. Contractor Yards
- C. Light Industrial
- D. Office Complexes
- E. Garden and landscaping services
- F. Mini-storage facilities
- G. Retail in association with a contractor yard or wholesale trade business
- H. Vocational and Technical Schools
- I. Warehouses
- J. Wholesale Trade and Showrooms

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Business Industrial District.

- A. Commercial or business buildings and structures for a use accessory to the principal use;
- B. Fences, subject to Section 1245.05;
- C. Lighting, subject to Section 1245.08;
- D. Signs, subject to Section 1260.

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

*Principle Uses:*

- A. Veterinary clinic, animal care, animal shelter, pet daycare, pet training, or animal hospital.

*Accessory Uses:*

- A. Outdoor Auto, Truck, Recreational Vehicle and Equipment Sales and Display;
- B. Outdoor Storage;
- C. Barbed-wire Fencing

**Subd. 5 Interim Uses.** The following uses are permitted as an interim use, subject to the provisions of Section 1210.07:

- A. Outdoor Storage

**Subd. 6 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the B-1 District; with the exception of "Lot Coverage" which shall be the maximum amount allowed:

- A. Lot Area: 30,000 square feet
- B. Lot Width: 200 feet

- C. Lot Coverage: 80%
- D. Building Height: 40 feet (principal structure)  
25 feet (accessory structure)
- E. Setbacks:
  - Principal Structures:***
    - Front yard: 25 feet
    - Side yard: 5 feet
    - Side yard: 30 feet (if adjacent to a residential district)
    - Street side yard: 25 feet
    - Rear yard: 20 feet
    - Rear yard: 30 feet (if adjacent to a residential district)
  - Accessory Structures:***
    - Front yard: not permitted in front yards
    - Side yard: 5 feet
    - Street side yard: 25 feet
    - Rear yard: 5 feet
    - Alley rear yard: 10 feet

**Subd. 7 Architectural Standards and Guidelines.** Architectural standards and guidelines shall follow the provisions of Section 1245.03 of this Chapter.

## **1230.12 I-1 Light Industrial District**

**Subd. 1 Intent.** The purpose of the I-1, Light Industrial District, is to create industrial areas within the City that will be acceptable and will not adversely affect adjacent business or residential neighborhoods. The overall character of the I-1 District is intended to have low-impact manufacturing/warehouse character. Industrial uses allowed within the District shall be either:

- A. Those whose operations are relatively free from objectionable influences; or
- B. Those whose objectionable features will be mitigated by design or appropriate devices.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Light Industrial District:

- A. Contractor Operations;
- B. Laboratories;
- C. Light Industry;
- D. Utilities (public sewer, water);
- E. Warehousing;
- F. Wholesale Trade and Showrooms

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Low-Density Residential District.

- A. Commercial or business buildings and structures for a use accessory to the principal use.
- B. Fences, subject to Section 1245.05
- C. Lighting, subject to Section 1245.08

**Subd. 4 Conditional Uses.** The following uses are permitted, subject to the provisions of Section 1210.06:

*Principal Uses:*

- A. Antennas, satellite dishes, communication and radio towers;
- B. Vocational and Technical Schools;
- C. Adult Uses

*Accessory Uses:*

- C. Freight and yard equipment;
- D. Outdoor Auto, Truck, Recreational Vehicle and Equipment Sales and Display;
- E. Outdoor Storage;
- F. Barbed-wire Fencing

**Subd. 5 Lot Requirements and Setbacks.** The following requirements and setbacks are the minimum amount allowed in the R-4 District, with the exception of “Lot Coverage” which shall be the maximum amount allowed:

- A. Lot Area: 87,120 square feet (2 acres)
- B. Lot Width: 200 feet
- C. Lot Coverage: 80%
- D. Building Height: 40 feet (principal structure)  
25 feet (accessory structure)

E. Setbacks:

***Principal Structures:***

- Front yard: 30 feet
- Side yard: 15 feet
- Street side yard: 30 feet
- Rear yard: 50 feet
- Rear yard: 75 feet (if adjacent to a residential district)

***Accessory Structures:***

- Front yard: not permitted in front yards
- Side yard: 10 feet
- Street side yard: 30 feet
- Rear yard: 10 feet
- Alley rear yard: 10 feet

### 1230.13 P-1 Parks/Open Space

**Subd. 1 Intent.** It is the intent of the P-1 Parks/Open Space District, to provide for recreational areas for enjoyment by the general public as well as preserve significant natural features and amenities such as lakes, rivers, marshes, steep hills, extensive woodlands and woodlands in their natural state in order to assure continuation of the existing natural drainage system, to prevent harmful soil erosion, and to maintain ecological balance to the greatest extent possible.

**Subd. 2 Permitted Uses.** The following uses are permitted in the Parks/Open Space District:

- A. Public parks, open spaces and other recreational uses, non-commercial in nature;

**Subd. 3 Permitted Accessory Uses.** The following accessory uses are permitted in the Parks/Open Space District:

- A. Essential service structures including but not limited to playgrounds, gazebos, shelters, concession areas, grandstands, and athletic fields;

**Section 1235 – *Reserved***

**Section 1240 – Overlay District**

**1240.01 Shoreland Management Overlay District**

**Subd. 1 Statutory Authorization and Policy**

- A. Statutory Authorization. This section is adopted pursuant to the authorization and policies contained in Minnesota Statutes, Chapter 103F, Minnesota Regulations, Parts 6120.2500 - 6120.3900, and the planning and zoning enabling legislation in Minnesota Statutes, Chapter 462.
- B. Policy. The uncontrolled use of shorelands of the City of Norwood Young America, Minnesota affects the public health, safety and general welfare not only by contributing to pollution of public waters, but also by impairing the local tax base. Therefore, it is in the best interests of the public health, safety and welfare to provide for the wise subdivision, use and development of shorelands of public waters. The Legislature of Minnesota has delegated responsibility to local governments of the state to regulate the subdivision, use and development of the shorelands of public waters and thus preserve and enhance the quality of surface waters, conserve the economic and natural environmental values of shorelands, and provide for the wise use of waters and related land resources. This responsibility is hereby recognized by the City of Norwood Young America.

**Subd. 2 General Provisions**

- A. Jurisdiction. The provisions of this section shall apply to the shorelands of the public water bodies as classified in Subd. 4. Pursuant to Minnesota Regulations, Parts 6120.2500 - 6120.3900, no lake, pond, or flowage less than 10 acres in size in municipalities or 25 acres in size in unincorporated areas need be regulated in a local government's shoreland regulations. A body of water created by a private user where there was no previous shoreland may, at the discretion of the governing body, be exempt from this section.
- B. Compliance. The use of any shoreland of public waters; the size and shape of lots; the use, size, type and location of structures on lots; the installation and maintenance of water supply and waste treatment systems, the grading and filling of any shoreland area; the cutting of shoreland vegetation; and the subdivision of land shall be in full compliance with the terms of this section and other applicable regulations.
- C. Enforcement. The Zoning Administrator is responsible for the administration and enforcement of this section. Any violation of the provisions of this section or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and shall be punishable as defined by law. Violations of this section can occur



regardless of whether or not a permit is required for a regulated activity pursuant to this Chapter.

- D. Interpretation. In their interpretation and application, the provisions of this section shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by State Statutes.
- E. Severability. If any part, clause, provision, or portion of this section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this section shall not be affected thereby.
- F. Abrogation and Greater Restrictions. It is not intended by this section to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this section imposes greater restrictions, the provisions of this section shall prevail. All other sections inconsistent with this section are hereby repealed to the extent of the inconsistency only.

### **Subd. 3 Administration**

- A. Variances.
  - 1. Requests for variances shall be made in accordance with the procedures and requirements set forth in Section 1210.04 of this Chapter.
  - 2. Variances shall only be granted when the standards and criteria set forth in Section 1210.04 of this Chapter have been met; variances shall not be granted which would circumvent the purposes and intent of this section.
  - 3. A copy of all notices of any Public Hearings scheduled to consider requests for variances from this section shall be sent to the Commissioner of the Department of Natural Resources and post marked at least ten (10) days prior to the hearing.
  - 4. A copy of the final decision granting a requested variance from this section shall be sent to the Commissioner of the Department of Natural Resources and post marked within ten (10) days of the final action.
  - 5. In considering a variance request, the Planning Commission must also consider whether the property owner has reasonable use of the land without the variance, whether the property is used seasonally or year-round, whether the variance is being requested solely on the basis of economic considerations, and the characteristics of development on adjacent properties.
- B. Notifications to the Department of Natural Resources.
  - 1. Copies of all notices of any public hearings to consider variances, amendments, or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked at least ten days before the hearings. Notices of hearings to consider proposed subdivisions/plats must include copies of the subdivision/plat.
  - 2. A copy of approved amendments and subdivisions/plats, and final decisions granting variances or conditional uses under local shoreland management controls must be sent to the commissioner or the commissioner's designated representative and postmarked within ten days of final action.

### **Subd. 4 Shoreland Classification System and Land Use Districts**

- A. Shoreland Classification System. The public waters of the City of Norwood Young America have been classified below consistent with the criteria found in Minnesota

Regulations, Part 6120.3300, and the Protected Waters Inventory Map for Carver County, Minnesota.

1. The shoreland area for the waterbodies listed in Subd. 4.A.2 and Subd. 4.A.3 shall be as defined in Subsection 1200.04 of this Chapter and as shown on the Official Zoning Map.
2. Natural Environment Lakes
 

	Protected Waters Inventory I.D.#
Brand Lake	110P
Braunworth Lake	107P
Young America Lake	105P
Barnes Lake	109P
Tiger Lake	108P
3. Rivers and Streams-Tributary System
 

	Protected Waters Inventory I.D.#
Unnamed to Unnamed, from Section 14 (Basin 110—Brand Lk), Twp 115, Range 26 to Section 14, Twp 115, Range 26	10009A

#### B. Land Use District Descriptions

1. Criteria For Designation. The subdivision, use, and development of shoreland areas must be consistent with the following goals, policies, and objectives:
  - a. General Considerations and Criteria for All Land Uses:
    - i. preservation of natural areas;
    - ii. present ownership and development of shoreland areas;
    - iii. shoreland soil types and their engineering capabilities;
    - iv. topographic characteristics;
    - v. vegetative cover;
    - vi. in-water physical characteristics, values, and constraints;
    - vii. recreational use of the surface water;
    - viii. road and service center accessibility;
    - ix. socioeconomic development needs and plans as they involve water and related land resources;
    - x. the land requirements of industry which, by its nature, requires location in shoreland areas; and
    - xi. the necessity to preserve and restore certain areas having significant historical or ecological value.
  - b. Factors and Criteria for Planned Unit Developments:
    - i. existing recreational use of the surface water and likely increases in use associated with planned unit developments;
    - ii. physical and aesthetic impacts of increased density;
    - iii. suitability of lands for the planned unit development approach;
    - iv. level of current development in the area; and
    - v. amounts and types of ownership of undeveloped lands.
2. Land Use District Descriptions. Uses permitted in shoreland areas shall be those permitted by the underlying zoning districts specified in Section 1230 of this Chapter.

#### Subd. 5 Zoning and Water Supply/Sanitary Provisions

- A. Lot Area and Width Standards. The lot area (in square feet) and lot width standards (in feet) for single, duplex, triplex and quad residential lots created after the date of enactment of this section for lakes and river/stream classifications are the following:

1. Unsewered Lakes

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	80,000	200	80,000	200
Duplex	120,000	300	160,000	400
Triplex	160,000	400	240,000	600
Quad	200,000	500	320,000	800

2. Sewered Lakes

	Riparian Lots		Nonriparian Lots	
	Area	Width	Area	Width
Single	40,000	125	20,000	125
Duplex	70,000	225	35,000	220
Triplex	100,000	325	52,000	315
Quad	130,000	425	65,000	410

3. River/Stream Lot Width Standards. There are no minimum lot size requirements for rivers and streams. The lot width standards for single, duplex, triplex and quad residential developments for river/stream classifications are:

	Urban & Tributary	
	No sewer	Sewer
Single	100	75
Duplex	150	115
Triplex	200	150
Quad	250	190

4. Additional Special Provisions.

- a. Residential subdivisions with dwelling unit densities exceeding those in the tables in Subd. 5.A.2 and Subd. 5.A.3 can only be allowed if designed and approved as residential planned unit developments under Subd. 8. Only land above the ordinary high water level of public waters can be used to meet lot area standards, and lot width standards must be met at both the ordinary high water level and at the building line. The sewer lot area dimensions in Subd. 5.A.2 can only be used if publicly owned sewer system service is available to the property.
- b. Subdivisions of duplexes, triplexes, and quads on Natural Environment Lakes must also meet the following standards:
  - i. each building must be set back at least 200 feet from the ordinary high water level;
  - ii. each building must have common sewage treatment and water systems in one location and serve all dwelling units in the building;
  - iii. watercraft docking facilities for each lot must be centralized in one location and serve all dwelling units in the building; and
  - iv. no more than 25 percent of a lake's shoreline can be in duplex, triplex, or quad developments.
- c. Lots intended as controlled accesses to public waters or as recreation areas for use by owners of nonriparian lots within subdivisions are permissible and must meet or exceed the following standards:

- i. they must meet the width and size requirements for residential lots, and be suitable for the intended uses of controlled access lots;
- ii. if docking, mooring, or over-water storage of more than six (6) watercraft is to be allowed at a controlled access lot, then the width of the lot (keeping the same lot depth) must be increased by the percent of the requirements for riparian residential lots for each watercraft beyond six, consistent with the following table:

## Controlled Access Lot Frontage Requirements

Ratio of lake size to shore length (acres/mile)	Required increase in frontage (percent)
Less than 100	25
100-200	20
201-300	15
301-400	10
Greater than 400	5

- iii. they must be jointly owned by all purchasers of lots in the subdivision or by all purchasers of nonriparian lots in the subdivision who are provided riparian access rights on the access lot; and
- iv. covenants or other equally effective legal instruments must be developed that specify which lot owners have authority to use the access lot and what activities are allowed. The activities may include watercraft launching, loading, storage, beaching, mooring, or docking. They must also include other outdoor recreational activities that do not significantly conflict with general public use of the public water or the enjoyment of normal property rights by adjacent property owners. Examples of the non-significant conflict activities include swimming, sunbathing, or picnicking. The covenants must limit the total number of vehicles allowed to be parked and the total number of watercraft allowed to be continuously moored, docked, or stored over water, and must require centralization of all common facilities and activities in the most suitable locations on the lot to minimize topographic and vegetation alterations. They must also require all parking areas, storage buildings, and other facilities to be screened by vegetation or topography as much as practical from view from the public water, assuming summer, leaf-on conditions.

## B. Placement, Design, and Height of Structures.

1. Placement of Structures on Lots. When more than one setback applies to a site, structures and facilities must be located to meet all setbacks. Where structures exist on the adjoining lots on both sides of a proposed building site, structure setbacks may be altered without a variance to conform to the adjoining setbacks from the ordinary high water level, provided the proposed building site is not located in a shore impact zone or in a bluff impact zone. Structures shall be located as follows:
  - a. Structure and On-Site Sewage System Setbacks (in feet) from Ordinary High Water Level.\*

## Setbacks\*

Classes of			
Public	Structures	Sewage Treatment	
Waters	Unsewered	Sewered	System
Lakes			

Natural Environment	150	150	150
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## Rivers

## Urban, and

Tributary	100	50	75
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\*One water-oriented accessory structure designed in accordance with Subd. 5.B.2 may be set back a minimum distance of ten (10) feet from the ordinary high water level.

- b. Additional Structure Setbacks. The following additional structure setbacks apply, regardless of the classification of the waterbody:

Setback From:	Setback (in feet)
i. top of bluff	30
ii. unplatted cemetery	50
iii. right-of-way line of federal, state, or county highway; and	50
iv. right-of-way line of town road, public street, or other roads or streets not classified.	20

- c. Bluff Impact Zones. Structures and accessory facilities, except stairways and landings, must not be places within bluff impact zones.
- d. Uses Without Water-oriented Needs. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
2. Design Criteria For Structures.
- a. High Water Elevations. Structures must be places in accordance with any floodplain regulations applicable to the site. Where these controls do not exist, the elevation to which the lowest floor, including basement, is placed or flood-proofed must be determined as follows:
- for lakes, by placing the lowest floor at a level at least three feet above the highest known water level, or three feet above the ordinary high water level, whichever is higher;
  - for rivers and streams, by placing the lowest floor at least three feet above the flood of record, if data are available. If data are not available, by placing the lowest floor at least three feet above the ordinary high water level, or by conducting a technical evaluation to determine effects of proposed construction upon flood stages and flood flows and to establish a flood protection elevation. Under all three approaches, technical evaluations must be done by a qualified engineer or hydrologist consistent with parts 6120.5000 to 6120.6200 governing the management of flood plain areas. If more than one approach is used, the highest flood protection elevation determined must be used for placing structures and other facilities; and

- iii. water-oriented accessory structures may have the lowest floor placed lower than the elevation determined in this item if the structure is constructed of flood-resistant materials to the elevation, electrical and mechanical equipment is placed above the elevation and, if long duration flooding is anticipated, the structure is built to withstand ice action and wind-driven waves and debris.
- b. Water-oriented Accessory Structures. Each lot may have one water-oriented accessory structure not meeting the normal structure setback in Subd. 5.B.1 if this water-oriented accessory structure complies with the following provisions:
  - i. the structure or facility must not exceed ten feet in height, exclusive of safety rails, and cannot occupy an area greater than 250 square feet. Detached decks must not exceed eight feet above grade at any point;
  - ii. the setback of the structure or facility from the ordinary high water level must be at least ten feet;
  - iii. the structure or facility must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks or color, assuming summer, leaf-on conditions;
  - iv. the roof may be used as a deck with safety rails, but must not be enclosed or used as a storage area;
  - v. the structure or facility must not be designed or used for human habitation and must not contain water supply or sewage treatment facilities; and
- c. Stairways, Lifts, and Landings. Stairways and lifts are the preferred alternative to major topographic alterations for achieving access up and down bluffs and steep slopes to shore areas. Stairways and lifts must meet the following design requirements:
  - i. stairways and lifts must not exceed four feet in width on residential lots. Wider stairways may be used for commercial properties, public open-space recreational properties, and planned unit developments;
  - ii. landings for stairways and lifts on residential lots must not exceed 32 square feet in area. Landings larger than 32 square feet may be used for commercial properties, public open-space recreational properties, and planned unit developments;
  - iii. canopies or roofs are not allowed on stairways, lifts, or landings;
  - iv. stairways, lifts, and landings may be either constructed above the ground on posts or pilings, or placed into the ground, provided they are designed and built in a manner that ensures control of soil erosion;
  - v. stairways, lifts, and landings must be located in the most visually inconspicuous portions of lots, as viewed from the surface of the public water assuming summer, leaf-on conditions, whenever practical; and
  - vi. facilities such as ramps, lifts, or mobility paths for physically handicapped persons are also allowed for achieving access to shore areas, provided that the dimensional and performance standards of subitems (1) to (5) are complied with in addition to the requirements of Minnesota Regulations, Chapter 1340.
- d. Significant Historic Sites. No structure may be placed on a significant historic site in a manner that affects the values of the site unless adequate information about the site has been removed and documented in a public repository.
- e. Steep Slopes. The Zoning Administrator must evaluate possible soil erosion impacts and development visibility from public waters before issuing a permit for construction of sewage treatment systems, roads, driveways, structures, or other

improvements on steep slopes. When determined necessary, conditions must be attached to issued permits to prevent erosion and to preserve existing vegetation screening of structures, vehicles, and other facilities as viewed from the surface of public waters, assuming summer, leaf-on vegetation.

3. Height of Structures. All structures in residential districts, except churches and nonresidential agricultural structures, must not exceed 25 feet in height.
  4. Cantilevers. Cantilevers may be allowed at a maximum of 2 feet within the required structure setback to the OHWL. In all cases, the footings shall be located outside the required setback to the OHWL.
- C. Shoreland Alterations. Alterations of vegetation and topography will be regulated to prevent erosion into public waters, fix nutrients, preserve shoreland aesthetics, preserve historic values, prevent bank slumping, and protect fish and wildlife habitat.
1. Vegetation Alterations.
    - a. Vegetation alteration necessary for the construction of structures and sewage treatment systems and the construction of roads and parking areas regulated by Subd. 4 5.D are exempt from the vegetation alteration standards that follow.
    - b. Removal or alteration of vegetation, except for agricultural and forest management uses as regulated in Subd. 5.F.2 and Subd. 5.F.3, respectfully, is allowed subject to the following standards:
      - i. Intensive vegetation clearing within the shore and bluff impact zones and on steep slopes is not allowed. Intensive vegetation clearing for forest land conversion to another use outside of these areas is allowable as a conditional use if an erosion control and sedimentation plan is developed and approved by the soil and water conservation district in which the property is located.
      - ii. In shore and bluff impact zones and on steep slopes, limited clearing of trees and shrubs and cutting, pruning, and trimming of trees is allowed to provide a view to the water from the principal dwelling site and to accommodate the placement of stairways and landings, picnic areas, access paths, livestock watering areas, beach and watercraft access areas, and permitted water-oriented accessory structures or facilities, provided that:
        - (1) the screening of structures, vehicles, or other facilities as viewed from the water, assuming summer, leaf-on conditions, is not substantially reduced;
        - (2) along rivers, existing shading of water surfaces is preserved; and
        - (3) the above provisions are not applicable to the removal of trees, limbs, or branches that are dead, diseased, or pose safety hazards.
  2. Topographic Alterations/Grading and Filling.
    - a. Grading and filling and excavations necessary for the construction of structures, sewage treatment systems, and driveways under validly issued construction permits for these facilities do not require the issuance of a separate grading and filling permit. However, the grading and filling standards in Subd. 5.C must be incorporated into the issuance of permits for construction of structures, sewage treatment systems, and driveways.
    - b. Public roads and parking areas are regulated in Subd. 5.D
    - c. Notwithstanding Items a. and b. above, a grading and filling permit will be required for:
      - i. the movement of more than ten (10) cubic yards of material on steep slopes or within shore or bluff impact zones; and

- ii. the movement of more than 50 cubic yards of material outside of steep slopes and shore and bluff impact zones.
- d. The following considerations and conditions must be adhered to during the issuance of construction permits, grading and filling permits, conditional use permits, variances and subdivision approvals:
  - i. Grading or filling in any type 2, 3, 4, 5, 6, 7, or 8 wetland must be evaluated to determine how extensively the proposed activity would affect the following functional qualities of the wetland\*:
    - (1) sediment and pollutant trapping and retention;
    - (2) storage of surface runoff to prevent or reduce flood damage;
    - (3) fish and wildlife habitat;
    - (4) recreational use;
    - (5) shoreline or bank stabilization; and
    - (6) noteworthiness, including special qualities such as historic significance, critical habitat for endangered plants and animals, or others.

\*This evaluation must also include a determination of whether the wetland alteration being proposed requires permits, reviews, or approvals by other local, state, or federal agencies such as a watershed district, the Minnesota Department of Natural Resources, or the United States Army Corps of Engineers. The applicant will be so advised.
  - ii. Alterations must be designed and conducted in a manner that ensures only the smallest amount of bare ground is exposed for the shortest time possible;
  - iii. Mulches or similar materials must be used, where necessary, for temporary bare soil coverage, and a permanent vegetation cover must be established as soon as possible;
  - iv. Methods to minimize soil erosion and to trap sediments before they reach any surface water feature must be used;
  - v. Altered areas must be stabilized to acceptable erosion control standards consistent with the field office technical guides of the local soil and water conservation districts and the United States Soil Conservation Service;
  - vi. Fill or excavated material must not be placed in a manner that creates an unstable slope;
  - vii. Plans to place fill or excavated material on steep slopes must be reviewed by qualified professionals for continued slope stability and must not create finished slopes of 30 percent or greater;
  - viii. Fill or excavated material must not be placed in bluff impact zones;
  - ix. Any alterations below the ordinary high water level of public waters must first be authorized by the commissioner under Minnesota Statutes, section 103G;
  - x. Alterations of topography must only be allowed if they are accessory to permitted or conditional uses and do not adversely affect adjacent or nearby properties; and
  - xi. Placement of natural rock riprap, including associated grading of the shoreline and placement of a filter blanket, is permitted if the finished slope does not exceed three feet horizontal to one foot vertical, the landward extent of the riprap is within ten feet of the ordinary high water level, and the height of the riprap above the ordinary high water level does not exceed three feet.
- e. Connections to public waters. Excavations where the intended purpose is connection to a public water, such as boat slips, canals, lagoons, and harbors, must be controlled by



local shoreland controls. Permission for excavations may be given only after the commissioner has approved the proposed connection to public waters.

**D. Placement and Design of Roads, Driveways, and Parking Areas.**

1. Public and private roads and parking areas must be designed to take advantage of natural vegetation and topography to achieve maximum screening from view from public waters. Documentation must be provided by a qualified engineer that all roads and parking areas are designed and constructed to minimize and control erosion to public waters consistent with the field office technical guides of the local soil and water conservation district, or other applicable technical materials.
2. Roads, driveways, and parking areas must meet structure setbacks and must not be placed within bluff and shore impact zones, when other reasonable and feasible placement alternatives exist. If no alternatives exist, they may be placed within these areas, and must be designed to minimize adverse impacts.
3. Public and private watercraft access ramps, approach roads, and access-related parking areas may be placed within shore impact zones provided the vegetative screening and erosion control conditions of this subpart are met. For private facilities, the grading and filling provisions of Subd. 5.C.2 must be met.

**E. Stormwater Management.** The following general and specific standards shall apply:

**1. General Standards:**

- a. When possible, existing natural drainageways, wetlands, and vegetated soil surfaces must be used to convey, store, filter, and retain stormwater runoff before discharge to public waters.
- b. Development must be planned and conducted in a manner that will minimize the extent of disturbed areas, runoff velocities, erosion potential, and reduce and delay runoff volumes. Disturbed areas must be stabilized and protected as soon as possible and facilities or methods used to retain sediment on the site.
- c. When development density, topographic features, and soil and vegetation conditions are not sufficient to adequately handle stormwater runoff using natural features and vegetation, various types of constructed facilities such as diversions, settling basins, skimming devices, dikes, waterways, and ponds may be used. Preference must be given to designs using surface drainage, vegetation, and infiltration rather than buried pipes and man-made materials and facilities.

**2. Specific Standards:**

- a. Impervious surface coverage of lots must not exceed 25 percent of the lot area.
- b. When constructed facilities are used for stormwater management, documentation must be provided by a qualified engineer that they are designed and installed consistent with the field office technical guide of the local soil and water conservation districts.
- c. New constructed stormwater outfalls to public waters must provide for filtering or settling of suspended solids and skimming of surface debris before discharge.

**F. Special Provisions for Commercial, Industrial, Public/Semipublic, Agricultural, Forestry and Extractive Uses and Mining of Metallic Minerals and Peat.**

**1. Standards for Commercial, Industrial, Public, and Semipublic Uses.**

- a. Surface water-oriented commercial uses and industrial, public, or semipublic uses with similar needs to have access to and use of public waters may be located on parcels or lots with frontage on public waters. Those uses with water-oriented needs must meet the following standards:

- i. in addition to meeting impervious coverage limits, setbacks, and other zoning standards in this section, the uses must be designed to incorporate topographic and vegetative screening of parking areas and structures;
    - ii. uses that require short-term watercraft mooring for patrons must centralize these facilities and design them to avoid obstructions of navigation and to be the minimum size necessary to meet the need; and
    - iii. uses that depend on patrons arriving by watercraft may use signs and lighting to convey needed information to the public, subject to the following general standards:
      - (1) no advertising signs or supporting facilities for signs may be placed in or upon public waters. Signs conveying information or safety messages may be placed in or on public waters by a public authority or under a permit issued by the county sheriff;
      - (2) signs may be placed, when necessary, within the shore impact zone if they are designed and sized to be the minimum necessary to convey needed information. They must only convey the location and name of the establishment and the general types of goods or services available. The signs must not contain other detailed information such as product brands and prices, must not be located higher than ten feet above the ground, and must not exceed 32 square feet in size. If illuminated by artificial lights, the lights must be shielded or directed to prevent illumination out across public waters; and
      - (3) other outside lighting may be located within the shore impact zone or over public waters if it is used primarily to illuminate potential safety hazards and is shielded or otherwise directed to prevent direct illumination out across public waters. This does not preclude use of navigational lights.
  - b. Uses without water-oriented needs must be located on lots or parcels without public waters frontage, or, if located on lots or parcels with public waters frontage, must either be set back double the normal ordinary high water level setback or be substantially screened from view from the water by vegetation or topography, assuming summer, leaf-on conditions.
2. Agriculture Use Standards
- a. General cultivation farming, grazing, nurseries, horticulture, truck farming, sod farming, and wild crop harvesting are permitted uses if steep slopes and shore and bluff impact zones are maintained in permanent vegetation or operated under an approved conservation plan (Resource Management Systems) consistent with the field office technical guides of the local soil and water conservation districts or the United States Soil Conservation Service, as provided by a qualified individual or agency. The shore impact zone for parcels with permitted agricultural land uses is equal to a line parallel to and 50 feet from the ordinary high water level.
  - b. Animal feedlots must meet the following standards:
    - i. new feedlots must not be located in the shoreland of watercourses or in bluff impact zones and must meet a minimum setback of 300 feet from the ordinary high water level of all public waters basins; and
    - ii. modifications or expansions to existing feedlots that are located within 300 feet of the ordinary high water level or within a bluff impact zone are allowed if they do not further encroach into the existing ordinary high water level setback or encroach on bluff impact zones.

3. Forest Management Standards. The harvesting of timber and associated reforestation must be conducted consistent with the provisions of the Minnesota Nonpoint Source Pollution Assessment-Forestry and the provisions of Water Quality in Forest Management “Best Management Practices in Minnesota.”
  4. Extractive Use Standards.
    - a. Site Development and Restoration Plan. An extractive use site development and restoration plan must be developed, approved, and followed over the course of operation of the site. The plan must address dust, noise, possible pollutant discharges, hours and duration of operation, and anticipated vegetation and topographic alterations. It must also identify actions to be taken during operation to mitigate adverse environmental impacts, particularly erosion, and must clearly explain how the site will be rehabilitated after extractive activities end.
    - b. Setbacks for Processing Machinery. Processing machinery must be located consistent with setback standards for structures from ordinary high water levels of public waters and from bluffs.
  5. Mining of Metallic Minerals and Peat. Mining of metallic minerals and peat, as defined in Minnesota Statutes, sections 93.44 to 93.51, shall be a permitted use provided the provisions of Minnesota Statutes, sections 93.44 to 93.51, are satisfied.
- G. Conditional Uses. Conditional uses allowable within shoreland areas shall be subject to the review and approval procedures as specified in Section 1210.06 of this Chapter. The following additional evaluation criteria and conditions apply within shoreland areas:
1. Evaluation criteria. A thorough evaluation of the waterbody and the topographic, vegetation, and soils conditions on the site must be made to ensure:
    - a. The prevention of soil erosion or other possible pollution of public waters, both during and after construction;
    - b. The visibility of structures and other facilities as viewed from public waters is limited;
    - c. The site is adequate for water supply and on-site sewage treatment; and
    - d. The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.
  2. Conditions attached to conditional use permits. The City Council, upon consideration of the criteria listed above and the purposes of this section, shall attach such conditions to the issuance of the conditional use permits as it deems necessary to fulfill the purposes of this section. Such conditions may include, but are not limited to, the following:
    - a. Increased setbacks from the ordinary high water level;
    - b. limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted; and
    - c. special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.
- H. Water Supply and Sewage Treatment
1. Water Supply. Any public or private supply of water for domestic purposes must meet or exceed standards for water quality of the Minnesota Department of Health and the Minnesota Pollution Control Agency.
  2. Sewage treatment. Any premises used for human occupancy must be provided with an adequate method of sewage treatment, as follows:
    - a. Publicly-owned sewer systems must be used where available.

- b. All private sewage treatment systems must meet or exceed the Minnesota Pollution Control Agency's standards for individual sewage treatment systems contained in the document titled, "Individual Sewage Treatment Systems Standards, Chapter 7080," a copy of which is hereby adopted by reference and declared to be a part of this Section.
- c. On-site sewage treatment systems must be set back from the ordinary high water level in accordance with the setbacks contained in Subd. 5.B.1.
- d. All proposed sites for individual sewage treatment systems shall be evaluated in accordance with the criteria in subitems (i)-(iv). If the determination of a site's suitability cannot be made with publicly available, existing information, it shall then be the responsibility of the applicant to provide sufficient soil borings and percolation tests from on-site field investigations.

Evaluation Criteria:

- (1). Depth to the highest known or calculated ground water table or bedrock;
  - (2). soil conditions, properties, and permeability;
  - (3). slope;
  - (4). the existence of lowlands, local surface depressions, and rock outcrops;
- e. Nonconforming sewage treatment systems shall be regulated and upgraded in accordance with Subd. 6.3.

**Subd. 6 Nonconformities.** Nonconformities will be managed according to Section 1215 of this Chapter; except that the following standards will also apply in shoreland areas:

A. Construction on nonconforming lots of record.

- 1. Lots of record in the office of the county recorder on the date of enactment of local shoreland controls that do not meet the requirements of Subd. 5.A may be allowed as building sites without variances from lot size requirements provided the use is permitted in the zoning district, the lot has been in separate ownership from abutting lands at all times since it became substandard, was created compliant with official controls in effect at the time, and sewage treatment and setback requirements of this Section are met.
- 2. A variance from setback requirements must be obtained before any use, sewage treatment system, or building permit is issued for a lot. In evaluating the variance, the Planning Commission shall consider sewage treatment and water supply capabilities or constraints of the lot and shall deny the variance if adequate facilities cannot be provided.
- 3. If, in a group of two or more contiguous lots under the same ownership, any individual lot does not meet the requirements of Subd. 5.A, the lot must not be considered as a separate parcel of land for the purposes of sale or development. The lot must be combined with the one or more contiguous lots so they equal one or more parcels of land, each meeting the requirements of Subd. 5.A as much as possible.

B. Additions/Expansions to Nonconforming Structures.

- 1. All additions or expansions to the outside dimensions of an existing nonconforming structure must meet the setback, height, and other requirements of Subd. 5. Any deviation from these requirements must be authorized by a variance pursuant to Subd. 3.A.
- 2. Deck additions may be allowed without a variance to a structure not meeting the required setback from the ordinary high water level if all of the following criteria and standards are met:
  - a. The structure existed on the date the structure setbacks were established;

- b. a thorough evaluation of the property and structure reveals no reasonable location for a deck meeting or exceeding the existing ordinary high water level setback of the structure;
  - c. the deck encroachment toward the ordinary high water level does not exceed 15 percent of the existing setback of the structure from the ordinary high water level or does not encroach closer than 30 feet, whichever is more restrictive; and
  - d. the deck is constructed primarily of wood, and is not roofed or screened.
- C. Nonconforming Sewage Treatment Systems.
  - 1. A sewage treatment system not meeting the requirements of Subd. 5.H must be upgraded, at a minimum, at any time a permit or variance of any type is required for any improvement on, or use of, the property. For the purposes of this provision, a sewage treatment system shall not be considered nonconforming if the only deficiency is the sewage treatment system's improper setback from the ordinary high water level.
  - 2. The governing body of the City of Norwood Young America has by formal resolution notified the commissioner of its program to identify nonconforming sewage treatment systems. The City of Norwood Young America will require upgrading or replacement of any nonconforming system identified by this program within a reasonable period of time which will not exceed 2-years. Sewage systems installed according to all applicable local shoreland management standards adopted under Minnesota Statutes, section 103F, in effect at the time of installation may be considered as conforming unless they are determined to be failing, except that systems using cesspools, leaching pits, seepage pits, or other deep disposal methods, or systems with less soil treatment area separation above groundwater than required by the Minnesota Pollution Control Agency's Chapter 7080 for design of on-site sewage treatment systems, shall be considered nonconforming.

#### **Subd. 7 Subdivision/Platting Provisions.**

- A. Land suitability. Each lot created through subdivision, including planned unit developments authorized under Subd. 8, must be suitable in its natural state for the proposed use with minimal alteration. Suitability analysis by the City Council shall consider susceptibility to flooding, existence of wetlands, soil and rock formations with severe limitations for development, severe erosion potential, steep topography, inadequate water supply or sewage treatment capabilities, near-shore aquatic conditions unsuitable for water-based recreation, important fish and wildlife habitat, presence of significant historic sites, or any other feature of the natural land likely to be harmful to the health, safety, or welfare of future residents of the proposed subdivision or the City.
- B. Consistency with other controls. Subdivisions must conform to all applicable regulations, including Chapter 11 of the City Code. A subdivision will not be approved where a later variance from one or more standards in official controls would be needed to use the lots for their intended purpose. In areas not served by publicly owned sewer and water systems, a subdivision will not be approved unless domestic water supply is available and a sewage treatment system consistent with Subd. 5.B and Subd. 5.H can be provided for every lot. Each lot shall meet the minimum lot size and dimensional requirements of Subd. 5.A, including at least a minimum contiguous lawn area, that is free of limiting factors sufficient for the construction of two standard soil treatment systems.
- C. Information requirements. Sufficient information must be submitted by the applicant for the community to make a determination of land suitability. The information shall include at least the following:

1. Topographic contours at ten-foot intervals or less from United States Geological Survey maps or more accurate sources, showing limiting site characteristics;
  2. The surface water features required in Minnesota Statutes, section 505.02, subdivision 1, to be shown on plats, obtained from United States Geological Survey quadrangle topographic maps or more accurate sources;
  3. Adequate soils information to determine suitability for building and on-site sewage treatment capabilities for every lot from the most current existing sources or from field investigations such as soil borings, percolation tests, or other methods;
  4. Information regarding adequacy of domestic water supply; extent of anticipated vegetation and topographic alterations; near-shore aquatic conditions, including depths, types of bottom sediments, and aquatic vegetation; and proposed methods for controlling stormwater runoff and erosion, both during and after construction activities;
  5. A line or contour representing the ordinary high water level, the “toe” and the “top” of bluffs, and the minimum building setback distances from the top of the bluff and the lake or stream.
- D. Dedications. When a land or easement dedication is a condition of subdivision approval, the approval must provide easements over natural drainage or ponding areas for management of stormwater and significant wetlands.
- E. Platting. All subdivisions that create five or more lots or parcels that are 2-1/2 acres or less in size shall be processed as a plat in accordance with Minnesota Statutes, Chapter 505. No permit for construction of buildings or sewage treatment systems shall be issued for lots created after these official controls were enacted unless the lot was approved as part of a formal subdivision.
- F. Controlled Access or Recreational Lots. Lots intended as controlled accesses to public waters or for recreational use areas for use by nonriparian lots within a subdivision must meet or exceed the sizing criteria in Subd. 5.A.4.C

### **Subd. 8 Planned Unit Developments (PUD's)**

- A. Intent. Developments with modification of density and design standards as set forth in Subsection 1240.01 Subd. 8 may be allowed as exceptions for Planned Unit Developments (PUD) which are proposed and approved in accordance with Subsection 1240.02 of this Chapter, and with the requirements in Subsection 1240.01, Subd. 8.
- B. Coordination with Other Zoning Regulations. P.U.D.s shall comply with general and specific P.U.D. standards as listed in Subsection 1240.02 Subd. 6-7.
- C. Application for a PUD. Notice of hearing for the required PUD sent to the Commissioner of the Department of Natural Resources as prescribed by Subsection 1240.01 Subd. 8 shall include a copy of the Preliminary PUD Plan, Plat, and other pertinent materials submitted with the application to permit review with respect to that portion of the Planned Unit Development, which is within the Shoreland Management Overlay District.
- D. Site “Suitable Area” Evaluation. Proposed new or expansions to existing planned unit developments must be evaluated using the following procedures and standards to determine the suitable area for the dwelling unit/dwelling site density evaluation in Subsection 1240.01 Subd. 8.E.
  1. The project parcel must be divided into tiers by locating one or more lines approximately parallel to a line that identifies the ordinary high water level at the following intervals, proceeding landward:  
Shoreland Tier Dimensions

	Unsewered (feet)	Sewered (feet)
Natural environment lakes	400	320
All river classes	300	300

2. The suitable area within each tier is next calculated by excluding from the tier area all wetlands, bluffs, or land below the ordinary high water level of public waters. This suitable area and the proposed project are then subjected to the residential planned unit development density evaluation steps to arrive at an allowable number of dwelling units or sites.

E. Residential PUD Density Evaluation. The procedures for determining the “base” density of a PUD and density increase multipliers are as follows. Allowable densities may be transferred from any tier to any other tier further from the waterbody, but must not be transferred to any other tier closer.

1. Residential PUD “Base” Density Evaluation. The suitable area within each tier is divided by the single residential lot size standard for lakes or, for rivers, the single residential lot width standard times the tier depth. Proposed locations and numbers of dwelling units or sites for the residential planned unit developments are then compared with the tier, density, and suitability analyses herein and the design criteria in Subsection 1240.01, Subd. 8.F.

2. Density Increase Multipliers:

a. Increases to the dwelling unit or dwelling site base densities previously determined are allowable if the dimensional standards in Subsection 1240.01, Subd. 5 are met or exceeded and the design criteria in Subsection 1240.01, Subd. 8.F are satisfied. The allowable density increases in Item 2 below will only be allowed if structure setbacks from the ordinary high water level are increased to at least 50 percent greater than the minimum setback, or the impact on the waterbody is reduced an equivalent amount through vegetative management, topography, or additional means acceptable to the local unit of government and the setback is at least 25 percent greater than the minimum setback.

b. Allowable Dwelling Unit or Dwelling Site Density Increases for Residential Planned Unit Developments:

Density evaluation tiers	Maximum density increase within each tier (percent)
First	50
Second	100
Third	200
Fourth	200
Fifth	200

F. Maintenance and Design Criteria

1. Maintenance and Administration Requirements.

a. Before final approval of a planned unit development, adequate provisions must be developed for preservation and maintenance in perpetuity of open spaces and for the continued existence and functioning of the development.

b. Open Space Preservation. Deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means must be provided to ensure long-term preservation and maintenance of open space. The instruments must include all of the following protections:

- i. vegetation and topographic alterations other than routine maintenance prohibited;
    - ii. construction of additional buildings or storage of vehicles and other materials prohibited; and
    - iii. uncontrolled beaching of watercraft prohibited.
  - c. Development organization and functioning. Unless an equally effective alternative community framework is established, when applicable, all residential planned unit developments must use an owners association with the following features:
    - i. membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers;
    - ii. each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites;
    - iii. assessments must be adjustable to accommodate changing conditions; and
    - iv. the association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- 2. Open Space Requirements. Planned unit developments must contain open space meeting all of the following criteria:
  - a. At least 50 percent of the total project area must be preserved as open space;
  - b. Dwelling units or sites, road rights-of-way, or land covered by road surfaces, parking areas, or structures, except water-oriented accessory structures or facilities, are developed areas and shall not be included in the computation of minimum open space;
  - c. Open space must include areas with physical characteristics unsuitable for development in their natural state, and areas containing significant historic sites or unplatted cemeteries;
  - d. Open space may include outdoor recreational facilities for use by owners of dwelling units or sites, by guests staying in commercial dwelling units or sites, and by the general public;
  - e. Open space may include subsurface sewage treatment systems if the use of the space is restricted to avoid adverse impacts on the systems;
  - f. Open space may contain water-oriented accessory structures or facilities;
  - g. The appearance of open space areas, including topography, vegetation, and allowable uses, must be preserved by use of restrictive deed covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means; and
  - h. The shore impact zone, based on normal structure setbacks, must be included as open space. For residential PUD's, at least 50 percent of the shore impact zone area of existing developments or at least 70 percent of the shore impact zone area of new developments must be preserved in its natural or existing state.
- 3. Erosion Control and Stormwater Management. Erosion control and stormwater management plans must be developed and the PUD must:
  - a. Be designed, and the construction managed, to minimize the likelihood of serious erosion occurring either during or after construction. This must be accomplished by limiting the amount and length of time of bare ground exposure. Temporary ground covers, sediment entrapment facilities, vegetated buffer strips, or other appropriate techniques must be used to minimize erosion impacts on surface water features. Erosion control plans approved by a soil and water conservation district may be required if project size and site physical characteristics warrant; and



- b. Be designed and constructed to effectively manage reasonably expected quantities and qualities of stormwater runoff. Impervious surface coverage within any tier must not exceed 25 percent of the tier area.
- 4. Centralization and Design of Facilities. Centralization and design of facilities and structures must be done according to the following standards:
  - a. Planned unit developments must be connected to publicly owned water supply and sewer systems, if available. On-site water supply and sewage treatment systems must be centralized and designed and installed to meet or exceed applicable standards or rules of the Minnesota Department of Health and Subsections 1240.01 Subd. 5. B. and H. On-site sewage treatment systems must be located on the most suitable areas of the development, and sufficient lawn area free of limiting factors must be provided for a replacement soil treatment system for each sewage system;
  - b. Dwelling units or sites must be clustered into one or more groups and located on suitable areas of the development. They must be designed and located to meet or exceed the following dimensional standards for the relevant shoreland classification: setback from the ordinary high water level, elevation above the surface water features, and maximum height. Setbacks from the ordinary high water level must be increased in accordance with Subsection 1240.01, Subd. 8.E.2. for developments with density increases;
  - c. Shore recreation facilities, including but not limited to swimming areas, docks, and watercraft mooring areas and launching ramps, must be centralized and located in areas suitable for them. Evaluation of suitability must include consideration of land slope, water depth, vegetation, soils, depth to groundwater and bedrock, or other relevant factors. The number of spaces provided for continuous beaching, mooring, or docking of watercraft must not exceed one for each allowable dwelling unit or site in the first tier (notwithstanding existing mooring sites in an existing commercially used harbor). Launching ramp facilities, including a small dock for loading and unloading equipment, may be provided for use by occupants of dwelling units or sites located in other tiers;
  - d. structures, parking areas, and other facilities must be treated to reduce visibility as viewed from public waters and adjacent shorelands by vegetation, topography, increased setbacks, color, or other means acceptable to the local unit of government, assuming summer, leaf-on conditions. Vegetative and topographic screening must be preserved, if existing, or may be required to be provided;
  - e. accessory structures and facilities, except water oriented accessory structures, must meet the required principal structure setback and must be centralized; and
  - f. water-oriented accessory structures and facilities may be allowed if they meet or exceed design standards contained in Subsection 1240.01, Subd. 5.B. and are centralized.

#### **1240.02 Planned Unit Development Overlay District.**

**Subd. 1 Purpose.** The purpose of this Section is to provide for the public health, safety, and general welfare, of the community and its people by providing for flexibility in site design requirements when exceptional quality site development and/or subdivision designs result in planned developments that:

- A. Preserve environmentally significant and/or environmentally sensitive areas; and/or

- B. Provide exceptional or unique open space amenities; and/or
- C. Achieve land use, housing, Legacy Greenway, and other goals set forth in plans approved by the City Council which may from time to time be amended; and/or
- D. Incorporate creative design in the layout of buildings, open space and use of land through such site design approaches/techniques as conservation design, open space design, traditional neighborhood design, and/or low impact development.

In addition, this Section must result in planned unit developments that:

- A. Are compatible with surrounding land uses and neighborhood character; and,
- B. Conform to the goals and policies of the Comprehensive Plan, the Legacy Greenway Concept Plan, trail/sidewalk plans, transportation plans, sub-area plans; and,
- C. Support compact and orderly growth of urban development and redevelopment; and,
- D. Promote quality development; and,
- E. Provide efficiency in the layout and provision of roads, utilities, land use, and other infrastructure.

**Subd. 2 Intent.** This Section is intended to promote an efficient arrangement of land uses, design innovation and variety, improved amenities, orderly development, and compatibility with adjacent and nearby development. This Section is also intended to facilitate flexibility in the development and use of land and other resources in compliance with the City's Comprehensive Plan, the Legacy Greenway Concept Plan, and other planning instruments approved by the City. For those reasons, the PUD Overlay District provides a way to regulate the development and use of land to the same degree as do other districts, but to vary from the uniform requirements of other districts in order to respond to development requests resulting in a demonstrated public benefit and/or to employ alternative design/development techniques such as conservation design, open space design, traditional neighborhood design, and/or low impact development.

It is the intent of the City Council through the regulations of this Section that Planned Unit Developments be allowed only upon a determination by the City Council that the criteria in this Section are or will be met.

Throughout this Section, "PUD" shall mean the same as "planned unit development."

**Subd. 3 Definitions.** The following definitions shall apply to this Section 1240.04- Planned Unit Development Overlay District:

- A. *Density* shall mean the number of dwelling units (residential) based on minimum lot size of the underlying zoning district classification as a portion of the entire developable site area, or building square footage (non-residential) as a portion of the entire developable site area, based on the minimum lot size and structural coverage limits of the underlying zoning district classification.
- B. *Developable Area* shall mean "*Project Area, Net*".
- C. *Intensity* shall mean the amount of building coverage as a percentage of the lot size.
- D. *Planned Unit Development (PUD)* shall refer to a site and/or subdivision development of one or more lots, tracts, or parcels of land to be developed as a single entity. The plan for the PUD may propose density or intensity transfers, density or intensity increases, mixing of land uses, or any combination thereof. Under a PUD, the City Council may allow departure

from strict conformance with lot size, bulk, type of dwelling or building, density, intensity, lot coverage, parking, required common open space, or other standards of the underlying zoning district requirements that are otherwise applicable to the area in which it is located or certain design standards such as street width and curbing contained in the Subdivision Ordinance.

- E. *Project Area, Gross* shall mean the total area proposed to be developed as a PUD.
- F. *Project Area, Net* shall mean the remaining project area after subtracting from the gross project area all stream areas, public waters, wetlands (National Wetland Inventory), preserved floodplains, steep slopes, all floodways, significant/sensitive resources included in the City of Norwood Young America Comprehensive Plan, and other natural resource areas in which development is prohibited under the City's Zoning Ordinance or Subdivision Ordinance.

**Subd. 4 Demonstrated Public Benefit Required.** Planned Unit Developments shall demonstrate at least one of the following benefits to the public. The Applicant shall submit factual evidence to support an intended public benefit(s) will result from the planned development. The Applicant bears the burden of proving a public benefit(s) exist, the City Council shall make a determination a public benefit exists.

- A. The preservation in perpetuity of environmentally significant and/or environmentally sensitive areas including surface waters, ravines, shorelands, public water basins, wetlands (National Wetland Inventory), prime agricultural soils, hydric soil, pre-settlement vegetation, drainageways, and resources identified within the Carver County Biological Survey, the Norwood Young America Comprehensive Plan, or a Natural Resource Inventory. Preservation of such areas will require the establishment and implementation of best management practices to protect and enhance said environmentally significant and/or sensitive areas. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public. The open space may or may not be required to provide access to the public as determined by the City Council and dictated by the nature of the amenity being preserved or protected.
- B. The preservation in perpetuity or establishment and preservation in perpetuity of exceptional quality open space amenities such as those which provide: for continuity and/or connectivity of the Legacy Greenway Corridor, for the establishment or protection of scenic views/visual amenities; for the establishment or linkage of habitat areas, wildlife corridors, or drainage facilities; for linkage to existing or planned park or linear pathway facilities; and/or for preservation, protection and enhancement of significant mature stands of vegetation. An open space preservation plan and a maintenance plan shall be established and implemented. Preservation in perpetuity may be achieved through a permanent conservation easement and/or dedication to the public. The open space may or may not be required to provide access to the public as determined by the City Council and dictated by the nature of the amenity being preserved or protected.
- C. The creation of a master planned community within a development featuring a variety of housing types (i.e. single family, attached; single family, detached; and/or apartments) and/or values (i.e. affordable, market rate, luxury rate) combined with: above average open space and/or construction of a unique or scenic recreational facility (e.g. golf course, equestrian facility, artificially constructed lake [but not a required stormwater facility] and similar facilities) and/or commercial uses in transitional zoning areas such as those providing a

transition from a high intensity use like commercial or industrial to a low intensity use such as single family residential.

- D. The preservation of buildings that are architecturally or historically significant or significantly contribute to the character of the City and/or retaining of scenic vistas or viewsheds that contribute to the character of the community. Such determination as 'significant' or 'contributing to the character of the City' shall be defined by a professional historian, a representative from the State Historic Preservation Office, a representative from MnDOT Cultural Resources Department, or by listing on the National Register of Historic Places.
- E. The elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation. A finding of 'blighted area' shall be made by the City Council with Federal Small Cities Development Program guidelines used as a reference. A finding of 'deteriorated structure' shall be made by the City Building Official. A finding of an incompatible use shall be made by the Community Development Director. A minimum of fifty (50) percent of the PUD must meet "blighted area" or "deteriorated structure" standards.
- F. The creation of a master planned community in conjunction with enhanced amenities such as the construction of a unique or scenic recreational facility or amenity such as a golf course, an equestrian facility, an artificially constructed lake (but not a required stormwater facility) and similar facilities. Such amenities shall be held in perpetuity. Preservation in perpetuity may be achieved through a permanent conservation easement, and/or dedication to the public, and/or other means approved by the City Council.
- G. The incorporation of low impact design/development strategies and best management practices that mimic a site's natural hydrology by using techniques that infiltrate, filter, store, evaporate, and detain runoff close to its source resulting in a hydrologically functional landscape.

#### **Subd. 5 Planned Unit Development as an Overlay District.**

- A. Planned unit developments shall be superimposed over existing zoning classifications.
- B. Allowable uses within the PUD shall be those uses allowed in the underlying zoning classification or classifications.
- C. Maximum density standards of the underlying zoning district(s) apply, except that:
  - 1. Allowable net densities may be transferred from one area of the development and/or subdivision and clustered in another area of the same development and/or subdivision meaning that lots within the PUD may vary in size but the total of lots may not exceed those allowed as calculated under this Section using the underlying zoning classification as a base.
  - 2. A density increase may be allowed provided:
    - a. A public benefit resulting in
      - i. The preservation of environmentally significant or sensitive areas (under Section 1240.02.04, Subd. 1A); or
      - ii. The preservation or establishment of exceptional quality open space amenities (under Section 1240.02.04, Subd. 1B); or,
      - iii. The creation of a master planned community (under Section 1240.02.04, Subd. 1C or Section 1240.02.04, Subd. 1F ).

- b. Is combined with a public benefit under:
      - i. The preservation of buildings that are architecturally or historically significant or scenic views (under Section 1240.02.04, Subd. 1D); or,
      - ii. The elimination of blighted areas, deteriorated structures, or incompatible uses within a previously built up urban area (under Section 1240.02.04, Subd. 1E); or,
      - iii. The incorporation of low impact design/development strategies and best management practices (under Section 1240.02.04, Subd. 1G).
    - c. Such density increases shall not be greater 133% of that allowed by the underlying zoning district(s).
  3. The Community Development Director shall calculate the number of units (residential portions) or square footage (non-residential portions) allowed within a PUD by calculating the net project area, and then:
    - a. For residential portion(s) of the PUD: The Community Development Director shall calculate the number of units available by dividing the net project area by the smallest lot size required by the underlying zoning district or districts that that apply to the project.
    - b. For non-residential portion(s) of the PUD: The Community Development Director shall calculate the maximum square footage of building coverage allowed based on the smallest lot size allowed by the underlying zoning district and the maximum allowable lot structural coverage.

#### **Subd. 6 Allowable Types of Planned Unit Development and Where Permitted**

##### **A. Required Conditions for each type and where permitted:**

<b>Type of PUD</b>	<b>Required Conditions</b>	<b>Standards Considered</b>	<b>Where Permitted</b>
PUD, Residential Cluster	<p>Residential development site design plan and/or plat which proposes a transfer and/or increase of allowable net density from one portion of the PUD to another as a means of:</p> <ul style="list-style-type: none"> <li>Preserving environmentally significant or sensitive areas,</li> <li>Preserving architectural or historically important existing structures under</li> <li>Elimination of blighted areas, deteriorated structures or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation</li> </ul>	<p>As a result of approved density transfers or increases:</p> <ul style="list-style-type: none"> <li>Requirements of the underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased.</li> <li>Setbacks may be reduced as per Subd. 7.D. of this Section.</li> <li>In addition, the width requirements for local streets and right of way required under Chapter 1130 of the City Code (Subdivision/Platting Standards Design Standards as amended) may be reduced under Subd. 7.D. of this Section.</li> </ul>	<p>Subject to verification of a public benefit and approval of the use of PUD by the City Council, Residential Clusters are permitted in areas within the Comprehensive Plan Urban Growth Boundary, as may be amended, that coincide with the Legacy Greenway Conceptual Area provided necessary greenway continuity, establishment, and/or connectivity are provided and, that, if subdivided, is not determined to be 'premature' under Chapter 11 of the City</p>

		<ul style="list-style-type: none"> <li>In the event low impact development standards are proposed, the City may allow alternatives to traditional roll-over or high back curbing as required under Chapter 1150 of the City Code (Subdivision/Platting Standards, Required Improvements as amended).</li> </ul>	Code.
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Type of PUD	Required Conditions	Standards Considered	Where Permitted
PUD, Open Space	Residential development site design plan and/or plat proposing a transfer and/or increase of allowable net density from one portion of the PUD to another as a means of preserving in perpetuity or establishing and preserving in perpetuity open space amenities.	<p>As a result of approved density transfers or increases:</p> <ul style="list-style-type: none"> <li>Requirements of the underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased.</li> <li>Setbacks may be reduced as per Subd. 7.D. of this Section.</li> <li>In addition, the width requirements for local streets and right of way required under Chapter 1130 of the City Code (Subdivision/Platting Standards Design Standards as amended) may be reduced under Subd. 7.D. of this Section.</li> <li>In the event low impact development standards are proposed, the City may allow alternatives to traditional roll-over or high back curbing as required under Chapter 1150 of the City Code (Subdivision/Platting Standards, Required Improvements as amended).</li> </ul>	<p>Subject to verification of a public benefit and approval of the use of PUD by the City Council, Open Space PUDs are allowed within all residential zoning classifications providing:</p> <ul style="list-style-type: none"> <li>The entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful open space and development opportunities; and,</li> <li>The subject area is within the Comprehensive Plan Urban Growth Boundary, as may be amended, that coincides with the Legacy Greenway Conceptual Area and provided said open space creates necessary greenway continuity, establishment, and/or connectivity; and,</li> <li>That, if subdivided, is not determined to be 'premature' under</li> </ul>

			Chapter 11 of the City Code.
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Type of PUD	Required Conditions	Standards Considered	Where Permitted
PUD, Residential Amenity	A primarily residential development site design plan and/or plat proposing a transfer and/or an increase of allowable net density from one portion of the PUD to another as a means of providing for a unique scenic or recreational amenity or facility.	<p>As a result of approved density transfers or increases:</p> <ul style="list-style-type: none"> <li>Requirements of the underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased.</li> <li>Setbacks may be reduced as per Subd. 7.D. of this Section.</li> <li>In addition, the width requirements for local streets and right of way required under Chapter 1130 of the City Code (Subdivision/Platting Standards Design Standards as amended) may be reduced under Subd. 7.D. of this Section.</li> <li>In the event low impact development standards are proposed, the City may allow alternatives to traditional roll-over or high back curbing as required under Chapter 1150 of the City Code (Subdivision/Platting Standards, Required Improvements as amended).</li> </ul>	<p>Subject to verification of a public benefit and approval of the use of PUD by the City Council, Residential Amenity PUDs are allowed within all residential zoning classifications providing:</p> <ul style="list-style-type: none"> <li>The entire project area is at least twenty (20) acres in size. The size limitation is intended to retain adequate useful open space and development opportunities; and,</li> <li>The subject area is within the Comprehensive Plan Urban Growth Boundary, as may be amended, with consideration given to the Legacy Greenway Conceptual Area and creation of necessary greenway continuity, establishment, and/or connectivity; and,</li> <li>That, if subdivided, is not determined to be 'premature' under Chapter 11 of the City Code.</li> </ul>

Type of PUD	Required Conditions	Standards Considered	Where Permitted
PUD, Residential Mixed Use	A primarily residential development site design plan and/or plat proposing a transfer of allowable net density from one	<p>As a result of approved density transfers or increases:</p> <ul style="list-style-type: none"> <li>Requirements of the</li> </ul>	Subject to verification of a public benefit and approval of the use of PUD by the City

	portion of the PUD to another and/or an increase in density as a means of providing for mixed housing types and values combined with superior site amenities.	<p>underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased.</p> <ul style="list-style-type: none"> <li>• Setbacks may be reduced as per Subd. 7.D. of this Section.</li> <li>• In addition, the width requirements for local streets and right of way required under Chapter 1130 of the City Code (Subdivision/Platting Standards Design Standards as amended) may be reduced under Subd. 7.D. of this Section.</li> <li>• In the event low impact development standards are proposed, the City may allow alternatives to traditional roll-over or high back curbing as required under Chapter 1150 of the City Code (Subdivision/Platting Standards, Required Improvements as amended).</li> </ul>	<p>Council, Residential Mixed Use PUDs are allowed within the R-2 Medium Density Single Family Residential, the R-3 Medium Density Mixed Residential, the R-4 Multiple Family Residential, and/or the RC-1 Residential Neighborhood Commercial Districts, providing:</p> <ul style="list-style-type: none"> <li>• The entire project area is at least twelve (12) acres in size. The size limitation is intended to retain adequate space for the creation of superior amenities and a mix of residential development; and,</li> <li>• The majority of the project area is envisioned as a transitional area from higher intensity uses such as commercial or industrial to lower intensity uses such as single family residential; and,</li> <li>• That, if subdivided, is not determined to be 'premature' under Chapter 11 of the City Code.</li> </ul>
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Type of PUD	Required Conditions	Standards Considered	Where Permitted
PUD, Traditional Neighborhood Design	A primarily residential development site design plan and/or plat with or without a subordinate commercial component that includes a transfer of allowable net density from one portion of the PUD to another or	<p>As a result of approved density transfers or increases:</p> <ul style="list-style-type: none"> <li>• Requirements of the underlying zoning district related to: lot area, lot size, lot</li> </ul>	Subject to verification of a public benefit and approval of the use of PUD by the City Council, Traditional Neighborhood Design PUDs are allowed within



	<p>an increase in density as a means of creating a traditional neighborhood reminiscent of neighborhoods within the original townsite which often feature buildings forward on lots, rear or alley loading garages, front porches, front sidewalks/walks, smaller lot sizes, reduced setbacks and lots which frame streets and/or public 'greens'.</p> <p>Traditional neighborhood design concepts may include a combination of commercial and residential uses on separate parcels within one neighborhood design.</p>	<p>coverage, lot width, and lot depth may be decreased.</p> <ul style="list-style-type: none"> <li>• Setbacks may be reduced as per Subd. 7.D. of this Section.</li> <li>• In addition, the width requirements for local streets and right of way required under Chapter 1130 of the City Code (Subdivision/Platting Standards Design Standards as amended) may be reduced under Subd. 7.D. of this Section.</li> </ul>	<p>the R-2 Medium Density Single Family Residential District, the R-3 Medium Density Mixed Residential District, the R-4 Multiple Family Residential District, the RC-1 Residential Neighborhood Commercial District, the C-3 Downtown District, or any combination thereof, providing:</p> <ul style="list-style-type: none"> <li>• The development consists of separate parcels within a master planned area which is intended to eliminate blight, deteriorated structures, or incompatible uses within a previously built-up urban area through redevelopment or rehabilitation; and,</li> <li>• That, if subdivided, is not determined to be 'premature' under Chapter 11 of the City Code.</li> </ul>
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Type of PUD	Required Conditions	Standards Considered	Where Permitted
PUD, Non-Residential Single Use	A non-residential single use (commercial, industrial, or institutional) development site design plan and/or plat that includes a transfer of allowable net density from one portion of the PUD to another provided at least one public benefit is demonstrated. Density increases are not allowed.	<p>As a result of approved density transfers:</p> <ul style="list-style-type: none"> <li>• Requirements of the underlying zoning district related to: lot area, lot size, lot coverage, lot width, and lot depth may be decreased.</li> <li>• Setbacks may be reduced as per Subd. 7.D. of this Section.</li> <li>• In addition, the width requirements for local streets</li> </ul>	<p>Subject to verification of a public benefit and approval of the use of PUD by the City Council, Non-Residential Single Use PUDs are allowed within the any commercial, industrial, or public/institutional district, providing:</p> <ul style="list-style-type: none"> <li>• The entire project area consists of a commercial, an</li> </ul>

		<p>and right of way required under Chapter 1130 of the City Code (Subdivision/Platting Standards Design Standards as amended) may be reduced under Subd. 7.D. of this Section.</p> <ul style="list-style-type: none"> <li>In the event low impact development standards are proposed, the City may allow alternatives to traditional roll-over or high back curbing as required under Chapter 1150 of the City Code (Subdivision/Platting Standards, Required Improvements as amended).</li> </ul>	<p>industrial, or a public/institutional use and not a combination thereof; and,</p> <ul style="list-style-type: none"> <li>That, if subdivided, is not determined to be 'premature' under Chapter 11 of the City Code.</li> </ul>
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- B. A PUD may be comprised of one or more of the above types, subject to compliance with allowable uses within the underlying zone(s) in which the PUD is proposed to be located, the standards contained in Subd. 6.A. above, and all other requirements of this Section.
- C. Prohibited Planned Unit Developments. Any type not identified by the City Council as reasonably similar to those expressly allowed are prohibited from qualifying for PUD overlay status and must conform to the standards of the City of Norwood Young America Zoning and Subdivision Ordinances.

#### **Subd. 7 General Requirements for all PUDs.**

- A. Ownership. An application for PUD approval must be filed by the landowner or jointly by all landowners of the property included in a project. The application and all submissions must be directed to the development of the property as a unified whole. In the case of multiple owners, the approved final plan shall be binding on all owners.
- B. The design of a PUD shall take into account the relationship of the site to the surrounding areas. The perimeter of the PUD shall be so designed as to minimize the impact of the PUD on adjacent properties and, conversely, to minimize the impact of adjacent land use and development characteristics on the PUD.
- C. Comprehensive Plan Consistency. The proposed PUD shall be consistent with the City's Comprehensive Land Use Plan.
- D. The PUD plan shall contain provisions to assure the continued operation and maintenance of such open space, common areas, amenities, preservation areas, and service facilities to a pre-determined reasonable standard. Common areas, open space, amenities, and/or preservation areas shall be held in perpetuity through:
1. Dedication to the public, where a community-wide use is anticipated and the Council agrees to accept the dedication;
  2. Landlord control, where only the use by tenants is anticipated;
  3. Placement in a conservation or similar easement; or a
  4. Property Owners Association, provided all of the following conditions are met:

- a. Prior to the use or occupancy or sale or the execution of contracts for sale or rental of an individual building unit, parcel, tracts, townhouse, apartment or common area, a declaration of covenants, conditions and restrictions shall be filed with the City.
  - b. The declaration of covenants, conditions and restrictions or equivalent documents shall specify that deeds, leases or documents of conveyance affecting buildings, units, parcels, tracts, townhouses or apartments shall subject said properties to the terms of said declaration.
  - c. The declaration of covenants, conditions and restrictions shall provide that an owners association or corporation shall be formed and that all owners shall be members of said association or corporation which shall maintain all properties and common areas in good repair and which shall assess individual property owners proportionate shares of joint or common costs. This declaration shall be subject to the review and approval of the City Attorney. The intent of this requirement is to protect the property values of the individual owner through establishing private control.
  - d. The declaration shall additionally, among other things, provide that in the event the association or corporation fails to maintain properties in accordance with the applicable rules and regulations of the City or fails to pay taxes or assessments on properties as they become due and in the event the City incurs any expenses in enforcing its rules and regulations, with said expenses are not immediately reimbursed by the association or corporation, then the City shall have the right to assess each property its prorata share of said expenses. Such assessments, together with interest thereon and costs of collection, shall be a lien on each property against which each such assessment is made.
  - e. Membership must be mandatory for each owner and any successive buyer.
  - f. The common area, open space, amenity, and/or preserved area restrictions must be permanent and not for a given period of years.
  - g. The Association must be responsible for liability insurance, local taxes, and the maintenance of the open space facilities to be deeded to it.
  - h. Property owners must pay their prorata share of the cost of the Association by means of an assessment to be levied by the Association which meets the requirements for becoming a lien on the property in accordance with Minnesota Statutes.
  - i. The Association must be able to adjust the assessment to meet changed needs.
  - j. The by-laws and rules of the Association and all covenants and restrictions to be recorded must be approved by the Council prior to the approval of the final PUD plan.
5. Whenever possible, common open space shall be linked to the open space areas of adjoining developments. Common open space shall be of such size, shape, character, and locations as to be useable for its proposed purpose.
6. To prevent the appearance of excessive structural bulk, a single structure shall not have a single exterior wall longer than forty (40) feet without an offset in the exterior wall height or depth. The employment of windows and doors may be substituted for offsets in wall height or depth if approved by the City Administrator and provided such windows/doors are designed in a manner which is substantially consistent with the windows/door styles employed in the building front (entry).
7. Building Height. Building height shall be governed by the requirements of the underlying zone district classification.

8. All permitted, permitted accessory and or conditional uses contained in the underlying zoning district shall be allowed uses in PUD overlay district. Uses not listed as permitted or conditional in the underlying zoning district(s) shall be prohibited unless the City Council finds the use is complimentary to the functionality of the development and the other uses found therein.
9. Off-street parking and loading space shall be provided in each PUD in the same ratios for types of buildings and uses as required in the underlying zoning district. However, the City may reduce the number of parking spaces required provided PUD applicants submit information reasonably demonstrating a reduced need for parking facilities, including but not limited to, senior housing complex, PUD's featuring joint parking facilities, submittal of a parking study, and, proximity to and availability of bus service coupled with transit-friendly design.
10. The streets connecting with any planned unit development must be of sufficient size and character to accommodate the traffic to be produced by the project. The streets connecting with any PUD shall not significantly alter the character of existing residential neighborhoods. Evaluation of the proposal pursuant to this section shall include consideration of:
  - a. The increase in traffic which will be generated by the development;
  - b. The present width and condition of streets to be affected;
  - c. Presence or absence of improved sidewalks;
  - d. Potential impacts upon the value of surrounding properties;
  - e. Anticipated effect upon availability of parking;
  - f. Existence of a particular conflict between vehicular and pedestrian traffic; and,
  - g. The street type designated in the comprehensive plan.
11. The required right-of-way width for streets with a functional classification of 'local' may be reduced up to 30% provided the proposed width is adequate to accommodate pavement width and other improvements required within the right-of-way. In exchange relief in required paved portions of streets, parking may be restricted on one or both sides streets with reduced right-of-way widths. The minimum paved width available for vehicular travel shall not be less than 24 feet so as to provide adequate clearance for emergency vehicles.
12. Utilities. In any PUD, all utilities, including telephone, electricity, gas, and telecable shall be installed underground.
13. Setbacks.
  - a. The front, side and rear yard restrictions of the periphery of the PUD site at a minimum shall be the same as imposed in the respective districts as illustrated in the Table below.
  - b. No building shall be located less than twenty (20') feet from the front property line along streets within the PUD.
  - c. No building within a PUD shall be located less than five (5) feet from the side property line, except that:
    - i. Attached units may share lot lines.
    - ii. Structures with an underlying zoning of C-3 may share lot lines.

- iii. Structures exceeding two (2) stories or thirty (30) feet in height, whichever is less, shall be setback an additional one-half (1/2) foot for each one (1) foot of building height.
- d. No building within a PUD shall be located less than ten (10) feet from the rear property line.
- e. No building within the project shall be nearer to another building than ten (10) feet.

**Subd. 8 Subdivision Requirements.**

- A. The approval of a subdivision shall be required of all projects which involve or contemplate the platting or replatting of land.
- B. Property currently described by metes and bounds shall be platted if contemplated for development as a PUD.
- C. The procedures and data requirements set forth in the Subdivision Ordinance shall be followed concurrently with the PUD standards. The Community Development Director may waive requirements determined to be redundant.
- D. Required data, parkland/fee in-lieu of parkland dedication, design standards and required improvements shall be the same as per a conventional subdivision and as set forth within the City's Subdivision Ordinance unless changes to design standards are permitted under this Section.
- E. Consideration of applicability of parkland dedication standards, shall take into consideration the Developer's contribution in the form of a public benefit(s) and shall be reduced accordingly.

**Subd. 9 Phased Development.**

- A. Development of a PUD may be phased, in which case each complete phase may be processed separately through both preliminary development plan review and final development plan review, subject to the following.
  - 1. The Developer shall submit a map illustrating all property owned or controlled by the Developer which is contiguous to the development site or which is within the area determined by the City to be relevant for comprehensive planning and environmental assessment purposes.
  - 2. A map with a conceptual plan of said properties' eventual development through all potential phases shall be submitted with the application for the first phase. The conceptual plan shall conform to the purposes of this chapter and shall be used by the city to review all phases of the development. All phases of the development shall conform to the conceptual plan, all conditions of approval, and applicable regulations
- B. A Master PUD and/or Subdivision Agreement shall be required for all phased projects. The Master PUD and/or Subdivision Agreement shall be in addition to Developer or Development Agreements required for individual phases.

**Subd. 10 PUD Development Process: Informational Meeting and Concept Plan Required; Preliminary and Final Plan Required.**

- A. Prior to contemplating any development, including conceiving or drafting conceptual plans, the applicant of the proposed PUD shall arrange for and attend an informational meeting with City staff. At such conference, the City Administrator shall describe City planning documents, ordinances, and policies applicable to the subject parcel(s). The primary purpose of the meeting shall be to provide the applicant with an opportunity to gain an understanding of City expectations concerning the subject parcel and the potential flexibility in design and development standards under a PUD versus conventional development. The pre-application meeting is specifically required prior to conceiving or drafting conceptual plans so as to provide guidance as to City planning documents, ordinances, and policies relating to specific parcel(s) prior to the Developer incurring substantial expense in the preparation of plans, surveys, and other data.
- B. Following the pre-application meeting but prior to submitting a preliminary plan/plat application, the Developer shall submit to the City a general concept plan. The general concept plan shall be reviewed by the Community Development Director, the Planning Commission, and the City Council. The general concept plan provides an opportunity for the applicant to submit a plan to the City showing their basic intent and the general nature of the entire development without incurring substantial cost and after being informed of City plans, ordinances, and policies relating to the subject parcel(s) at the pre-application meeting. The following elements of the proposed general concept plan represent the immediate significant elements which the City shall review and for which a decision shall be rendered regarding the suitability of a PUD for the subject parcel(s):
  - 1. Public benefit contemplated.
  - 2. Type of PUD contemplated.
  - 3. Overall maximum PUD density range.
  - 4. General location of major streets and pedestrian walkways.
  - 5. General location and extent of public and/or common open space.
  - 6. Preservation areas.
  - 7. General location of residential and non-residential land uses with approximate intensities of development.
  - 8. Staging and timetable of development.
  - 9. Other special criteria for development.
- C. Preliminary PUD and Final PUD Plan Required.
  - 1. Each PUD shall require preliminary and final plan approval.
  - 2. The preliminary development plan and the final development plan may be combined and together processed through review as a final development plan. In addition the applicant may file a concurrent rezone application in accordance with the procedures set forth in the zoning ordinance.
  - 3. The approved final development plan shall be a binding site plan.

#### **Subd. 11 Preliminary PUDs- Content of Complete Application**

- A. The applicant shall file with the City a preliminary development plan (five large scale copies, one 11 X 17 reproducible copy, and one electronic copy).
- B. The data submittal requirements of the following Table entitled “*Table of Data Submittal Requirements*” for preliminary PUD Plans shall apply.

- C. Text describing conditions or features which cannot be adequately displayed on maps or drawings;
- D. A narrative stating how the proposed development complies with the goals and policies of the Comprehensive Plan;
- E. A narrative stating how the proposed plan impacts adjacent property owners;
- F. A narrative describing in factual terms the public benefit of the proposed PUD;
- G. A narrative describing proposed operation/maintenance of the development including open areas, preservation areas, stormwater features and recreational facilities resulting from the subdivision;
- H. Information normally required within the underlying zoning classification relating to site plan review.
- I. Other information required by the City.

**Subd. 12 Table of Data Submittal Requirements.****TABLE OF DATA SUBMITTAL REQUIREMENTS**

X = required at indicated review stage

<b>Item Description</b>	<b>Preliminary PUD Plan</b>	<b>Preliminary Plat</b>	<b>Final PUD Plan</b>	<b>Final Plat</b>
<b>General Information</b>				
Name, address of owner and applicant	X	X	X	X
Name, license number, address, and signature of persons involved in preparation of the plan/plat (i.e. architect, surveyor, engineer)	X	X	X	X
Title block	X	X	X	X
Key map showing location of tract with reference to surrounding area	X	X	X	X
A listing of required and proposed performance standards including lot area, width, depth, setbacks, lot coverage, and required parking.	X	X	X	X
North arrow and scale	X	X	X	X
Proof taxes are current	X	X	X	X
Appropriate certification blocks		X		X
Existing and proposed legal descriptions		X		X
Acreage of tract	X	X	X	X
Location and dimensions of existing and proposed streets	X	X	X	X
Proposed lot lines and area of lots in square feet	X	X	X	X
Existing or proposed deed restrictions or covenants	X	X	X	X
Existing or proposed easements or land reserved for or dedicated to public use	X	X	X	X
Proposed development staging or timeline	X	X	X	X

**TABLE OF DATA SUBMITTAL REQUIREMENTS**

X = required at indicated review stage

<b>Item Description</b>	<b>Preliminary PUD Plan</b>	<b>Preliminary Plat</b>	<b>Final PUD Plan</b>	<b>Final Plat</b>
for development				
List of required regulatory approvals or permits	X	X	X	X
Requested or obtained variances	X	X	X	X
Requested or obtained rezoning	X	X	X	X
Payment of application fee	X	X	X	X
<b>Setting &amp; Environmental Information</b>				
Property boundaries of all parcels within 200' of the subject parcel	X	X	X	X
Existing streets, water courses, flood plains, wetlands, or other environmentally sensitive areas on and within 200 feet of the subject site	X	X	X	X
Existing rights-of-way and/or easements on and within 200' of the subject site	X	X	X	X
Topographical features of the subject property	X	X	X	X
Existing and proposed contour intervals for subject property and within 200' of the subject site	X	X	X	X
Boundary, limits, nature, and extent of wooded areas, specimen trees, and other significant physical features	X	X	X	X
Existing system of drainage of subject site	X	X	X	X
Drainage area map	X	X	X	X
Drainage calculations	X	X	X	X
Percolation tests	X	X	X	X
<b>Improvements &amp; Construction Information</b>				
Proposed utility infrastructure plans, including sanitary sewer, water, and storm water management	X	X	X	X
Soil erosion and sediment control plans	X	X	X	X
Spot and finished elevations at all property corners, corners of all structures or dwellings, existing or proposed first floor elevations	X	X	X	X
Construction details	X	X	X	X
Road and paving cross sections and profiles	X	X	X	X



**TABLE OF DATA SUBMITTAL REQUIREMENTS**

X = required at indicated review stage

<b>Item Description</b>	<b>Preliminary PUD Plan</b>	<b>Preliminary Plat</b>	<b>Final PUD Plan</b>	<b>Final Plat</b>
Proposed street names	X	X	X	X
New block and lot numbers	X	X	X	X
Lighting plan and details	X	X	X	X
Landscape plan and details	X	X	X	X
Site identification signs, traffic control signs, and directional signs	X	X	X	X
Vehicular and pedestrian circulation patterns	X	X	X	X
Parking plan showing spaces, size and type, aisle width, curb cuts, drives, driveways, and all ingress and egress areas and dimensions	X	X	X	X
Preliminary architectural plan and elevations			X	X

**Subd. 13 Process for Processing Preliminary PUD Plan.**

- A. Following the pre-application meeting and following review of the concept plan, the applicant shall prepare a request for approval of the preliminary plan for the planned unit development, as provided within this Section. The request shall be filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application.
- B. The Community Development Director shall review the application to determine whether or not the application and required material submissions are complete. The preliminary plan shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Community Development Director determines the application is incomplete, the applicant shall be notified of all deficiencies in the application within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.
- C. Upon receipt of the completed application the Community Development Director shall set a public hearing for public review of the preliminary plan by the Planning Commission. Notice of the hearing may be a legal or display advertisement and shall consist of a legal property description, description of the request, and shall be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of the hearing shall be mailed at least ten (10) days prior to the hearing. Requests affecting and located within non-planted areas of the City shall be noticed to all property owners within three hundred fifty (350) feet of the property in question. A copy of the notice and a list of the property owners and addresses to which the notice was sent shall be attested and made a part of the records of the proceeding.
- D. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Section provided a bona fide attempt has been made to comply with the notice requirements of this Section.

- E. The Community Development Director shall prepare technical reports or cause such technical reports to be created. The Community Development Director shall provide general assistance in preparing a recommendation on the action to the Planning Commission. Technical reports may include those from the City Engineer, City Planner, Building Official, City Attorney, and public or private utility departments, and others.
- F. The Community Development Director or designee shall also refer copies of the plan map to the following individuals or bodies:
  - 1. City Engineer;
  - 2. City Attorney;
  - 3. School District;
  - 4. Commissioner of Transportation if the proposed planned unit development includes land abutting an established or proposed trunk highway;
  - 5. County Engineer if the proposed planned unit development includes land abutting a County or County State-Aid Highway;
  - 6. State Commissioner of Natural Resources if the proposed planned unit development adjoins a public body of water;
  - 7. The Watershed District Board, if applicable;
  - 8. Other City department heads as appropriate;
  - 9. Park and Recreation Commission;
  - 10. Planning Commission.
- G. The Park and Recreation Commission, Planning Commission, City Council, and City staff shall have the authority to request additional information from the applicant concerning the proposed planned unit development and its operational factors or impact, or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors or impacts, when said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of this Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- H. The Planning Commission shall conduct a public hearing. The applicant or a designated representative thereof may appear before the Council at the public hearing in order to answer questions concerning the proposed request. Following the closing of the public hearing, the Planning Commission shall take one of the courses of action:
  - 1. Approval of the preliminary plan: as presented – with findings of fact.
  - 2. Conditional approval of the preliminary plan: conditions for approval and findings of fact itemized.
  - 3. Denial of the preliminary plan, with findings of fact.
  - 4. The Planning Commission may, at its discretion and with the approval of the applicant, postpone action on the matter pending further information from the applicant that will help it render a recommendation to the City Council. An extension of the preliminary plan review period (i.e. total of 120 days) may be necessary.
- I. The Community Development Director shall notify the applicant of the Planning Commission's recommended action together with the findings of fact for such recommended action and what requirements, if any, will be necessary for the Planning Commission to recommend approval of the Plan. The recommended approval of the Preliminary Plan does not constitute an acceptance of the planned unit development.

J. Following review by the Planning Commission, the request shall be scheduled for review by the City Council.

K. City Council Action:

1. The reports and recommendations of City staff, Park and Recreation Commission and the Planning Commission shall be entered in and made part of the permanent written record of the City Council meeting.
2. The Council shall approve or disapprove the preliminary plan within one hundred twenty (120) days following delivery of an application completed in compliance with this Ordinance unless an extension of the review period has been agreed upon by the applicant and the City.
3. When the preliminary plan is approved, conditionally approved or denied by the City Council, the findings of fact for such action shall be recorded in the proceedings of the Council and shall be transmitted in writing to the applicant. If the preliminary plan is approved or conditionally approved, such approval shall not constitute acceptance of the final design and layout. Subsequent approval will be required of the engineering proposals and other features and requirements as specified by this Ordinance to be indicated on the final plan. The City Council may impose such conditions and restrictions as it deems appropriate or require such revisions or modifications in the preliminary plan or final plan as it deems necessary to protect the health, safety, comfort, general welfare and convenience of the City.

L. Preliminary PUD, Criteria For Approval

1. Preliminary PUD approval shall be granted by the City only if the applicant demonstrates:
  - a. The proposed project shall not be detrimental to present and potential surrounding land use.
  - b. There is a factual and defined public benefit.
  - c. Land surrounding the proposed development can be planned in coordination with the proposed development and can be developed so as to be mutually compatible.
  - d. Streets and sidewalks, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed project and in the vicinity of the proposed project, in light of the criteria set forth in the Subdivision Ordinance and the Comprehensive Plan.
  - e. Services including potable water, sanitary sewer and storm drainage are available or can be provided by the development prior to occupancy.
  - f. Each phase of the proposed development, as it is planned to be completed, contains the required parking spaces, recreation spaces, landscape and utility areas necessary for creating and sustaining a desirable and stable environment.
  - g. The project conforms with the purpose of this Section and the standards prescribed herein.
  - h. The project conforms to the Comprehensive Plan.
  - i. The project determined not to be 'premature' for development.
2. Conformance with the design standards and required improvements as set forth within the Subdivision Ordinance.

**Subd. 14 Minor/Major Changes to Approved Preliminary PUD Prior to Final PUD Approval.**

- A. Proposed minor changes to an approved PUD do not require a public hearing and shall be incorporated into the application for final PUD approval, and any notification regarding such final PUD approval shall describe the proposed minor change(s). A “minor change” means any departure from the conditions of preliminary approval which is not a “major change” and includes but is not limited to the following:
1. Revisions to number of dwelling units in an approved residential structure not increasing density;
  2. Revisions to number of non-residential structures not increasing density approved;
  3. Revisions to heights of buildings and other structures provided they do not exceed the standard contained in the underlying zoning district;
  4. Revisions to exact location of internal roads that do not alter the PUD design concept;
  5. Revisions similar in nature to those above as determined by the City.
- B. A proposed major change to an approved preliminary PUD shall require reapplication for preliminary PUD approval and any notification regarding such preliminary PUD approval shall describe the proposed major change or changes. A major change is any departure from the conditions of preliminary PUD approval which would result in any of the following:
1. Revisions to the approved design concept;
  2. Revisions to the approved use(s);
  3. Revisions to approved public benefit(s);
  4. An increase in residential density;
  5. An increase in square footage of non-residential structures;
  6. A decrease in the amount of landscaping, site perimeter buffering, and open space that has the affect of altering the approved design concept as determined by the City; or
  7. An increase in traffic volumes or change in circulation patterns which impacts surrounding development that has the affect of altering the approved design concept as determined by the City.

#### **Subd. 15 Final PUDs- Contents of Complete Application**

- A. Unless otherwise approved within a Master PUD agreement, within 12 months following the approval of the preliminary PUD, the applicant shall file with the City a final PUD conforming to the approved preliminary PUD.
- B. The final PUD shall meet the data submittal requirements illustrated in the “*Table of Data Submittal Requirements*” contained in Section 1240.02.12 of this Section apply.
- C. The applicant shall submit with the final plan a current Abstract of Title or Registered Property Certificate, along with any unrecorded documents, and a Certificate of Title.
- D. When the City has agreed to install improvements in a development, the developer may be required to furnish a financial statement satisfactory to the City indicating the developer’s ability to develop the plan.
- E. In the event that development standards were submitted and approved as part of the preliminary development plan, development standards shall be made binding upon all future developers of the property in a manner acceptable to the city and may be submitted in lieu of elevation and perspective drawings of project improvements.

**Subd. 16 Procedures for Processing a Final PUD Plan.**

- A. Once a preliminary plan has been approved by the City Council, the developer may submit a request for final plan approval. In certain cases the City may allow a final plan to be submitted concurrent with a request for preliminary plan approval.
- B. The applicant shall prepare a request for approval of the final plan for the planned unit development filed with the City on an official application form. A fee as provided for by City Council Ordinance shall accompany such application. The application shall be accompanied by one (1) reduced scale (not less than 11"x17") copy and an electronic copy of the final plan and supportive information in conformity with the requirements of this Ordinance. The final plan shall incorporate all changes, modifications and revisions required by the City, otherwise, it shall strictly conform to the approved preliminary plan.
- C. The Community Development Director shall review the application to determine whether or not the application and required material submissions are complete. The final plan shall be considered as being officially submitted only when all of the information requirements are complied with and the appropriate fees paid. If the Community Development Director determines the application is incomplete, the applicant shall be notified of all deficiencies in the application, in writing within fifteen (15) calendar days of receipt of the application. The Council shall approve or disapprove the final plan within sixty (60) days following the receipt of a completed application in compliance with this Ordinance unless an extension of the review period has been approved.
- D. Upon receipt of a final plan, copies shall be referred to the City Council, appropriate City staff and to all applicable utility companies, County and State agencies.
- E. Prior to approval of a final plan, the applicant shall have executed a Development Agreement with the City, which controls the installation of all required improvements and assures compliance with all conditions of approval unless determined unnecessary by the City Attorney. Said agreement will require all improvements and approval conditions to comply with approved engineering standards and applicable regulations.
- F. The City Council shall take action on a final plan not more than sixty (60) days after the final plan is filed with the City. If the final plan is not approved, the findings of fact for such action shall be recorded in the official proceedings of the City and shall be transmitted to the applicant.
- G. Required findings for final plan. The City Council shall make each of the following findings before granting final plan approval:
  - 1. The applicant demonstrates that the final PUD substantially conforms to the approved preliminary PUD and any/all conditions for approval of the preliminary plan. For the purposes of this section, "substantially conforms" means that, as compared to the preliminary PUD, the final PUD contains no revisions in density, uses, design or development standards or in the site plan, other than the minor changes.
  - 2. All submission requirements have been satisfied.
  - 3. The plan conforms to all applicable requirements of this Section, subject only to approved rule exceptions.
- H. The applicant shall be notified by the City of the City Council's action together with the findings of fact for such action.
- I. Final PUD, Extension of Filing Period. For good cause shown, the City, at its discretion, may grant an extension of time of one year for filing the final PUD and required accompanying

papers, and may grant additional one-year extensions; provided, however, the city shall have the right to re-examine and update any conditions made to mitigate development impact.

**J. Final PUD, Failure to File, Termination.**

1. In the event the final PUD or any required attendant papers are not filed within twelve (12) months following approval of a preliminary PUD. The approval of the preliminary PUD shall lapse unless extended and the approval shall be deemed null and void and without force or effect.
2. When it is determined as part of the preliminary PUD approval that the final PUD is to be phased, the final PUD for the first phase shall be submitted within twelve (12) months of preliminary approval. The final development plan for each subsequent phase shall be submitted within the schedule established at the time of preliminary PUD approval.
3. The time period for filing of final PUDs shall not include periods of time during which progress on the final PUD was reasonably halted or delayed due to the filing and pendency of legal actions challenging an approval granted by the city pursuant to this chapter; provided, that in all cases when more than two years have elapsed subsequent to the date of approval of a preliminary PUD the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the city prior to being granted approval of the final PUD; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

**Subd. 17 Adjustments to Final PUD Plan.**

- A. The Community Development Director is authorized to allow adjustments in accordance with Section 1240.02.17, Subdivision 2 (which immediately follows this Section) of this Ordinance. The Community Development Director shall allow only such adjustments as are consistent with guidelines established in Subdivision 2 of this section, and in no case shall an adjustment be allowed if it will increase the total amount of floor space authorized in the approved final PUD, or the number of dwelling units or density, or decrease the amount of parking or loading facilities or permit buildings to locate substantially closer to any boundary line or change substantially any point of ingress or egress to the site.
- B. For the purposes of this section, “adjustments” means any departure from the conditions of final PUD approval which complies with the following criteria:
  1. The adjustment maintains the design intent, public benefit, and integrity of the original approval;
  2. The amount of landscaping, buffering, and open space shall not be reduced;
  3. The number of dwelling units in residential developments and the square footage of non-residential structures shall not increase;
  4. The adjustment shall not relocate a building, street, or other use so as to alter the design concept;
  5. The adjustment shall not reduce any required yard and/or setback;
  6. The height of buildings and other structures provided they do not exceed the standard contained in the underlying zoning district;
  7. Views from structures on-site and off-site shall not be substantially reduced;
  8. Traffic volumes shall not increase and pedestrian and vehicular circulation patterns shall not substantially change;
  9. Minor changes in colors, plant material and parking lot configurations may be approved;

10. The adjustment does not add significant new environmental impacts or significantly increase environmental impacts disclosed in the original documents;
11. The Community Development Director determines that the change will not increase any adverse impacts or undesirable effects of the project, or that the change in no way significantly alters the project.

**Subd. 18 Financial Guarantee Required.** No final PUD shall be implemented until the applicant files an adequate financial guarantee with the City. The Financial Guarantee shall be determined to be adequate provided it is consistent with that required under the Subdivision Ordinance.

**Subd. 19 Operation and Maintenance Requirements.**

- A. Whenever common open space or service facilities are provided within the PUD, the PUD plan shall contain provisions to assure the continued operation and maintenance of such open space and service facilities to a predetermined reasonable standard.
- B. Staging of common open space. The construction and provision of all common or public open space and/or public improvements and recreational facilities that are shown on the final development plan for a PUD must proceed at the same rate as the installation of improvements. The total area of common or public open space or land escrow security in any stage of development shall, at a minimum, bear the same relationship to the total open space to be provided in the entire PUD as the stages or units completed or under development bear to the entire PUD.

**Subd. 20 Building Permits, Certificates of Occupancy.** The City shall issue building permits for buildings and structures which conform with the approved final PUD and with all other applicable City ordinances and regulations. The City shall issue a certificate of occupancy for completed buildings or structures which conform to the requirements of the approved final PUD and all other applicable city ordinances and regulations. The construction and development of all the open spaces and public and recreational facilities of each project phase must be completed or bonded before any certificate of occupancy will be issued.

**Subd. 21 Extension of Construction Timeline.** For good cause shown, the City, at its discretion, may grant one extension of time for commencement or continuation of construction subsequent to approval of the final PUD.

**Subd. 22 Termination of PUD, Failure to Commence or Continue Construction.**

- A. If the construction has not been started within five years from the date of approval of a final PUD with an associated subdivision, or two years from the date of approval of any other final PUD, or if construction has been commenced but the work has been abandoned for a period of one year or more, and if no extension of time has been granted as provided in herein, the authorization granted for the planned unit development project shall terminate and all permits and approvals issued pursuant to such authorization shall expire and be null and void.
- B. The time period of commencing or continuing construction shall not include periods of time during which commencement of construction or continuation of construction was reasonably halted or reasonably delayed due to the filing of a pendency of legal action challenging an approval granted by the City pursuant to this chapter; however, in all cases, when more than

five years have elapsed subsequent to the date of approval of a final PUD with associated subdivision, or more than two years have elapsed subsequent to the date of approval of any other final PUD the permittee shall be required to comply with all current building, construction, subdivision and other applicable standards of the City; provided, that a change in zoning district classification enacted subsequent to approval of the final development plan shall not affect the project.

**Subd. 23 Sale of Lots.** Lots in a platted planned unit development may be sold to separate owners according to the separate lots as shown in the plat filed and approved in connection therewith. No sale shall be permitted which subdivides a lot in such a manner as to create a new lot line except as provided in the subdivision ordinance, minor subdivision standard.

**Subd. 24 Lots Subject to Final PUD.** All lots or other divisions of a subdivided planned unit development shall remain subject to compliance with the final development plan regardless of the fact of subdivision in compliance with the subdivision ordinance or lot(s)/division(s) of a subdivided PUD were subsequently conveyed.

### **Section 1245- Supplementary District Regulations**

#### **1245.01 Performance Standards.**

**Subd. 1 Purpose.** Performance Criteria establish specific and quantifiable limitations on identified types of pollution and other activities, which have a high nuisance potential. The performance standards apply in all zoning districts unless specifically stated to the contrary.

**Subd. 2 Noise and Vibration.** Noises emanating from any use shall be in compliance with and regulated by the standards of the Minnesota Pollution Control Agency. Any use established or remodeled after the effective date of this Ordinance shall be so operated to prevent vibration discernible at any point beyond the lot line of the site on which such use is located. The City may also limit the hours of operation of outdoor noise if it is deemed necessary to reduce impacts on the surrounding neighborhoods. Ground vibration and noise caused by motor vehicles, trains, aircraft operations or temporary construction or demolition shall be exempt from these regulations. However, if deemed appropriate, the City may establish limits on the hours of operation of temporary construction or demolition operation to limit off-site impacts.

**Subd. 3 Smoke and Particulate Matter.** No use shall produce or emit smoke, dust or particulate matter exceeding applicable regulations established by the Minnesota Pollution Control Agency at any point beyond the lot line of the site on which the use is located.

**Subd. 4 Odor.** No use shall produce unreasonable or disturbing odors beyond the property line exceeding applicable regulations established by the Minnesota Pollution Control Agency.

**Subd. 5 Sewage and Water Facilities.** All new developments shall be connected to City sewer and water facilities.

**Subd. 6 Refuse.** All waste material, debris, refuse, or garbage shall be kept in an enclosed building or property contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.



**Subd. 7 Radioactivity, Electrical, Toxic or Noxious Disturbance.** No activity shall emit dangerous radioactivity at any point, or electrical disturbances adversely affecting the operation of any equipment at any point other than that of the creator of such disturbance, nor any concentration of toxic or noxious matter across the property line which exceeds applicable regulations of the Minnesota Pollution Control Agency.

## **1245.02 Architectural Standards and Guidelines in the Residential Neighborhood Commercial and Downtown Districts.**

**Subd. 1. Purpose and Intent.** It is the intent of the City to promote and encourage high standards of creative, traditionally based, architectural design in the Residential Neighborhood Commercial and Downtown Districts. New development within the Districts shall comply with the following design standards and guidelines. The restoration, remodeling and/or expansion of existing buildings shall, to the maximum extent possible, bring exterior facades back to the appearance they had when they were originally constructed, or maintain a similar architectural style to the original construction, or comply to the extent possible with these design standards and guidelines.

### **Subd. 2. Standards and Guidelines.**

- A. *Setbacks.* Property owners shall construct new development or significant redevelopment to the property line for front facades. For corner buildings, this applies to each façade that fronts a public street.
- B. *Building width.* Buildings more than 45 feet in width are encouraged to be divided into smaller increments through the articulation of facades.
- C. *Building height.* Building height shall be at least 24 feet and shall not exceed four stories or 45 feet. Buildings less than two stories shall be designed so that the main floor frontage is visually distinct from the upper portion of the building. The addition of windows in the upper portion is encouraged.
- D. *Ground level.* The ground level of multistory structures shall be visually distinct from the upper stories. This distinction can be achieved a number of ways including an intermediate cornice line, awning, arcade or portico, change in building materials or detailing or a change in window shape or treatment. All ground-level equipment shall be screened using fencing or vegetation. Windows and doors shall comprise at least 50 percent of the length and at least 30 percent of the area of the ground-level façade facing a public street. Reflective glass is not permitted.
- E. *Roof design.* Flat or pitched roofs, or combinations of these, may be used. Pitched roofs should have a minimum roof pitch of one foot rise to four feet of run. Flat roofs shall be defined with an ornamental parapet or cornice.
- F. *Building materials.* Buildings shall be constructed of high-quality materials. The following list is allowed for primary materials:
  - 1. Brick
  - 2. Natural Stone
  - 3. Wood consisting of horizontal lap siding with a painted surface.
  - 4. Precast concrete units and concrete block, provided that surfaces are molded, serrated or treated with a textured material.
  - 5. Transparent glass

Accent materials shall not consist of more than 20 percent of the building's face, and include the following:

1. Metal
2. Glass block
3. Spandrel glass
4. Other materials as approved by the planning commission.

The following materials are prohibited:

1. Plain or painted concrete block
  2. Tip-up concrete panels
  3. Prefabricated steel or sheet metal panels
  4. Aluminum, vinyl, fiberglass, asphalt or fiberboard siding.
  5. Pole buildings
- G. *Building colors.* Building colors shall consist of subtle, neutral or muted colors with low reflectance. Recommended colors include browns, grays, tans, beiges, and dark or muted green, blues and reds. No more than two principal colors shall be used on a façade. Bright, white or primary colors shall be used only as accents.
- H. *Building lighting.* Buildings shall be lit with external lighting consistent with the style, materials and details of the building.
- I. *Vacant buildings.* Vacant buildings in the downtowns shall be kept up so that the visual appearance does not deteriorate and the building does not become hazardous. Windows shall be maintained as if the building were occupied and shall not be boarded up.
- J. *Signs.* Signs in the Residential Neighborhood Commercial and Downtown District are regulated in Section 1260. Signs should be architecturally compatible with the style, compositions, materials, colors and details of the building.

### **1245.03 Architectural Standards and Guidelines for Commercial and Business Industrial.**

**Subd. 1 Purpose and Intent.** The City of Norwood Young America recognizes that the visual character of the City is an important attribute of its quality of life. The City intends that all commercial, and business-industrial development within the City should strive towards the highest level of quality in both design and construction. The architectural standards and design guidelines have been established to guide the quality, character and compatibility of new development and redevelopment within the City.

**Subd. 2 Applicability.** The provisions of this Section shall apply to all new construction of commercial, business industrial, office/institutional and multifamily development. Within each zoning district, the standards shall be in addition to the underlying requirements. The following activities are exempt from design review unless staff determines that the project creates a significant change in the design characteristics of the development:

- A. Internal alteration to buildings that do not result in a change to the building height, roof line or footprint.
- B. Replacement or repair of existing materials
- C. The standards shall apply only to the building or site elements being developed or altered.

### **Subd. 3 Building Material and Detail.**

A. *Exterior Wall Finish.* All exterior wall finishes on any building structure shall be constructed of the following materials or combination of materials:

1. Brick
2. Stone
3. Glass
4. Textured masonry units
5. Wood, consisting of lap siding and painted
6. Stucco
7. Tilt up concrete panels
8. Prefabricated steel or sheet metal panels or pre-engineered buildings for Permitted Industrial Uses in the B-1 District only, assuming that permitted materials listed in 1-7 above shall occupy 100% of the street-facing side(s) of the building and the lot shall be landscaped as required by the City which solely reserves the right to require additional landscaping in exchange for allowing the pre-engineered or prefabricated application. Commercial uses (retail or service occupying fifty percent or more of the site) are specifically excluded from this clause (1245.03, A, 10) as may be amended.
9. Fiber cement or cement/concrete board lapsiding
10. Metal subject to the following limitations:
  - a. Aluminum is prohibited in any form.
  - b. Minimum metal gauge of 24.
  - c. Concealed fasteners required.
  - d. Horizontal application is required, that is lapsiding versus vertical steel panel.
  - e. When façade of the building faces a public right of way; a minimum of twenty-seven percent (27%) of the façade must be transparent (e.g. window, door openings) and twenty-five percent (25) must be an accent material consisting of brick, stone, textured masonry units, or stucco.
  - f. Portions of facades not facing public streets are exempt from subsection (e) relating to transparency and accent material.
  - g. Metal roofing shall feature standing seams, concealed fasteners, and guards above building openings to prevent snow from accumulating in entrances.

Accent material may occupy up to 25 percent of the building's façade. These may include:

1. Metal
2. Glass Block
3. Spandrel glass
4. Similar materials as approved by the City

The following materials may not be used in any visible exterior application except when specifically permitted by the City in areas with limited public view or accent areas:

1. Unadorned plain or painted concrete block
2. Painted brick
3. Unfinished, corrugated, or galvanized metal panels.
4. Reflective glass
5. Aluminum, vinyl, fiberglass, asphalt or fiberboard siding

B. *Color.* Colors shall be harmonious and consist of muted colors with low reflectance. Recommended colors include browns, grays, tans, beiges and dark or muted greens, blues

and reds. Bright or brilliant colors and sharply contrasting colors may be used only for accent purposes.

- C. *Horizontal Articulation.* To avoid long unbroken expanses, building of more than 40 feet in width shall be divided into smaller increments through articulation of the façade. This can be achieved through combinations of the following techniques:
1. Façade modulation- stepping back or forward or extending a portion of the façade.
  2. Vertical divisions using different textures or materials.
  3. Variation in the rooflines by alternating dormers and stepped roofs, gables or other roof elements to reinforce the modulation or articulation intervals.
- D. *Ground-level Articulation.* The ground level of any multi-story structure shall be visually distinct from the upper stories. This can be achieved through the use of one or more of the following techniques. Others that may meet the objective shall be reviewed and approved by the Planning Commission:
1. An intermediate cornice line
  2. A sign band
  3. An awning arcade or portico
  4. A change in the building materials, texture or detailing
  5. A change in window shape or treatment
- E. *Entries.* The main entrance should always face the primary street and shall be placed at grade. Main entries shall be designed with one or more of the following:
1. Canopy, portico, overhang or arch above the entrance
  2. Recesses or projections in the building façade surrounding the entrance
  3. Peaked roof or raised parapet over the door
  4. Display windows surrounding the entrance
  5. Architectural detailing such as tile work or ornamental moldings
- F. *Building Placement.* All buildings in the General Commercial District shall be located as close as possible to the front yard setback line and building entrances shall be as close as possible to abutting streets. Parking shall be to the rear or side of the building to the greatest extent possible.
- G. Pre-fabricated and/or pre-engineered buildings are prohibited in the C-2 and B-I Districts, except as provided under 1245.03, Subd. 3, A, 10. Pre-fabricated buildings are those primarily built in a factory off-site and then shipped to and assembled on site. Pre-engineered buildings are products generally designed by manufacturers according to standard design models as opposed to buildings designed by a stand-alone architect and project engineer who select/employ materials from a variety of independent sources for the specific needs of the property and building.

**Subd. 4 Loading and Refuse Areas.** Screening of service yards, refuse, and waste-removal areas, loading docks, truck parking areas, and other areas which tend to be unsightly shall be accomplished by use of walls, privacy fencing, dense planting, or any combination of these elements. Screening shall block views from public right-of-way.

**Subd. 5 Lot Frontage and Parking Location.**

- A. *Highway 212 and Highway 5 Corridor.*
1. In any lot that abuts Highway 212 or Highway 5, directly, the lot line abutting the highway shall be considered the front lot line.

2. In any lot that abuts either an access boulevard parallel to Highway 212 or Highway 5, the lot line abutting the boulevard shall be considered the front lot line.
  3. The majority of parking shall be located to the side or rear yards of the building.
- B. *All other non-commercial districts listed under the provisions of this section.* Parking areas should be distributed around large buildings in order to shorten the distance to the entrance and to other buildings and reduce the overall scale of the paved surface. No more than 50 percent of the parking area for the site shall be located between the front façade of the principal building and the primary abutting street.

**Subd. 6 Franchise Architecture.** Franchise architecture (building design that is trademarked or identified with a particular chain or corporation and is generic in nature) shall be incorporated in such a manner to comply with the design standards of this Section.

#### 1245.04 Accessory Structures

**Subd. 1 Purpose.** The intent of this section is to establish the minimum regulations for accessory structures in order to protect the public health, safety and welfare; to protect use areas; to promote orderly development; to provide adequate light, air, and convenience of access to property; to provide for compatibility of different uses; to prevent overcrowding of land and undue concentration of structures.

#### Subd. 2 General Provisions.

- A. *Setbacks.* Detached accessory structures shall be located in the side or rear buildable lot area subject to meeting the setback requirements. Unenclosed Decks, Porches, and Patios are permissible in the front yard subject to meeting the setback requirements.
- B. *Aggregate Coverage Limitation.* In the R-1, R-2, R-3, R-4 and RC-1 Districts, the sum of the building area of all garages, utility buildings and other detached accessory structures shall not exceed a total of:

Lot Area (in square feet)	Maximum Total Floor Area of all Accessory Structures*	Maximum Number of Detached Accessory Structures
10500 and smaller	1,000 square feet	Two
10,501 to 21,780	1,200 square feet	Two
21,781 to 43,560	1,400 square feet	Two
43,561 and larger	1,600 square feet	Two, unless variance granted

- (1) Subject to maximum lot coverage limit contained in the underlying zoning district.
- (2) Commercial, industrial, or business buildings and structures for a use accessory to the principal use shall not exceed thirty (30) percent of the gross floor area of the principal use.
- (3) At no time shall the ground floor area of a detached residential accessory structure within an R-1, R-2, R-3, R-4, or RC-1 District exceed forty (40) percent of the combined ground floor area of the principal and accessory structure.
- (4) Notwithstanding the provisions of Section 1245.04, Subd. 2(B)(2) or Section 1245.04, Subd 2 (B)(3) of the City Code, Single-family residential properties located in the C-3 (Downtown) and C-2 (General Business) Districts shall be allowed one (1) accessory structure up to 1,000 square feet in gross floor area.

- C. *Design characteristics.* Detached accessory structures shall be constructed of material similar to the principal structure, and in character with the surrounding built environment. Design characteristics shall include, but not be limited to, the following:
1. Roof type (e.g. gabled, hipped, mansard), roof orientation, and roof pitch
  2. Eave, overhang depth, and fascia/soffit type and appearance.
  3. Exterior building material, and,
  4. Exterior color.
- D. *Minimum Roof Pitch.* The minimum accessory structure roof pitch shall be 4:12ths
- E. *Prohibited Roof Types.* Rolled roofs and mono-sloped roofs are prohibited
- F. *Prohibited Exterior Materials.* Galvanized and unpainted metal are prohibited as exterior building materials.
- G. *Exceptions.* Agricultural buildings on agricultural lots shall be exempt from this Section.
- H. *Attachment Required.* In cases where an accessory building is attached to the principal structure, it shall be made structurally part of the principal structure and shall comply in all respects with the requirements for principal structures.
- I. *Principal Structure Required.* No accessory structure or building shall be constructed on any lot prior to the time of construction of the principal building to which it is accessory.
- J. *Front Yard Placement Prohibited.* No accessory structure shall be place in the front yard.
- K. *Structures 120 Square Feet or Less.* Structures sized 120 square feet or less are exempt from this Section, except those standards relating to required setbacks and number of total detached structures allowed.
- L. *Accessory Structures Must Be Subordinate Structures.* Detached accessory structures shall be clearly and reasonable subordinate to the principal structure in terms of height, footprint, and total square footage.
- M. *Maximum Height.* Sidewall height for detached accessory structures may not exceed ten (10) feet. Total detached accessory structure height may not exceed eighteen (18) feet as measured from the ground level to the highest point of the roof. Where these standards conflict with other standards, the strictest rule shall apply.
- N. *Setbacks.* Setbacks established in the underlying zoning district classification shall apply as indicated for accessory structures.

(Amended by Ord. 258; 2-23-2015)

**Subd. 3 Opt-Out of Minnesota Statutes, Section 462.3593 as may be amended from time to time.** Pursuant to authority granted by Minnesota Statutes, Section 462.3593, subdivision 9, the City of Norwood Young America, Minnesota opts-out of the requirements of Minn. Stat. §462.3593, which defines and regulates Temporary Family Health Care Dwellings.

## 1245.05 Fences

**Subd. 1 Building Permit Required.** No fence, except temporary fencing, shall be constructed without a building permit. The application shall be accompanied by a plot plan clearly describing the type, location, and method of anchoring the fence.

**Subd. 2 Setbacks.** Boundary line fences shall be located at least one (1) foot from the property line, except as provided for in Subd. 4 and 5 of this Section. The persons, firms or corporations constructing or causing the construction of such fence shall be responsible for maintaining that part

of their property between fence and property line. City staff shall require any applicant for a fence permit to establish the boundary lines of his property by a certificate of survey thereof to be made by any registered land surveyor or by showing the accurate stake markers of the surveyed lot.

**Subd. 3 Fencing Conformity.** Fencing in all districts shall conform to the following:

- A. Fences in all districts shall be maintained so that the exposed outer/inner surface shall be uniformly painted or stained in a neat and aesthetically acceptable condition.
- B. The side of the fence considered to be the face (finished side as opposed to structural supports) shall face abutting property.
- C. No fence shall be permitted on a public right-of-way or boulevard area.
- D. No fence shall be erected on a corner lot that will obstruct or impede the clear view of an intersection by approaching traffic.
- E. All snow-stop fencing may be used from November 1 to April 1. No permit shall be required for temporary fencing.
- F. All fencing shall be constructed straight, true, and plum
- G. Fences which are in need of repair or maintenance through type of construction or otherwise, or are otherwise dangerous to the public safety or general welfare and health are considered a public nuisance and the City may commence proceedings for the abatement thereof under Chapter 6, Nuisance Abatement of the City Ordinance. Electric fences may not be used. Material such as chicken, sheep, or hog wire fencing, barbed wire fencing, or snow fencing will not be allowed as permanent fencing, except as stated in paragraph c in this section.
- H. All fences shall have a gate or opening to allow access from the exterior of the lot.

**Subd. 4 Fencing in All Residential and Agricultural Districts.**

- A. *Setback and design.* A fence may be located within the rear yard and side yard to a maximum height of six (6) feet up to the point where it is parallel with the front edge of the building. Fences located within the front yard or side-street yard to the right-of-way shall be ornamental in design and the height of the fence shall not exceed three and one-half (3 ½) feet as measured from grade.
- B. Fences around dog kennels not exceeding one hundred (100) square feet in size, fences around garden fences will not require building permits but shall adhere to the other regulations of this subdivision.
- C. All garbage can areas in multi-family developments shall be protected by a privacy fence not less than six (6) feet in height. The privacy fence shall be constructed of wood, vinyl or similar, but shall not include chain link with slats. All gates shall have a self-closing and self-latching latch installed on the outside of the fence.

**Subd. 5 Fencing in Commercial, Business and Industrial Districts.**

- A. Business and industrial fences may be erected up to eight (8) feet in height as measured from grade. Fences in excess of eight (8) feet shall require a conditional use permit.
- B. Business and industrial fences with barbed wire security arms shall be erected a minimum of six (6) feet in height as measured from grade (measured without the security arm) and shall require a Conditional Use Permit. The security arm shall be angled in such a manner that it extends only over the property of the permit holder and does not endanger the public.

- C. Single-family residential properties located in the Civic (C), Central Business District (CBD), and Commercial/Industrial (C-I) Districts shall conform to the provisions of Subd. 3 of this Section.

### **1245.06 Swimming Pools**

**Subd. 1 Permit Required.** A permit is required for the installation of any in-ground swimming pool, or any above ground swimming pool 5,000 gallons or larger. The construction, plumbing and electrical work connected with any pool to be constructed shall be subject to inspection and shall conform to all applicable building codes of the City and State.

- A. The fee for the permit shall be based on the state chart of fees, and shall be determined by the Building Inspector.
- B. The permit shall include the following information:
  - 1. Two sets of plans drawn to scale that show in sufficient detail the following:
    - a. The proposed location and its relationship to the other principal buildings on the lot and on adjacent properties.
    - b. The size of the pool.
    - c. Fencing and other fixtures existing on the lot, such as utility location and trees.
    - d. The location, size and a statement as to the types of equipment to be used in connection with the pool including but not limited to the filter unit, pump, wiring, heating unit, fencing, and the pool itself.

### **Subd. 2 Setbacks Required.**

- A. All swimming pools shall be at least 10 feet from underground or overhead utility lines, walkways, or other easements, both public and private.
- B. The filter unit, pump, heat unit, and any other noise making mechanical equipment shall be located at least 25 feet from any residential structure on adjacent property.
- C. All swimming pools shall be at least 10 feet from any side or rear lot line, and six feet from any principal building.
- D. No swimming pool, as regulated in this Section, shall be located within any front yard.
- E. Private swimming pools located on the site of multiple-family dwellings shall have no part of the water surface, any pumps, filters, or other apparatus located less than 50 feet from any lot line or easement.

### **Subd. 3 General Requirements.**

- A. *Drainage.* To the extent feasible, back flush water or water from the pool drainage shall be directed onto the owner's property or onto approved public drainage ways. In no case may the water be drained into the sanitary sewer.
- B. *Fence/Guard Required.* All pools that are submerged fully or partially shall be provided with safeguards to prevent children from gaining uncontrolled access. This can be accomplished with fencing, screening or other enclosure or any combination thereof with sufficient density as to be inaccessible.
  - 1. If fences are used they shall be at least four feet high. The bottom of the fence shall not be more than four inches from the ground.



2. Fences shall be of non-corrosive material. If lumber is used it shall be treated, redwood or cedar.
3. Fences shall be constructed so as to not be easily climbed. All fence openings points of entry into the pool area shall be equipped with gates or doors. All gates or doors shall be equipped with self-closing and self-latching devices placed at a sufficient height so as to be non-accessible to small children.
4. The fence or safeguard used shall be completely installed before filling the pool.
- C. *Damages.* The lot owner shall be liable for any damages to public or private property caused by the swimming pool construction.
- D. *Lighting.* Any pool lighting above the ground shall be directed toward the pool and not the adjacent property.

### 1245.07 Mail Receptacles

**Subd. 1 Mailboxes in the Public Right-of-way.** The installation and maintenance of mailboxes or receptacles for the receiving and sending of mail by residents is permitted within the right-of-way of the public streets, subject to the standards and regulations of the United States Postal Service and such standards and regulations as may from time to time be promulgated by the City not otherwise set forth in this section. The use of street receptacles is not required. Residents may continue to use post office boxes at the local post office.

- A. The mailbox must be installed along the side of the street and in such a manner as to not interfere with or impede the normal flow of vehicle traffic.
- B. All residents wishing curbside delivery and existing rural routes within the city must apply for an Extension of Mail Service with the United States Postal Service. Mailboxes cannot be installed unless extension is approved by the United States Postal Service.
- C. It is the responsibility of each resident user to maintain the mailbox in such a manner that it functions properly according to United States Postal Service Standards.
- D. Pursuant to United States Postal Service regulations, mail delivery is not allowed to individual locations within cul-de-sacs. Mail delivery for these locations will be made only to mailboxes that are located at the entrance or exit of the cul-de-sac to be served. Mailboxes serving such cul-de-sacs shall be grouped together in a manner approved by the City and at a location determined by the United States Postal Service and the City.
- E. Mailboxes may be grouped together in a manner approved by the City and at a location determined by the United States Postal Service and the City.
- F. One additional receptacle for deliveries such as newspapers and advertisements is allowed but must be installed directly underneath the mailbox.
- G. The City may establish regulations by resolution for the use of a certain type or design of mail receptacle in order to be uniform throughout the city.
- H. The City shall not be responsible or liable for any damages to mail receptacles not in compliance with this ordinance or damages to mail receptacles from snow thrown or moved as a result of snow plowing.
- I. The City is not responsible for snow removal on or around the mail receptacles. It is the responsibility of each resident user of the mail receptacle to remove snow or other obstructions from around the mail receptacle.

### 1245.08 Lighting

**Subd. 1 Light Distribution Plan Required.** Except for one and two family dwellings, a light distribution plan as defined herein shall be required for all new development, redevelopment and addition which exceed 20% of the floor area of the principal structure. This plan shall include the type and arrangement of proposed lighting and proposed lighting levels in foot-candles at all locations on the site including its property boundaries. *(Amended by Ord. 152, 7/28/03)*

**Subd. 2 Illumination and Glare.** Exterior lighting shall be designed and arranged to limit direct illumination and glare in any contiguous parcel of land. Reflected glare or spill light shall not exceed five tenths (0.5) foot-candle when the source of light abuts any residential or public use parcel, or one (1.0) foot-candle when the source of light abuts any commercial or industrial parcel or any public right-of-way measured at one (1) foot above the ground at the property line. The latter requirement shall not apply to properties abutting public streets having foot-candle levels above one (1). *(Amended by Ord. 152, 7/28/03)*

**Subd. 3 Hours of Operation.** The City may limit the hours of operation of outdoor lighting equipment if the City believes it is necessary to reduce the impact of light on the surrounding neighborhood. *(Amended by Ord. 152, 7/28/03)*

**Subd. 4 Height Restrictions.** Light poles or standards for exterior lighting shall not exceed a height of 35 feet, except when a luminaire is located within 100 feet of a residential property, in which case the maximum height shall be 25 feet. *(Amended by Ord. 152, 7/28/03)*

**Subd. 5 Cut-off Angle.** All luminaires shall have a cutoff angle equal to or less than 70 degrees. *(Amended by Ord. 152, 7/28/03)*

**Subd. 6 Wall Mounted Luminaries.** Wall mounted luminaries should not be used to illuminate parking lots; instead pole lights should be used in order to minimize off-site glare. The height of wall-mounted luminaries shall not exceed 18 feet above ground level at the building line. *(Amended by Ord. 152, 7/28/03)*

**Subd. 7 Flashing Light.** No light which is flashing, revolving or otherwise resembles a traffic-control signal shall be allowed in any area where it could create a hazard for passing vehicular traffic.

## **1245.09 Home Occupations.**

**Subd 1 In General.** Home Occupations may be allowed in any district where they do not jeopardize the health, safety and general welfare of the surrounding neighborhood. All home occupations conducted in the home shall comply with the provisions of this Section. This Section shall not be construed, however, to apply to home occupations accessory to farming.

### **Subd. 2 Purpose and Intent.**

- A. The purpose of this Section is to provide for the conducting of home occupations while protecting the health, safety, and general welfare of the surrounding neighborhood.
- B. The intent of this Section is to establish operational standards and review procedures for home occupations.

**Subd. 3 Scope.**

- A. All occupations conducted in a dwelling unit or on the premises of a principal residential use shall comply with the provisions of this Section, the provisions of the district in which it is located, and all other Sections of the City Code.
- B. Home occupations are defined as and limited to all of the following:
  - 1. Gainful occupations or professions engaged in by the occupant(s) of a dwelling;
  - 2. Which are carried on within a dwelling unit or structure(s) accessory thereto; and,
  - 3. Which are clearly incidental to the principal use of the property as a residential dwelling unit.
- C. Nothing in this Section is intended to prohibit or regulate non-commercial activities in residential neighborhoods.

**Subd. 4 Prohibited Home Occupations.**

- A. Home occupations involving illegal substances, illegal devices, and/or unlawful activities are prohibited.
- B. Home occupations involving sexually oriented materials and/or activities as defined by Mn. Statutes as may be amended are prohibited.
- C. Home occupations conducted in a manner which produce noise, vibration, smoke, dust, odors, heat, electrical interference, or glare detectable at or beyond the premises are prohibited.
- D. Home occupations involving materials or storage of items declared a public nuisance, as defined in Chapter Six of the City Code, as may be amended are prohibited.
- E. Home occupations with outdoor storage of items, including but not limited to, materials, products, merchandise, equipment, or parts relating to said home occupation are prohibited.
- F. Home occupations with contractor storage yards are prohibited. Contractor storage yards are defined as areas out-of-doors used for the storage of tools, equipment, building materials, sand, soil, rock, gravel, vegetation, paints, pipe, or electrical components which are used in or associated with building or construction contractor. Building or construction contractors include general contractors, excavation contractors, landscaping contractors, building contractors, plumbing contractors, electrical contractors, HVAC contractors, concrete or masonry contractor, and other specialty contractors.
- G. Home occupations generating hazardous waste or noxious matter are prohibited.

**Subd. 5 Performance Standards.**

- A. Home Occupations shall comply with all of the following Performance Standards.
  - 1. Home occupations shall be conducted in a manner which produces no indication of light, glare, noise, odor, vibration, smoke, dust, or heat detectable at or beyond the premises.
  - 2. Equipment used in conjunction with a home occupation shall not create electrical interference to surrounding properties.
  - 3. Home occupations shall comply with Chapter Six of the City Code relating to nuisances.
  - 4. Home occupations shall be clearly incidental, secondary, and subordinate to a principal residential use of the property and shall not change the residential character of the

neighborhood, be incompatible with surrounding land uses, disturb surrounding residential uses, or be intrusive to surrounding dwellings.

5. Home occupations shall not require internal or exterior structural modifications or alterations or involve construction features not customarily found in dwellings except where required to comply with local and state fire and police recommendations.
6. Operation of a home occupation shall be limited to the residential dwelling, an attached garage, or an accessory structure.
7. Home occupation walk-in traffic shall be conducted only between the hours of 6:00 a.m. and 10:00 p.m.
8. Only two other persons beyond those who customarily reside on the premises shall be employed.
9. Home occupations shall not occupy or use greater than twenty-five percent (25%) of the combined footprint of structures on the subject parcel. In addition, a home occupation shall not occupy or use greater than twenty-five percent (25%) of the lot area; except that home day care providers may use greater than twenty-five percent (25%) of the lot area for play/recreation purposes.
10. Signage for home occupations shall be limited to one (1) non-illuminated sign which shall not exceed four (4) square feet in area.
11. Exterior storage of items related to the home occupation is prohibited unless specifically allowed elsewhere within the City Code.
12. Home occupations shall not generate excessive employee, customer, or client traffic that is detrimental to the character of the surrounding properties.
13. Areas used for home occupations shall meet all applicable fire and building codes.
14. A home occupation shall not be established before a dwelling unit exists on the subject property.
15. Home occupations shall be operated and licensed as required by applicable state and/or federal law.

**Subd. 6 Nonconforming Use.** Home occupations lawfully existing on the date of this Ordinance may continue as nonconforming uses. Expansion of a nonconforming home occupation is prohibited. Any existing occupation that is discontinued for a period of more than one (1) year, or is in violation of the Ordinance provisions under which it was initially established, shall be brought into conformity with the provisions of this Section.

**Subd. 7 Inspection.** The City of Norwood Young America hereby reserves the right to inspect the premises in which the home occupation is being conducted to insure compliance with the provisions of the Section. Administrative standards contained in Chapter One, Section 120 of the City Code, as may be amended, shall apply. (*Amended by Ord. 262, 8/24/2015*)

#### **1245.10 Energy Systems.**

**Subd 1 Findings.** The City finds accessory solar energy systems, subject to certain standards, promote the public safety, health, and welfare by:

- A. Investing in abundant, clean, and renewable energy resources, and
- B. Reducing greenhouse gas emissions, and
- C. Promoting utility cost savings, and
- D. Creating access to community-based solar energy.

**Subd 2 Purpose.** The purpose of this Subdivision is to allow for rooftop and building integrated solar energy systems as accessory uses in all zoning classifications.

**Subd. 3 Solar Energy Systems As Accessory Uses.** Rooftop and building integrated solar energy systems are allowed in all zoning classifications, subject to the following:

- A. The solar energy system meets the definitions of “Solar Energy System, Rooftop” and/or “Solar Energy System, Building Integrated” as defined in Section 1245.10, Subd. 6.
- B. A maximum of one (1) solar energy system is allowed per lot.
- C. Rooftop solar energy system components:
  - 1. Shall not exceed the maximum height allowed in the applicable zoning district.
  - 2. Shall be setback at least one (1) foot from every roof edge, peak, ridge, and valley.
- D. Solar energy system components shall be placed to limit visibility from public rights-of-way provided that minimizing visibility shall still allow the owner to reasonably capture solar energy.
- E. Solar energy system components which visually impact buildings with local historic significance or character are discouraged.
- F. Glare from solar energy systems to adjacent or nearby properties shall be minimized. In the event there is a dispute regarding glare, the City may require the owner of the solar energy system produce a glare study. The Solar Glare Hazard Analysis Tool (SGHAT) or equivalent method may be used for the glare study.
- G. Solar energy system annual power output (kWh) shall be no more than one hundred twenty (120) percent of the total energy used by the lot or parcel over the previous year. The City, at its discretion, may allow an array designed to produce more than 120% of the energy used provided an interim use permit is issued.
- H. A building permit is required.
- I. An electrical permit is required.

**Subd 4 Prohibited Solar Energy Systems.** The following solar energy systems are prohibited:

- A. Ground mounted solar energy systems.
- B. Wall mounted solar energy systems.
- C. Solar energy systems which are not accessory to the use of the property. Accessory means they are clearly subordinate and incidental to the principle use of the subject property.
- D. Utility scale solar energy systems.

**Subd 5 Solar Access Easements Allowed.** The City elects to allow solar easements to be filed consistent with Minnesota Statutes, Chapter 500.30, as may be amended from time to time. Owners of land or solar skyspace are responsible for negotiating, drafting, and executing solar easements. Solar easements shall be filed with the City and the Carver County Recorder’s Office.

**Subd 6 Definitions.** For the purpose of this Section, certain terms and words are defined as follows:

- A. Solar Easement means an easement that limits the height or location or both of permissible development on land on which the easement is placed in terms of a structure or vegetation,

or both, for the purpose of providing access for the benefited land to sunlight as defined in Minnesota Statutes Section 500.30, Subdivision 3 as may be amended.

- B. Solar Energy System means a device, combination of devices, or structural design feature, of which a substantial purpose is to provide for the collection, storage, use, and distribution of solar energy for electricity generation, space heating or cooling, or water heating.
- C. Solar Energy System, Building Integrated means an active solar energy system that is designed and fabricated as an integral part of a structure or structural component rather than a separate mechanical or mounted device.
- D. Solar Energy System, Ground Mounted means a solar energy system structurally mounted to the ground which is not roof mounted.
- E. Solar Energy system, Rooftop means an active solar energy system that is structurally mounted to a code-compliant roof of an existing building or structure.
- F. Solar Energy System, Wall-Mounted means an active solar energy system that is structurally mounted to a code-compliant wall of an existing building or structure.
- G. Solar Energy System, Utility Scale means a solar energy system designed solely for the purpose of producing large quantities of electricity for sale to an electric utility provider. Utility-scale systems are those exceeding limits defined under Section 1255.10, Subd. 3(G) as may be amended.

### **Section 1250 – Off-street Parking and Loading**

**1250.01 Scope.** Off-street parking and loading regulations shall apply to all buildings and uses of land established after the effective date of this chapter.

**1250.02 Required Site Plan.** Any application for a building permit shall include a site plan or plot plan drawn to scale and dimensioned showing off-street parking and loading space to be provided in compliance with this chapter.

**1250.03 Reduction and Use of Space.** Off-street parking facilities existing at the effective date of this chapter shall not subsequently be reduced to an amount less than that required under this chapter for a similar new building or use. Off-street parking facilities provided to comply with the provisions of this chapter shall not subsequently be reduced below the requirements of this chapter. Such required parking or loading space shall not be used for storage of goods or for storage vehicles that are inoperable or for sale or rent.

**1250.04 Computing Requirements.** In computing the number of parking spaces required, the following rules shall apply:

- A. Floor space shall mean the gross floor area of the specific use.
- B. Where fractional spaces result, the parking spaces required shall be construed to be the nearest whole number.

**1250.05 Yards.** Off-street parking and loading facilities shall be subject to the front yard, side yard and rear yard regulations for the use district in which the parking is located, except that:

- A. In any of the residence districts, parking or loading space may not be located within fifteen (15) feet of any property line.

- B. In the R-4, Multiple Family Residential District, C-2, General Commercial District, B-1, Business Industrial District or I-1, Light Industrial District, no parking or loading space shall be located within ten (10) feet of any property line nor shall any parking space be located within twenty-five (25) feet of any residence district.
- C. In the C-3, Downtown District or RC-1, Residential Neighborhood Commercial District, no parking and loading space shall be located within five (5) feet of any property line nor shall any parking space be located within ten (10) feet of any residence district.

**1250.06 Buffer Fences and Planting Screens.** Off-street parking and loading areas in, near or adjoining residence districts, except areas serving single-family dwellings, shall be screened by a buffer fence of adequate design or a planting buffer screen. Plans of such screen or fence shall be submitted for approval as a part of the required site or plot plan and such fence or landscaping shall be installed as part of the initial construction.

**1250.07 Access.**

- A. Parking and loading space shall have adequate access from a public right-of-way.
- B. Access drives shall be so located as to minimize traffic and congestion and abnormal traffic hazards. No driveway shall be closer than fifty (50) feet to any right-of-way line of a street intersection.
- C. Access drives shall be located a minimum of five (5) feet from a side property line.
- D. Access drive widths shall not exceed forty (40) feet for multiple family, commercial, or industrial uses. The established width for multiple family, commercial, or industrial uses may be exceeded if the City Engineer finds traffic circulation purposes warrant increased width.
- E. Residential, commercial, and industrial driveways shall be hard-surfaced with materials such as concrete, asphalt, or brick/paver, except that driveways accessed from non-hard-surfaced alleys may be non-hard-surfaced.
- F. Residential parking pads shall be setback a minimum of five (5) feet from side property lines.  
(Amended by Ord. 267; 11-9-2015)

**1250.08 Combined Facilities.** Combined or joint parking facilities may be provided for one (1) or more buildings or uses provided that the total number of spaces shall be determined as provided in Section 1250.12.

**1250.09 Construction and Maintenance.** In all districts, parking areas, access drives and curb and gutter shall be hard-surfaced with materials such as concrete, asphalt, or brick/paver, except that in industrial districts parking areas in side or rear yards may be surfaced with compacted gravel or red rock. Plans for surfacing and drainage of driveways and stalls for five (5) or more vehicles shall be submitted to the City Engineer for review and the final plans shall be subject to the Engineer's written approval. (Amended by Ord. 267; 11-9-2015)

**1250.10 Lighting.** Light of parking and loading spaces shall be indirect or diffused and shall not be directed upon the public right-of-way or adjacent properties.

**1250.11 Parking Lot Dimensions.**

**Table 1**

Angle of Parking	Stall Width	Stall Length	Aisle Width
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45°	12.5' 15.5' handicapped	18'	16'
60°	10.5' 13.5' handicapped	18'	18'
90°	9.0' 12.0' handicapped	18'	24'

Note: All angle parking requires one-way aisles

**1250.12 Required Number of Off-street Parking Spaces.** Off-street parking areas of sufficient size to provide parking for patrons, customers, suppliers, visitors, residents and employees shall be provided on the premises of each use. The following standards are minimum criteria. The city may increase the requirements beyond the minimum based upon findings that, due to proposed use and/or design, that additional parking demand is anticipated. The City may decrease the number of spaces required for uses in the C, Civic District and CBD, Central Business District. The number of required parking spaces shall comply with the following:

- A. Calculating the number of spaces shall be in accordance with the following:
  1. If the number of off-street parking spaces results in a fraction, each fraction of one-half or more shall constitute another space.
  2. In churches and other places of public assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each twenty-four (24) inches of such seating shall be counted as one (1) seat for the purpose of this division.
  3. Except in shopping centers or where joint parking arrangements have been approved, if a structure contains two (2) or more uses, each use shall be calculated separately in determining the total off-street parking spaces required.
  4. For mixed use buildings, parking requirements shall be determined by the City based on the existing and potential uses of the building. In cases where future potential uses of a building will generate additional parking demand, the City may require a proof of parking plan for the difference between minimum parking requirements and anticipated future demand.
  5. If warranted by unique characteristics and/or documented parking demand for similar developments, the City may allow reductions in the number of parking spaces actually constructed as long as the applicant provides a proof of future parking plan. The plan must show the location for all minimum required parking spaces in conformance with applicable setback requirements. The city may require installation of the additional parking spaces wherever a need arises.
  6. One (1) handicapped parking stall shall be provided for each fifty (50) stalls. Handicapped parking spaces shall be in compliance with the Uniform Building Code and State Law.
  7. The parking requirements for uses not listed in this division may be established by the City based on the characteristics of the use and available information on parking demand for such use.
- B. Table 2 designates the minimum number of parking spaces that are required to be provided and maintained at the time any new use or structure is occupied, or any existing use or structure is enlarged or increased in capacity.
- C. For uses not specifically listed in this chapter or for joint parking facilities serving two or more different uses, the planning commission shall determine the number of spaces to be required by utilizing the requirements of the most similar use listed below.

**Table 2**



<b>Type</b>	<b>Required Parking Spaces</b>
Assembly or exhibition hall, auditorium, theater or sports arena	One parking space for each four (4) seats, based upon design capacity.
Auto sales, trailer sales, marine and boat sales, implement sales, garden supply store, building materials sale, auto repair	One parking space for each five hundred (500) square feet of floor area
Automobile service station	Four (4) parking spaces, plus two (2) parking spaces for each service stall; such parking spaces shall be in addition to parking space required for gas pump areas
Boarding and Lodging Houses	Two (2) parking spaces for each four beds
Bowling alley	Five (5) parking spaces for each bowling lane
Car Washes (in addition to stacking space) Automatic Drive-Through Service Self-Service	Two (2) spaces per attendant Ten (10) spaces per attendant
Churches	One (1) parking space for each three (3) seats, based on the design capacity of the main seating area, plus one (1) space per classroom
Cinemas and Movie Theaters	One (1) space for every three seats
Convenience Stores	One (1) parking space per 200 square feet of floor space
Day Care Centers	One (1) stall for each six (6) children of design capacity
Dwellings: Single-Family and Two-Family Townhouses/Multi-Family Senior Housing	Two (2) parking spaces Two (2) parking spaces per dwelling unit Dependent upon parking study
Financial institutions	One (1) space for each two hundred fifty (250) square feet of floor space
Furniture or appliance store	One (1) space for each four hundred (400) feet of floor space
Hospitals and nursing homes	One (1) space for every two (2) beds, plus one (1) space for every two (2) employees on the largest single shift
Manufacturing or processing plant	One (1) parking space for each employee on the major shift and one (1) parking space for each motor vehicle when customarily kept on the premises
Medical and Dental clinics and animal hospitals	One (1) parking space for each one hundred fifty (150) square feet of floor area
Mortuaries	One (1) parking space for every three (3) seats
Motel or hotel	One (1) parking space for each rental room or suite, plus one (1) space for every two (2) employees
Office buildings (administrative, business or professional)	4.5 stalls per 1,000 square feet gross floor area
Public Service buildings – including municipal	One (1) parking space for each five hundred

administrative buildings, community center, public library, post office, etc.	(500) square feet of floor area in the principle structure, plus one (1) parking space for each four (4) seats within public assembly or meeting rooms
Recreational facilities, including country club, swimming club, racquet club, public swimming pool	20 (twenty) spaces, plus one (1) space for each five hundred (500) square feet of floor area in the principal structure or two (2) spaces per court
Research, experimental or testing stations	One (1) parking space for each four hundred (400) square feet of gross floor area within the building, whichever is greater
Restaurant, café, nightclub, tavern or bar Without full liquor license  With full liquor license	One space per sixty (60) square feet of gross floor area or one (1) space per two and one-half (2 ½) seats whichever is greater  One space per fifty (50) square feet of gross floor area or one (1) space per two (2) seats, whichever is greater
Retail stores and service establishments	One (1) space for each two hundred (200) square feet of gross floor area
Schools: Elementary (public, private or parochial)  Junior, Senior High School and Colleges	One parking space for each classroom plus one space for every 50 students  One parking space for every classroom plus one space for every 4 students
Shopping Center: Up to 50,000 square feet  More than 50,000 square feet	Five (5) parking spaces for every 1,000 square feet of floor space  Four (4) parking spaces for every 1,000 square feet of floor space
Storage, wholesale, or warehouse establishments For each 2,000 square feet	One (1) space, or one space for every employee on the shift utilizing the most employees, whichever is greater.  One (1) space for each company vehicle operating from the premises

### Section 1255 – Landscaping

**1255.01 Intent.** The primary purpose of these regulations is to establish minimum standards for landscaping and ground cover to provide an aesthetic environment. These standards shall be implemented concurrently with site plan approval by the city.

**1255.02 Landscaping Area.** All areas designated to be landscaped and street boulevards that are not devoted to drives, sidewalks, patios or other such uses shall be landscaped. All landscaped areas shall be kept neat, clean and uncluttered. No landscaped area shall be used for the parking of vehicles or the storage or display of materials, supplies or merchandise.

**1255.03 Landscape Requirements for All Uses.** Ground cover shall be established within one year of issuance of Certificate of Occupancy.

**1255.04 Landscape Requirements for New Non-Residential Uses.**

- A. Tree planting at the rate of one (1) tree per 1000 square feet of gross building area;
- B. A combination of berming, shrub and tree planting; and
- C. Berming with low ground cover (slopes shall be no greater than one foot in elevation per three horizontal feet).

**1255.05 Landscape Requirements for Expansion of Non-Residential Uses.** Tree planting of a minimum of one (1), or one (1) tree per 1000 square feet of gross expanded building area.

**1255.06 Landscape requirements for Multi-Family Residential Uses.** Townhomes, manufactured home parks and apartment dwelling structures shall require as a minimum: one (1) new tree per dwelling unit, unless otherwise approved by the City Council.

**1255.07 Size Standards.** The minimum size of planted trees shall be a minimum two and one half (2 ½) caliper inches for deciduous trees and six feet in height for coniferous trees.

**1255.08 Species.** Types of trees allowed shall be species listed on the city landscaping list.

**1255.09 Landscape Warranty.** All required landscape plants shall be alive and in satisfactory growth for a minimum of two (2) years after planting, or be replaced at the owners expense.

**1255.10. Compliance Time Frame.** All planting and sodding shall be completed, and all seeding established within one (1) year of issuance of Certificate of Occupancy.

*(Amended by Ord. 180, 5/22/2006)*

## **Section 1260 – Signs**

**1260.01 Purpose and Intent.** The purpose of the sign ordinance is to establish regulations that govern the use, approval, construction, change, replacement, location and design of signs and related informational tools within the city. The sign ordinance is not intended to and does not restrict, limit, or control the content or message of signs. The sign ordinance has a number of specific purposes:

1. To encourage the effective use of signs as a means of communication.
2. To promote health, safety, and welfare by limiting hazardous or distracting signage.
3. To ensure and improve pedestrian and traffic safety.
4. To protect, conserve, and enhance property values.
5. To enhance the attractiveness and economic wellbeing of Norwood Young America as a place to live and conduct business.

6. To encourage creative and well-designed signs that contribute in a positive way to the city's visual environment, express local character, and help develop a distinctive pedestrian image in the city.
7. To recognize that signs are a necessary form of communication and provide flexibility within the sign review and approval process to allow for unique circumstances.
8. To create a framework for a comprehensive and balanced system for sign regulation, to facilitate an easy and pleasant communication between people and their environment, and to avoid the visual clutter that is potentially harmful to traffic and pedestrian safety, property values, business opportunities, and overall community appearance.
9. To encourage and, to the maximum extent feasible, require that all signs within the city be brought into compliance with the terms of the sign ordinance.

## 1260.02 Definitions

**Abandoned Sign:** A sign (including any structure whose primary function is to support such Sign) a) whose display surface remains blank for a period exceeding sixty (60) days; b) which pertains to a time, building, event or purpose that passed or ceased to apply more than sixty (60) days prior to the then applicable date; or c) that has remained for more than sixty (60) days after demolition of the building that it served.

**Address Sign:** A sign including postal identification numbers, whether written or in number form, and, optionally, the name of a building occupant.

**Awning Sign:** A Sign permanently affixed to an awning providing a shelter or cover over the approach to any building entrance or shading a window area.

**Banner:** A Temporary Sign made out of flexible paper, cloth or plastic-like material.

**Building Face:** That portion of any exterior elevation of a building or other structure extending from grade to the top of a wall and the entire width of that particular building or structure elevation.

**Canopy and Marquee:** A roof-like structure projecting over the entrance to a building.

**Commercial Speech:** speech advertising a business, profession, commodity, service, or entertainment.

**Development:** A commercial use of three or more principal structures with common characteristics, as determined by the City, or a platted residential use of twenty (20) or more lots with common characteristics, as determined by the City. Common characteristics may include shared access, similar architecture, single ownership or history or site plan review approval.

**Directional Sign:** A Sign erected on a property by the owner of such property solely for the purpose of guiding vehicular and pedestrian traffic, which does not contain any commercial speech.

**Dynamic Sign:** A Sign or portion thereof that appears to have movement or that appears to change using any method other than a person physically removing and replacing the Sign or its components. This includes a display that incorporates a technology or method allowing the sign face to change the image without having to physically or mechanically replace the sign face 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 face to present a series of images or displays.

**Freestanding Sign:** A Sign which is placed in the ground and not affixed to any part of any structure.

**Government Sign:** A Sign which is erected or maintained by a governmental unit.

**Illuminated Sign:** A Sign or portion thereof that: 1) incorporates an artificial light source as part of the Sign including, but not limited to, a Sign with LED lights, neon lights or an interior light; or 2) a Sign that has an artificial light source directed upon it.

**Marquee Sign:** A Sign that is permanently attached to a marquee.

**Monument Sign:** Any one-sided or two-sided free-standing Sign with its entire Sign Area mounted on the ground or mounted on a base at least eighty percent (80%) as wide as the Sign Area.

**Mural:** A work of graphic art painted or applied to a wall of a building or other structure which contains no commercial speech.

**Non-Commercial Speech:** Dissemination of messages not classified as Commercial Speech which include, but are not limited to, messages concerning political, religious, social, ideological, public service, and informational topics.

**Nonconforming Sign:** A Sign lawfully existing prior to the adoption of this ordinance but does not conform to the newly enacted requirements of the ordinance.

**Off-Site Sign:** A sign, including the supporting sign structure, advertising a business, commodity, or service which is not located or performed on the premises on which the sign is located; commonly known as a “billboard.”

**Portable Sign:** A sign designed to move from one location to another, not permanently attached to the ground or any other surface.

**Pylon Sign:** Any free-standing sign supported by a column-like structure, posts or poles set firmly in or below the ground surface.

**Roof Sign:** A sign erected or painted upon or above a roof or parapet of a building.

**Scoreboard:** A sign displayed at an athletic field and in conjunction with the activities occurring at the athletic field.

**Shielded Light Source:** Shall have the meaning associated with the nature of the light source, as follows: 1) For an artificial light source directing light upon a Sign, Shield Light Source shall mean a light source diffused or directed so as to eliminate glare and housed to prevent damage or danger. 2) For light source located within a Sign, Shielded Light Source shall mean a light source shielded with a translucent material of sufficient opacity to prevent the visibility of the light source. 3) For a

light source designed to directly display a message (e.g. LED and neon lighting), Shielded Light Source means a light source specifically designed by its manufacturer for outdoor use.

**Sidewalk Sign:** A temporary, freestanding, Portable Sign placed at ground level, with no moving parts or flashing lights, displayed on a public or private sidewalk adjacent to and directly in front of a business.

**Sign:** Any letter, symbol, device, poster, picture, statuary, reading matter or representation in the nature of any advertisement, announcement, message, or visual communication, whether painted, pasted, printed, affixed or constructed, which is displayed outdoors for informational or communicative purposes and is visible to members of the public who are not on the premises on which it is located.

**Sign Area:** The entire area within a continuous perimeter enclosing the extreme limits of the Sign message and background. However, such perimeter shall not include any structural elements lying outside of such sign and not forming an integral part of the Sign. The area of a Sign within a continuous perimeter shall be computed by means of the smallest circle, rectangle or triangle that will encompass the extreme limits of the writing, representation, emblem or other display, together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the building façade against which it is placed.

**Special Events Sign:** A Temporary Sign displayed before or during a one-time, special, or annual event or a holiday.

**Temporary Sign:** A Sign displayed concurrent with a specific event or occurrence for a limited duration, after which the Sign is to be removed, which does not necessarily meet the structural requirements for a permanent sign.

**Wall Sign:** Any Sign which is affixed to the wall of any building or structure.

**1260.03 Jurisdiction.** No sign permit shall be issued for any lot, tenant, or development after the effective date of and which is not in substantial conformity with the provisions of these regulations. Nor shall any sign, except as hereinafter specified, be erected, substantially improved, converted, enlarged, moved, or structurally altered without conforming with the provisions of these regulations. The lawful use of a sign existing at the time of the enactment of this chapter may be continued although such use may not conform to the regulations herein. For those signs permitted before the adoption of these regulations, such signs shall be classified and governed as nonconforming structures under this Chapter.

**1260.04 Permit Required.** Except as herein exempted, no person firm or corporation shall maintain, install, erect, relocate or modify any sign in the City without first obtaining a permit therefore. The fee for the permit shall be based on the chart of fees as adopted by the City Council by Ordinance from time to time, and shall be determined by the Building Inspector.

The permit shall include two sets of plans drawn to scale that show in sufficient detail the following:

- A. The proposed and its relationship to the other principal buildings on the lot and on adjacent properties.
- B. The size and height of the sign.
- C. The elevation of the centerline of the roadway upon which the sign is oriented, when applicable.

- D. Material of the sign and supporting pole.
- E. Drawing of any landscape or other b
- F. Any other information required by the Building Inspector to accurately review the application for conformance to the code. Including but not limited to a certified land survey.

**1260.05 Registration Required.** Those signs permitted within this section, not requiring a permit which must be registered with the City, shall include the following information.

- A. Name of the person or company responsible for the sign.
- B. Address of the responsible party.
- C. Number of signs and their location(s).
- D. Dates signs will be posted.
- E. Description of the sign including the size, height and copy of any text or graphics shown on the sign.

**1260.06 Variance.** A variance may be sought from this regulation in accordance with the variance procedure outline in Section 1210.04 of this Chapter.

**1260.07 Maintenance and Continuation.** All signs shall be constructed in such manner and of such material as to be safe and substantial. The exposed backs of all signs and sign structures shall be painted a neutral color. Signs determined by the Zoning Administrator to be in a state of disrepair shall be considered a nuisance pursuant to Chapter 6 of the City Code. Any Abandoned Sign or Sign that no longer advertises or identifies a business in operation, a service rendered, or a product sold shall be taken down and removed by the owner, agent or person having the beneficial use and/or control of the buildings or structure upon which the sign may be found. Any sign found to be in violation of this Section shall be enforced in the same manner as described in Chapter 6, Section 610 – General Abatement Procedures.

**1260.08 General Provisions Applicable to All Districts.**

**Subd. 1 Prohibited Signs.** The following signs are prohibited in all districts:

- A. Signs in, upon, or projecting into any public right-of-way or easement, excepting Government Signs.
- B. Signs containing statements, words, or pictures of an obscene, indecent, or immoral character, or such as would offend public morals or decency..
- C. Any type of sign painted, attached, or in any manner affixed to trees, rocks, or similar natural surfaces.
- D. Roof Signs.
- E. Signs which interfere with the ability of vehicle operators or pedestrians to see traffic signs or signals, or which impedes the vision of traffic by vehicle operators or pedestrians.
- F. Signs that contain or are an imitation of an official traffic sign or signal or include the terms “stop”, “look”, “caution”, “danger”, “warning” or similar words, phrases, symbols, or characters in such a manner as to interfere with, mislead or confuse motorists.
- G. Signs which obstruct any window, door, fire escape or opening intended to provide ingress or egress to any structure or building.
- H. Portable Signs, except for sidewalk signs expressly permitted within.
- I. Any Sign not in conformance with these regulations, other than a Non-Conforming Sign.
- J. Any other Sign not expressly permitted by the provisions of these regulations.

**Subd. 2 Illuminated Signs.** Each Illuminated Sign shall:

- A. Have a Shielded Light Source
- B. Not exceed a maximum light intensity of .5 foot-candles at each property line:
- C. Not cause beams or rays of light to be directed at any portion of the road or of such intensity or brilliance as to cause glare or impair vision of a driver of any motor vehicle; and
- D. Be equipped with (i) an automatic dimmer control to produce the illumination change required by Section 1260.08, Subd. 2.A.2 above and (ii) a means to immediately turn off the display or lighting if the Illuminated Sign malfunctions.

**Subd. 3 Address Signs.** To aid emergency personnel, postal delivery, and the navigation of traffic, one address sign shall be required per residential and commercial building in all districts. No permits or registration is required.

**Subd. 4 Scoreboards.** One scoreboard up to 450 square feet per playing field, located in a public or private park, shall be permitted.

**Subd. 5. Temporary Signs.** The following regulations apply to Temporary Signs within the City. If they are not removed by the date specified, the signs may be taken down by the City and the cost of removal charged to the sign's owner or registrant.

- A. *Signs Containing Non-Commercial Speech.* Subject to Minnesota Statute Section 211B.045, as it may be amended from time to time, and notwithstanding the other provisions contained in this Section 1260, Signs containing Non-Commercial Speech may be posted beginning forty six (46) days before a primary election in a general election year until ten (10) days following the general election. No permit or registration is required for this type of sign.
- B. *Banners.* Banners may be displayed for one-time or special events for up to forty-five (45) days. Banners may be up to forty (40) square feet in area. They must be registered with the City under the guidelines established in this chapter and removed within five (5) business days of the closing date listed on the registration permit.
- C. *Grand Openings.* Air inflated devices, Banners exceeding forty (40) square feet in area, non-mechanical whirling devices, spotlights, or any sign resembling the same may be permitted for a period of one (1) week in conjunction with a grand opening, meaning the initial commencement of a business. Such signs are prohibited at all other times.
- D. *Special Events.* Special Event Signs may be permitted with the following conditions:
  - 1. Non-Residential property: Special Event Signs may be erected and maintained on non-residential property for a period not to exceed thirty (30) days prior to the date of the event and shall be removed within five (5) business days following the event.
  - 2. Residential property: Special Event Signs, not exceeding four (4) square feet, may be erected on residential property for a period not to exceed five (5) days and shall be removed within one (1) day following the event.
- E. *Property for Sale or Lease.* A sign may be placed upon property in and District while it is for sale or for lease. Only one (1) sign shall be permitted per street frontage with the following conditions:
  - 1. Each such Sign shall be removed within seven (7) days following the date of leasing or sale.
  - 2. The maximum Sign Area for each such Sign is as follows:
    - a. R-1, R-2, R-3, T-A Districts- nine (9) square feet



- b. R-4, RC-1 Districts- eighteen (18) square feet
  - c. Commercial and Industrial Districts- thirty-two (32) square feet
- 3. No such Sign shall exceed eight (8) feet in height.
- 4. Subdivision developments which have more than two sites remaining available may place one sign at each entry point. Such signs shall not be greater than thirty two (32) square feet and not to exceed eight (8) feet in height.
- F. *Construction*. One sign may be installed at a construction site in any district for the period of the construction subject to the following conditions:
  - 1. The Sign must be registered with the City under the guidelines established in this chapter.
  - 2. The Sign shall be removed within five (5) days of the closing listed on the registration permit or end of construction period, whichever is sooner.
  - 3. No such Sign shall exceed twenty-four (24) square feet or eight (8) feet in height.

**Subd. 6 Off-Site Signs.** Off-Site signs are not allowed in any district, except that on Off-Site sign lawfully existing prior to January 23, 2017 shall be considered a Nonconforming Sign, subject to Section 1215 of the Zoning Code.

**Subd. 7 Dynamic Signs.** Dynamic Signs may be permitted with the following conditions:

- A. Dynamic displays are permitted as follows:
  - 1. R-1, R-2, R-3 and R-4 Districts: only on monument signs for conditionally permitted uses. Dynamic displays may occupy no more than 35 percent of the Monument Sign Area.
  - 2. C-2 District: on monument and pylon signs for any permitted or conditionally permitted use, occupying up to 35 percent of the Sign Area, and on permitted Off-site Signs, occupying up to 100 percent of the Sign Area.
  - 3. C-3 District: on monument and wall signs for any permitted or conditionally permitted uses, occupying up to 35 percent of the Sign area.
  - 4. B-1 and I-1 Districts: only on monument and pylon signs for any permitted or conditionally permitted use, occupying up to 35 percent of the Sign Area, and on permitted Off-Site Signs, occupying up to 100 percent of the Sign Area.
- B. Dynamic displays may not change or move more often than the following, except one for which changes are necessary to correct hour-and minute, date, or temperature information:

Speed Limit	Maximum number of changes
25-34	Once every two (2) minutes
35-54	Once every five (5) minutes
55 and over	Once every ten (10) minutes

- C. Time, date, or temperature information is considered one dynamic display and may not be included as a component of any other dynamic display.
- D. A display of time, date, or temperature must remain for at least the minimal allowable display time for the district in which it is located before changing to a different display, but the time, date, or temperature information itself may change no more often than once every three (3) seconds.
- E. The images and messages displayed must be static, and the transition from one static display to another must be instantaneous without any special effects.

- G. 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.
- H. 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.
- I. Dynamic displays 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.
- J. Dynamic displays must comply with the brightness standards contained in Section 1260.08, Subd. 2.

**Subd. 8. Interior Building Signs.** Unless specifically named in this ordinance, signs which are located on the interior of a building shall be exempt from the provisions of this ordinance.

**1260.09 District Regulations.** Signs herein designated shall be permitted in each specified District and shall conform as to size, location, and character according to the requirements herein set forth.

**Subd. 1 Residential District (R-1, R-2 and R-3) Regulations.** The following signs are permitted within the residential districts.

- A. Address Sign: One sign not to exceed two (2) square feet in area for each dwelling unit.
- B. Monument Signs: One Monument Sign per street frontage, not to exceed two (2) Monument Signs, shall be permitted for each lot and development entrance located on a collector or arterial roadway. Such sign shall not exceed forty-eight (48) square feet in area and shall not exceed twelve (12) feet in width and six (6) feet in height. No Sign shall be placed closer than five (5) feet to any public right-of-way.
- C. Directional Signs: Directional Signs for non-single-family uses are allowed up to three (3) per lot. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

**Subd. 2 Multiple Family Residential District (R-4) Regulations.** The following signs are permitted within the Multiple Family Residential District:

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument and Wall Signs: Each lot and development entrance located on a collector or arterial roadway shall be permitted one Monument Sign per street frontage, not to exceed two (2) Monument Signs. Each lot located on a local roadway shall be permitted one Monument Sign. Such Sign shall not exceed forty-eight (48) square feet in area and shall not exceed twelve (12) feet in width and six (6) feet in height. No Sign shall be placed closer than five (5) feet to any public right-of-way. In addition to any Monument Sign, one Wall Sign shall be permitted on each Building Face, not to exceed two Wall Signs per Building. The Sign Area of each such Wall Sign shall not exceed 5% of the Building Face on which it is located.
- C. Directional Signs: Directional Signs are allowed up to three (3) per lot. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

**Subd. 3 Downtown Districts (C-3) Regulations.** The following signs are permitted within the Downtown Districts.

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument Signs: Where a building does not cover the full area of the property, one Monument Sign is allowed per lot. The Sign Area of any such Monument Sign shall not exceed thirty-two (32) square feet and shall not exceed ten (10) feet in width or six (6) feet in height.
- C. Wall Signs: One Wall Sign shall be permitted per Building Face, not to exceed two Wall Signs per building. For multi-tenant buildings, one Wall Sign per tenant is allowed provided that the Building Face coverage limitation set forth below is met.
  - 1. A maximum of 10% of the Building Face may be used for a Wall Sign.
  - 2. Signs shall not project above the roof level.
- D. Sidewalk Signs: Sidewalk Signs shall be permitted on the premises of a business, provided the following provisions are followed:
  - 1. Only one sidewalk sign per business is allowed.
  - 2. Signs shall be displayed during business hours only.
  - 3. Maximum allowable sign size, including the frame and support structure, shall not exceed 6-square feet. Two sides of the sign may contain graphics and/or text. The maximum depth or spread of the sign shall not exceed 2 feet.
  - 4. Quality of said signs shall be of professional craftsmanship only
  - 5. Signs shall not create any hazards or interfere with pedestrian or vehicular traffic.
  - 6. Signs shall be placed only on the business property or on sidewalks directly abutting the business property.
- E. Awning Signs: One Awning Sign is allowed per lot, provided the Sign Area does not exceed eight (8) square feet. The Sign Area of any Awning Sign shall reduce, square foot for square foot, the Sign Area of any permitted Wall Signs on the same building face. Awnings shall have a minimum clearance of eight (8) feet above a public sidewalk or right-of-way and be an integral part of the awning, not projecting above or below the vertical awning face.

**Subd. 4 RC-1, C-2, B-1 and I-1 Regulations.** The following uses are permitted within the RC-1, C-2, B-1 and I-1 Districts.

- A. Address Sign: One sign not to exceed four (4) square feet in area for each building.
- B. Monument Signs: One Monument Sign facing each street frontage may be permitted per lot and development entrance. The Sign Area of any such Monument Sign shall not exceed sixty (60) square feet and shall not exceed twelve (12) feet in width or six (6) feet in height, except when adjacent to a major arterial. The total area of any such Monument Sign facing a major arterial shall not exceed eighty (80) square feet and shall not exceed fifteen (15) feet in width and eight (8) feet in height. No Monument Sign shall be placed closer than five (5) feet to any public right-of-way line. For multi-tenant buildings, one Monument Sign per lot is allowed. The Sign Area of each such Monument Sign shall not exceed eighty (80) square feet, with a maximum Sign Area of forty (40) square feet per tenant, except when adjacent to a major arterial. The total area of any such multi-tenant Sign facing a major arterial shall not exceed one hundred (100) square feet, with a maximum Sign Area of fifty (50) square feet per tenant.

- C. Wall Signs: One Wall Sign shall be permitted per Building Face, not to exceed two Wall Signs per building. For multi-tenant buildings, one Wall Sign per tenant is allowed provided that the Building Face coverage limitation set forth below is met.
1. A maximum of 10% of the Building Face may be used for a Wall Sign.
  2. Signs shall not project above the roof level.
- D. Pylon Signs: One Pylon Sign facing each street frontage may be permitted per lot. The Sign Area of any such Sign shall not exceed forty-eight (48) square feet and shall not exceed twelve (12) feet in width or six (6) feet in height, except when adjacent to a major arterial. The total area of any such Pylon Sign facing a major arterial shall not exceed sixty (60) square feet and shall not exceed fifteen (15) feet in width and eight (8) feet in height. No Pylon Sign shall be placed closer than five (5) feet to any public right-of-way line. For multi-tenant buildings, one Pylon Sign per lot is allowed. The Sign Area of each such Sign shall not exceed sixty (60) square feet, with a maximum Sign Area of thirty (30) square feet per tenant, except when adjacent to a major arterial. The total area of any such multi-tenant Sign facing a major arterial shall not exceed eighty (80) square feet, with a maximum Sign Area of forty (40) square feet per tenant. The height of any Pylon Sign shall not exceed thirty (30) as measured from the elevation of the centerline of the roadway upon which the sign is orientated. The maximum actual sign height shall be no more than forty (40) feet. The sign shall not be raised up by use of a natural or manmade material so as to create a base for the placement of the sign resulting in a height greater than thirty (30) feet as measured from the elevation of the centerline of the roadway.
- E. Directional Signs: Each lot is permitted up to four (4) Directional Signs per driveway or vehicle entrance onto the property. The Sign Area of each such Sign shall not exceed four (4) square feet or four (4) feet in height.

**1260.10 Substitution Clause.** The owner of any Sign that is otherwise allowed under this Section may substitute Non-Commercial Speech for any other Commercial or Non-Commercial Speech without any additional approval or permitting, notwithstanding any provision to the contrary.

**1260.11 Severability.** If any part, clause, provision, or portion of this Section is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Section shall not be affected thereby.

### **Section 1265- *Reserved***

## **Section 1270 – Antennas and Towers**

**1270.01 Purpose and Intent.** The purpose of this section is to manage the placement, construction, and modification of telecommunication towers, antennas, and related facilities in order to protect the health, safety, and welfare of the public while accommodating the communications needs of the public, residents, and businesses.

### **1270.02 Definitions.**

**Antenna:** Any device which is designed to transmit or receive any electromagnetic, microwave, radio, television, or other frequency energy waves including but not limited to directional and omni-directional antennae such as microwave dishes, satellite dishes and whip antennae.

**Antenna support structure:** A building, water tower, or other structure, other than a telecommunications tower, which can be used for location of telecommunications facilities.

**Applicant:** A person who applies for a permit to develop, construct, build modify or erect a tower or antenna under this section.

**Application:** The process by which the owner of a plot of land within the city or other person submits a request to develop, construct, build, modify or erect a tower or antenna upon that land.

**Commercial wireless telecommunication services:** Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging and television similar services that are marketed to the general public.

**Telecommunications facilities:** Cables, wires, lines, wave guides, antennas or any other equipment or facilities associated with the transmission or reception of telecommunications located or installed on or adjacent to a tower or antenna support structure.

**Tower:** Any ground or roof mounted pole, spire, structure or combination thereof exceeding 20 feet in height including supporting lines, cables, wires, braces and masts intended primarily for the purpose of mounting an antenna or similar apparatus above grade.

**Wireless Service Provider:** A direct provider of wireless services to end users.

**1270.03 Exemptions.** The following are exempt from permit requirements contained in this Section.

- A. Household television antennas extending less than 20 feet above the highest point of the roof of a residential structure.
- B. Satellite dish receiving antennas two meters or less in diameter.
- C. Adjustment, repair, or replacement of an antenna or the elements of an antenna, provided that such work does not constitute an increase in the height of the tower structure.
- D. Placement of additional antennas on existing towers provided that such work does not constitute an increase in the height of the tower structure.
- E. Antennas and antenna support structures used by the City for City purposes.
- F. Antennas mounted on water towers or on the sides or roof of existing structures.
- G. Antennas placed in public rights-of-way which are owned and operated by a wireless service provider, providing the antenna is placed on an existing structure.
- H. Emergency or routine repairs, reconstruction, or routine maintenance of previously approved facilities, or replacement of transmitters, antennas, or other components or previously approved facilities which do not create a significant change in visual impact or an increase in radio frequency emission levels, and provided that such work does not constitute a clear safety hazard.
- I. Two-way communication transmitters used on a temporary basis by a "911" emergency services, including fire, police and emergency aid or ambulance service.

**1270.04 Prohibited Towers.** Towers, antenna, and support facilities not specifically provided for herein shall be prohibited.

**1270.04 Zoning District Standards.**

- A. Towers over twenty (20) feet in height specifically and solely designed to support amateur radio operations and antenna are allowed in the side or rear yards in residential districts provided a conditional use permit is issued.
- B. Telecommunications towers, antennas, and support facilities are allowed in industrial zoning districts provided a conditional use permit is issued and the subject parcel does not abut T.H. 212.

#### **1270.05 Performance and Design Standards.**

- A. Tower or Antenna Height:
  - 1. Antennas, towers, and related equipment attached to existing structures shall not be more than ten (10) feet in height above the highest point of the existing structure.
  - 2. Antennas, towers, and related equipment supporting amateur radio operations shall not exceed seventy (70) feet in height.
  - 3. All other towers shall not exceed 175 feet in height.
- B. Setbacks.
  - 1. Setback requirements for towers shall be measured from the base of the tower to the property line of the parcel on which it is located.
  - 2. Amateur radio towers when not rigidly attached to a building shall be setback from all property lines the minimum of a distance equal to the height of the antenna and tower. Setbacks for amateur radio towers rigidly attached to a building may be reduced by an amount that is equal to the distance from the point of attachment to the ground.
  - 3. All other towers shall have a minimum setback from any property line equal to the height of the tower plus 10 feet, except that towers located adjacent to a residential zone shall have a setback equaling the height of the tower plus 100 feet.
- C. Co-location required.
  - 1. Any proposed tower over sixty (60) feet in height shall be designed for co-location of at least one additional antenna.
  - 2. Any proposed tower over one hundred (100) feet in height shall be designed for co-location of at least two (2) additional antennas.
- D. Design Standards.
  - 1. Towers shall be designed and certified by a licensed and qualified professional engineer to conform to the latest structural standards and all requirements of the State Building Code, the Electronics Industry Association, and the National Electric Code.
  - 2. Towers shall be designed to ensure that visual intrusiveness and impacts on nearby properties are mitigated to the greatest extent possible.
  - 3. Every tower affixed to the ground shall be protected to discourage climbing of the tower by unauthorized persons.
  - 4. Towers may not be artificially lit except as required by the Federal Aviation Administration.
  - 5. Towers not requiring Federal Aviation Administration painting or marking must have durable exterior finishes and shall be light blue, gray, or other similar color which minimizes visibility
  - 6. Towers shall be designed to allow for future rearrangement of equipment upon the structure, and to accept attachments mounted at varying heights.
  - 7. The use of any portion of a tower or antenna for signs other than warning, identification,

emergency contact information, or equipment information is prohibited.

8. Freestanding towers must be self-supporting without the use of wires, cables, beams, or other means. The suggested design is a monopole configuration or open framework which collapses on itself in the event of structural damage.
9. To prevent unauthorized entry, towers shall be provided with security fencing as needed or when required by the City.
10. Transmitting, receiving, and switching equipment shall be housed within an existing structure whenever possible. If a new equipment building is necessary for transmitting, receiving, and switching equipment, it shall meet setback requirement contained in the underlying zoning classification and be designed, constructed, and screened to blend in to the surrounding environment and adjacent land uses.
11. Towers and antennas should be located in areas that provide natural or existing structural screening for off-site views of the facility when feasible. Existing on-site vegetation that provides screening shall be preserved to the extent possible. Vegetative screening at the perimeter of the tower is encouraged.

**1270.06 Abandoned or Unused Towers.** Abandoned or unused towers or antennas shall be removed within twelve (12) months of the cessation of operations at the site.

**1270.07 Interference.** No new or existing tower, antenna, or related equipment shall interfere with public safety communications. Before the introduction of a new service or a change in existing services, equipment providers shall notify the City at least ten (10) calendar days in advance of such changes and allow the City to monitor interference levels during the testing process.

**1270.08 Radiation.** Towers, antennas, and related equipment placed within the City shall be subject to State and Federal regulations, as amended. The cost of verification of compliance shall be borne by the owner and operator of the communications facilities and equipment.

## CHAPTER 11. SUBDIVISION

### Section 1100 – General Provisions

**1100.01 Title.** This Ordinance shall be known and referred to as the “Norwood Young America Subdivision Ordinance” except as referred to herein, where it shall be known as “this Ordinance.”

**1100.02 Purpose.** This Chapter has been adopted for the following purposes:

- A. To provide for the orderly, economic and safe development of land and urban services and facilities.
- B. To promote the public health, safety, morals and general welfare of the residents of the City.
- C. To assure equitable handling of all subdivision plats by providing uniform procedures.

**1100.03 Scope.** The provisions of this chapter, relate to any division of a tract of land into one or more parcels by platting, replatting, conveyance, registered land survey or other means.

**1100.04 Authority.** This Ordinance is enacted pursuant to the authority granted through Minnesota Statutes Section 462.

**1100.05 Jurisdiction.** The regulations governing plats and the subdivision of land shall apply to the area within the corporate limits of the City.

**1100.06 Compliance.** After the adoption of this chapter, no lot in a subdivision shall be sold, no permit shall be issued to alter or erect any building upon land in a subdivision, and no building shall be erected in a subdivision unless a subdivision plat has been approved and recorded and until the improvements required by the Council relative to subdivisions have been constructed or arranged for as provided in this chapter.

**1100.07 Required Approvals of Subdivision Plats.** Before any plat shall have validity, it shall have been reviewed by the City Planning Commission and approved by the City Council and recorded in the County Register’s Office.

**1100.08 Registered Land Surveyors and Conveyances by Metes and Bounds.** All Registered Land Surveys shall be filed subject to the same procedure as required for the filing of a preliminary plat for platting purposes. The standard requirements set forth in this Chapter shall apply to all Registered Land Surveys.

**1100.09 Variances and Appeals.** Modification or variance from this Ordinance may be permitted to provide relief on an individual basis. The circumstances and procedures for granting a variance shall be the same as for Chapter 12, Zoning.

**Subd. 1 Planned Unit Development (PUD).** Substantial variance from the provisions of this ordinance may be allowed where the PUD Overlay District is used in accordance with Chapter 12, Zoning. In order to qualify for such variances, the PUD shall demonstrate that site development will have qualities and characteristics that are superior to those that could be expected if the land were developed in accordance with the underlying zoning district. In particular, PUD’s shall demonstrate all of the following to qualify for variances from the provisions of this Ordinance.



- A. The establishment of more creative relationships between buildings and the site, including creative site planning and building product.
- B. The protection of more common usable open space.
- C. The protection of more of the site's natural character (slopes, vegetation, wetlands, etc.).
- D. Generally, more efficient use of the site in terms of the demand it places on public utilities and services.

**1100.10 Amendments.** For the purpose of protecting the public health, safety, and general welfare, the Planning Commission may from time to time propose amendments to these regulations.

**Subd. 1 Amendment Procedures.** An amendment to the Ordinance shall include the following procedures.

- A. A hearing shall be held following publication of notice of the time and place in the official newspaper at least ten days before the day of the hearing.
- B. The Commission shall hear such persons as wish to be heard.
- C. The Commission shall provide a recommendation to the City Council.
- D. The City Council shall act following the Commission's recommendation and either approve or disapprove said amendment.

#### **1100.11 Exceptions.**

**Subd. 1 Simple Lot Division.** A lot may be divided without having to comply with the requirements of this Ordinance, following a public hearing in accordance with established procedures, provided the resultant lots are easily described (e.g. N ½ and S ½) comply with the dimensional requirements of Chapter 12, Zoning and are generally consistent in size with other lots in the immediate vicinity. *(Amended by Ord. 128, 7-10-2000)*

**Subd. 2 Division of Two Family Dwelling.** Existing two family dwellings may be divided into individual parcels of record with the party wall acting as the dividing lot line, following a public hearing in accordance with established procedures, subject to the following conditions:

- A. To protect the safety and property of the owner and occupants of each unit, no two family dwelling may be split until the common party wall fire rating meets Uniform Building Code Standards.
- B. Each unit shall be provided with separate utility, sanitary sewer and water services.
- C. The area for each proposed lot shall meet the minimum requirements under the City's zoning ordinance.
- D. A certificate of survey is filed with the City showing the new lot line and the proposed legal descriptions for each lot.
- E. The owner of the property to be subdivided shall execute and record at his/her own expense a "Declaration of Covenants, Conditions and Restrictions" which shall include, but shall not be limited to, the following:
  - 1. How disputes will be handled.
  - 2. Maintenance agreements.
  - 3. How repairs and reconstruction will be handled in case of damage to the original structure.

4. Party wall agreement.

F. Any other reasonable condition imposed by the City. (*Amended by Ord. 128, 7-10-2000*)

### **Subd. 3 Boundary Line Adjustments**

- A. **Applicability/Purpose.** This section is established to provide for administrative approval for changes in property lines through the detachment and attachment of land to a contiguous lot, tract, or platted or non-platted parcel. A boundary line adjustment is intended to modify or correct the location of a boundary line, to remedy adverse topographical features, to remedy encroachments of structures, to enable the sale of a portion of a lot to an adjoining property, and/or to remedy errors in perceived boundary lines subsequent to an official land survey. A Boundary Line Adjustment may be allowed provided any residual parcel or any existing structure does not become non-compliant or become further non-compliant with the provisions of the Zoning Ordinance.
- B. **Application.** Any person having a legal or equitable interest in a property may file an application for a Boundary Line Adjustment. An application for Boundary Line Adjustment shall be filed with the Zoning Administrator on an approved form and shall be accompanied by an assessment search, proof of ownership of the subject property, submittal of the required fee(s) and a certificate of survey, prepared and signed by a Minnesota registered land surveyor, illustrating the following:
1. Existing site improvements and existing boundaries with lot dimension and area.
  2. Any encroachments and easements of record.
  3. Existing legal description(s) of property.
  4. Identification of the boundary to be moved and the location of the proposed boundary line.
  5. The dimensions, setbacks, existing site improvements, and square footage for all lots resulting from the proposed Boundary Line Adjustment.
- C. **Review of Boundary Line Adjustment.** The Zoning Administrator shall review all applications for Boundary Line Adjustments to determine compliance with the standards identified in this Section and all other pertinent requirements of this Title and the Zoning Ordinance as may be amended. Upon written approval of the request, the applicant shall be responsible for filing the certificate of survey with the County Recorder's office. Should the request be denied, the Zoning Administrator shall notify the applicant, in writing, of the findings of fact for such denial.
- D. **Findings Required for Approval.** In order for the Zoning Administrator to grant approval for a proposed Boundary Line Adjustment, each of the following provisions shall be met:
1. All necessary right-of-way, utility, and drainage easements are provided as requested.
  2. The Boundary Line Adjustment shall not create any additional lot, tract, parcel or division of land.
  3. All lots resulting from the Boundary Line Adjustment shall conform to lot area, width, and size requirements of the City of Norwood Young America Zoning Ordinance including all requirements established for the zoning district in which the property is located.

4. The Boundary Line Adjustment shall not result in the expansion, enlargement, or intensification of an existing legal non-conforming lot or structure under Chapter 1215 and 1204 of the City Code as may be amended and relating to non-conformance. In the event of the Boundary Line Adjustment is requested to remedy an existing non-conforming lot or structural element and the proposed Boundary Line Adjustment brings the existing non-conforming lot or structural element nearer to conformity it shall be considered meeting this requirement. In no case shall a Boundary Line Adjustment further expand, enlarge, or intensify an existing non-conforming lot or structural element.
5. The Boundary Line Adjustment shall not result or have the effect of replatting, amending, altering, or vacating a plat.
6. The proposed Boundary Line Adjustment is in compliance with the Comprehensive Plan.

E. The Zoning Administrator may attach conditions to the approval of a Boundary Line Adjustment. *(Amended by Ord. 246, 9-9-2013)*

#### **Subd 4. Administrative Subdivision/Combination.**

- A. Applicability/Purpose. This Subdivision is established to provide for administrative approval of subdivisions that meet specified criteria and for the waiver of standard platting requirements specified elsewhere in this Title. It is intended largely to facilitate the further division of previously platted lots, the combination of previously platted lots into fewer lots, or for the adjustment of a lot line by relocation of a common boundary.
- B. Prohibited Administrative Subdivision/Combination. The following are not eligible for administrative subdivision/combination and must be platted.
  1. Property(ies) described by metes and bounds.
  2. Property(ies) contained in different subdivisions of record.
  3. Property(ies) not sharing a common lot line.
  4. Property(ies) resulting in three or more lots.
  5. Property(ies) as defined in Mn. Stat § 462.358, as may be amended.
  6. Property(ies) subject to lot combination or split under this Section five (5) or fewer years ago.
- C. Application. The Owner, or all Owners if there are multiple owners may file an application for administrative subdivision. An application for minor subdivision shall be filed with the City Administrator on an approved form, and shall be accompanied by an assessment search, proof of ownership of the subject property to include title commitment certified to date or an Owners and Encumbrances report, the submittal of required fee(s), and the submittal of an illustration of the proposed minor subdivision of sufficient detail as required by the Zoning Administrator, depicting the following:
  1. Scale, one (1) inch equals fifty (50) feet or less, and north arrow.
  2. Existing zoning district, existing site improvements, and existing boundaries with lot dimensions and area.
  3. All encroachments.
  4. Easements of record.
  5. Legal description of property.
  6. Ponds, lakes, springs, rivers, wetlands, or other waterways bordering on or running through the subject property.

7. The boundary(ies) and legal description(s) of the lots as they are proposed to be subdivided, along with proposed zoning.
  8. The boundary and legal description of any proposed easements on the property. A drainage and utility easement at least five (5) feet in width for interior lots, ten (10) feet in width for corner lots, must be provided along all street-side property lines. A drainage and utility easement may also be required over wetland, ponds, lakes, and drainage channels and tributaries. Dedication of roadway easements consistent with City, County and regional plans may also be required.
  9. Proposed legal description for the resulting property(ies).
  10. Proposed deeds for the resulting property(ies).
- D. Review of Administrative Subdivision. The Zoning Administrator shall review all applications for administrative subdivision to determine compliance with the standards identified in this section and all other pertinent requirements of the City Code. The Zoning Administrator, at his/her discretion or may seek recommendation, direction, and/or require approval of the Planning Commission and/or City Council prior to authorizing an Administrative Subdivision. The Planning Commission and/or City Council at their discretion may seek to review and/or comment on a proposed administrative subdivision prior to authorization of the administrative subdivision. Upon written approval of the request, the Zoning Administrator shall ensure the survey and associated deeds have been filed with the County Recorder's office. Should the request be denied, the City Administrator shall notify the Applicant, in writing, of the findings of fact for such denial.
- E. Findings Required for Approval. In order for the Zoning Administrator to grant approval for a proposed administrative subdivision, each of the provisions shown below shall be met:
1. The proposed subdivision of land will not result in more than two (2) lots.
  2. All necessary utility and drainage easements are provided.
  3. For lot combinations, any existing drainage, utility, and/or other easements are vacated according to standard, applicable procedures.
  4. All lots to be created by the subdivision conform to lot area and width requirements of the City Code, including all requirements established for the zoning district in which the property is located.
  5. The proposed administrative subdivision is in compliance with the Comprehensive Plan.
  6. Lots created have direct access onto a public street.
  7. The property has not been divided through the provisions of this section within the previous five (5) years.
  8. The subdivision meets all design and dedication standards as specified elsewhere in this Title.
  9. All basic improvements required by this Section are installed in accordance with City standards.
  10. No parcel of land or portion thereof shall result in buildings and/or uses becoming non-conforming.
- F. The City and/or its assigns may impose such conditions on any proposed administrative subdivision that are deemed reasonable and necessary to protect the public interest and to ensure compliance with the provisions of this ordinance including, but not limited to, the following:
1. The Developer shall provide required utility and drainage easements for all newly created lots and be responsible for the cost of filing and recording written easements and resulting deeds with the County Recorder's office.

2. That there be no more than one principle structure on a base lot in all residential districts. The principle structure on the unit lots created in two-family, townhouse, or quadraminium subdivision will be the portion of the attached dwelling existing or constructed on the platted unit lots.
- G. All other Administrative Subdivision requests shall be approved by resolution of the City Council following consultation with the Planning Commission.
- H. All applicable real estate taxes and pending assessments shall be paid prior to recording of an Administrative Subdivision.

**1100.12 Compatibility with Other Regulations.** Where the conditions of this Ordinance are comparable with conditions imposed by any other law, ordinance, statute, resolution, or regulation, the regulations which are more restrictive shall prevail.

**1100.13 Application.** The subdivider shall file all applications as required in this Ordinance. Such applications will be filed in the Planning Commission records.

**1100.14 Fees and Expenses.**

- A. The subdivider shall pay all city fees and escrow deposits required by resolution and shall further reimburse the City for all the reasonable expenses it incurs in regard to the review and approval of the subdivision and improvements including, but not limited to, direct city payroll and overhead, costs, fees paid to consultants and other professionals, and the costs of printing, mailing and supplies.
- B. An escrow deposit shall be made at the time of application for final subdivision approval. Within sixty (60) days after completion of a task for which the escrow deposit was required, the City will remit to subdivider any amounts remaining after the City has charged against the escrow account all expenses incurred by the City for the above services. In the event that the charges incurred by the City exceed the escrow amount, the subdivider shall pay to the City the excess within thirty (30) days after receipt of a statement therefor.

**Section 1110 – Definitions**

**Subd. 1 Alley.** A public or private right-of-way primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

**Subd. 2 Applicant.** Any subdivider or his agent.

**Subd. 3 Arterial.** A street primarily designed to carry large volumes of traffic and provide for vehicular movement between neighborhoods and/or other heavy traffic generating areas as well as to various sectors of the county and beyond.

**Subd. 4 Block.** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, or boundary lines of municipalities.

**Subd. 5 Bond.** Any form of security including a cash deposit, surety bond, warranty bond, penalty bond, collateral, property, or instrument of credit.

**Subd. 6 Boulevard.** The portion of the street right-of-way between the curb line and the property line.

**Subd. 7 Building.** Any structure used or intended for supporting or the sheltering of any use or occupancy.

**Subd. 8 Collector Roads.** A road intended to move traffic from local roads to arterials. A collector road serves a neighborhood or large subdivision.

**Subd. 9 Construction Plan.** The maps or drawings, accompanying a subdivision, showing the specific location and design of required public or private improvements to be installed in the subdivision in accordance with the requirements of the City or this chapter as a condition of the approval of the subdivision.

**Subd. 10 Cul-de-sac.** A local street with only one outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement as provided for in Section 1130.

**Subd. 11 Design Standards.** The specification to the subdivider for preparation of preliminary and final plats, including, but not limited to the optimum, minimum or maximum dimensions of such items as rights-of-way, blocks, easements, lots, and public and private improvements.

**Subd. 12 Developer.** The owner of land proposed to be subdivided or its representative who is responsible for any undertaking that requires review and/or approval under these regulations.

**Subd. 13 Developer Agreement.** An agreement between the City Council and developer through which the City Council agrees to vest development use or intensity or refrain from interfering with subsequent phases of development through new legislation in exchange for the provision of public facilities or amenities by the developer in excess of those required under current regulations.

**Subd. 14 Easement.** Authorization by a property owner for another to use the owner's property for a specified purpose.

**Subd.15 Escrow.** A deposit of cash with the City or escrow agent to secure the promise to perform some act.

**Subd. 16 Final Plat.** The map of a subdivision to be recorded after review by the Planning Commission and approval by the City Council, including any accompanying material as described in these regulations.

**Subd. 17 Frontage.** That part of a lot fronting on one side of a street between the side lot lines or between a street right-of-way and a side lot line.

**Subd. 18 Frontage, Street.** Any street to be constructed by the developer or any existing street where development shall take place on both sides.

**Subd. 19 Grade.** The slope of a road, street, or other public way, site or topography specified in percentage (%) terms.

**Subd. 20 Local Street.** A road whose sole function is to provide access to abutting properties and to other roads from individual properties.

**Subd. 21 Lot.** A parcel of land, separated from other parcels by description, intended for building development or for transfer of ownership.

**Subd. 22 Lot, Butt.** A lot at the end of a block and located between two corner lots.

**Subd. 23 Lot, Corner.** A lot abutting on two or more streets other than an alley, at their intersection.

**Subd. 24 Lot, Double Frontage/Through.** A lot having its front and rear yards each abutting on a street, not including an alley.

**Subd. 25 Lot Line.** The property line bounding a lot.

**Subd. 26 Lot Line, Front.** The lot line separating the lot from the street other than the alley. In the case of a corner lot, the front lot line is the shortest lot line along a street other than an alley. In the case of a through lot, each street has a front lot line.

**Subd. 27 Lot Line, Rear.** The lot line which is opposite and most distant from the front lot line. In the case of an irregular, triangular or other shaped lot, a line 10 feet in length within the lot paralleled to and at a maximum distance from the front lot line.

**Subd. 28 Lot Line, Side.** Any lot line not a front or rear lot line.

**Subd. 29 Lot Width.** The average horizontal distance between the side lot lines, ordinarily measured parallel to the front lot line at the minimum required setback line.

**Subd. 30 Nonresidential Subdivision.** A subdivision whose intended use is other than residential, such as commercial or industrial.

**Subd. 31 Owner.** Any person, firm, association, syndicate, co-partnership, corporation, trust, or any other legal entity having sufficient proprietary interest in the land sought to be subdivided to commence and maintain proceedings to subdivide the same under these regulations.

**Subd. 32 Pedestrian Way.** The right-of-way across or within a block, for use by pedestrian traffic, whether designated as pedestrian way, cross-walk, or however otherwise designated.

**Subd. 33 Planned Unit Development.** An integrated development involving two or more principal uses or structures, including but not specifically limited to single-family residential uses, multiple-family residential uses, offices, or commercial uses, or any combination thereof, and similar such uses or combinations.

**Subd. 34 Plat.** The map or plan of a subdivision showing the property boundaries, layout, dimensions and legal descriptions of all lots, blocks, and rights-of-way.

**Subd. 35 Preliminary Plat.** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Planning Commission for recommendation.

**Subd. 36 Property Line.** The boundary lines enclosing a lot, parcel or tract of land.

**Subd. 37 Protective Covenants.** Contracts entered into between private parties and constituting a restriction on the use of all private property within a subdivision for the benefit of the property owners, and to provide mutual protection against undesirable aspects of development which would tend to impair stability of values.

**Subd. 38 Public Improvements.** Any building, structure, drainage ditch, dam, roadway, parkway, sidewalk, pedestrian way, trees, shrubs, lawn, off-street parking area, sewer and water utilities, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may effect an improvement for which local government responsibility is established.

**Subd. 39 Recreational Trail.** Any trail intended to be used for active recreational purposes such as biking, hiking, jogging and walking.

**Subd. 40 Registered Land Surveyor.** A land surveyor properly licensed and registered in the state.

**Subd. 41 Resubdivision.** A change in a recorded final plat if such change affects any street layout on such plat, or any lot line.

**Subd. 42 Right-of-Way.** The area between property lines of a road, street, alley, pedestrian way or easement or other street.

**Subd. 43 Road, Dead-End.** A road or a portion of a road with only one vehicular traffic outlet.

**Subd. 44 Sketch, Plat.** A sketch preparatory to the preliminary plat (or final plat in the case of minor subdivisions) to enable the subdivider to save time and expense in reaching general agreement with the Planning Commission as to the form of the plat and the objectives of these regulations.

**Subd. 45 Service Street.** A minor street, which is parallel and adjacent to an arterial and which provides access to abutting properties and protection from through traffic.

**Subd. 46 Sight Distance.** The minimum extent of unobstructed vision (on a horizontal plane) along a street from a point five feet above the centerline of a street.

**Subd. 47 Street.** A public way for vehicular traffic, whether designated as a street, highway, arterial, arterial parkway, throughway, road, avenue, lane, place, or however otherwise designated.

**Subd. 48 Street, Grid-Pattern.** The network of roads, streets and sidewalks that are constructed in horizontal lines which are generally rectilinear in form.

**Subd. 49 Street, Minor.** A street of limited continuity used primarily for access to the abutting properties and the local needs of a neighborhood.

**Subd. 50 Subdivider.** Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision or who (2) directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertises to sell, lease or develop, any interest, lot or parcel site, unit, or plat in a



subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any interest, lot, parcel site, unit, or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct or indirect common control with any of the foregoing.

**Subd. 51 Subdivision.** The separation of an area, parcel, or tract of land under single ownership into two or more parcels, tracts, lots, or long-term leasehold interests where the creation of the leasehold interest necessitates the creation of streets, roads, or alleys, for residential, commercial, industrial, or other use or any combination thereof.

**Subd. 52 Subdivision Plat.** The final map or drawing, described in these regulations, on which the subdivider's plan of subdivision is presented to the Planning Commission for review and which, if approved, may be submitted to the County Register of Deeds for filing.

### **Section 1120 – Application Procedures and Approvals Process**

**1120.01 Classification of Subdivisions.** Before any land is subdivided, the property owner, or authorized agent, shall apply for and secure approval of the proposed subdivision in accordance with the following procedures:

*(Amended by Ord. 171, 10-24-2005)*

#### **Subd. 1 Subdivision:**

Sketch Plat (optional)  
Preliminary Plat  
Final Subdivision Plat

**1120.02 Subdivision within Shorelands.** All plats shall comply with the shoreland management regulations as established in Chapter 12, Zoning.

*(Amended by Ord. 171, 10-24-2005)*

**1120.03 Official Submission Dates.** For the purpose of this chapter, the date of the completed subdivision application and all required support information shall constitute the official submission date of the plat. The completion date shall start the statutory period required for formal approval or disapproval of the plat pursuant to Minnesota Statutes, Section 462. The statutory review may be extended pursuant to Statute or by a time extension granted by the subdivider. *(Amended by Ord. 171, 10-24-2005)*

#### **1120.04 Plat Procedures.**

**Subd. 1 Sketch Plat.** A sketch plat is an optional stage in the plat process, which may serve as the basis for unofficial, conceptual discussion with City staff, City Engineer, and Planning Commission. It provides an opportunity for the subdivider to seek feedback before preparation of the preliminary plat. Submission of such sketch plan shall not constitute formal filing of a preliminary plat.

*(Amended by Ord. 171, 10-24-2005)*

#### **Subd. 2 Preliminary Plat.**

## A. Subdivision Procedures.

1. The subdivider shall submit to the City Administrator, a written application for a preliminary plat along with the following information:
  - a. 8 full-sized copies and 28 reductions of the preliminary plat.
  - b. Cash fee as established by City Resolution.
  - c. Escrow deposit as established by City Resolution.
  - d. Any written supportive information.
  - e. Site plan
  - f. Grading plan
  - g. Utility plan
  - h. Any additional plans as deemed necessary; i.e. Building elevations, landscaping or sidewalk plans, etc.
2. The City Administrator shall direct appropriate staff to review the plat in relation to the City code and the character of existing adjacent development.
3. The City Administrator shall refer copies of the preliminary plat to the City Engineer and applicable public agencies and ensure that written confirmation of any required review is completed.
4. The Planning Commission shall conduct a public hearing on the preliminary plat. Notices of the public hearing shall be mailed at least ten days prior to the hearing to all property owners within three hundred fifty (350) feet of the property as identified in Carver County public records. The notice shall state the time and place of hearing and a brief description of the subdivision. Notice of the hearing shall also be published in the official newspaper at least ten days before the date of said hearing.
5. After holding the public hearing and reviewing the application, the Planning Commission shall provide its findings and recommendations to the City Council. The Commission may recommend approval, approve subject to certain modifications or conditions, or disapprove of the preliminary plat. If the Commission recommends denial of the plat, it shall state the findings for denial in its meeting minutes.
6. The City Council shall not receive or review a preliminary plat until it has received a recommendation from the Planning Commission, unless required to comply with statutory review deadlines. The City Council shall take under consideration the recommendation of the Planning Commission and approve, conditionally approve, or deny the preliminary plat.
7. Conditional approval of a preliminary plat shall not constitute approval of the final plat. Rather, it shall be deemed an expression of approval of the layout submitted on the preliminary plat as a guide to the preparation of the final plat.
8. Unless the City Council specifically approves a different time period, the approval of a preliminary plat shall expire one (1) year from the date it was approved, unless the applicant has filed a complete application for approval of a final plat; or, unless before expiration of the one (1) year period, the applicant submits a written request for an extension thereof. Such request for an extension shall include the following:
  - a. an explanation for why a final plat has not been applied for
  - b. what, if any, good faith efforts have been made to complete the platting process, and

- c. the anticipated completion date.

**Subd. 3 Final Plat.** Final plat review is the last stage of the subdivision review process. The plat drawings are reviewed for completeness and conformity with the intent and requirements of the preliminary plat approval.

A. Subdivision Procedures.

1. The subdivider shall submit to the City Administrator, written application for a final plat with the following information:
  - a. 8 full-sized copies and 28 reductions of the final plat.
  - b. Final engineering plans.
  - c. Final grading plans with 2' contours.
  - d. Final soil and erosion control plans.
  - e. Final grades and elevations for all public utilities.
  - f. A statement regarding protective covenants and deed restrictions.
  - g. Developer agreement (if required).
  - h. Cash fee as established by City Resolution.
  - i. Escrow deposit as established by City Resolution.
2. The final plat shall conform substantially to the preliminary plat as conditionally approved, and, if desired by the subdivider, it may constitute a portion of the approved preliminary plat that the applicant desires to record and develop; provided such portion conforms to all requirements of this Ordinance.
3. Upon receiving a complete application, the City Administrator shall refer copies of the plat to city staff, the agencies and jurisdictions as needed to receive written comments.
4. The City Administrator shall instruct staff to coordinate analysis of the application, prepare technical reports and the development contract, and prepare a recommendation to the City Council. If the final plat is in agreement with the approved preliminary plat staff shall prepare a report summarizing the review and provide such recommendation to the City Council.
5. If the final plat does not conform to the street arrangement and other aspects of the approved preliminary plat, proposed utility and facility plans, or with any other objectives of the City, staff shall include the points at which the plat fails to conform and recommend to the City Council that they disapprove the plat until the objections have been overcome.
6. The City Council shall review the plat and technical reports and approve, conditionally approve, or disapprove the final plat. If the City Council disapproves the final plat, it shall state its reasons to the subdivider in writing.
7. Before the City Council gives approval of the final plat, it shall require that a developer agreement with the subdivider be drawn up, approved, and signed, to insure performance of the conditions which will lead to the completion of all required public improvements deemed to be necessary.
8. If the final plat is approved, the subdivider shall record it with the County Register of Deeds within one hundred twenty days after the date of approval; otherwise, the approval of the final plat shall be considered void. (*Amended by Ord. 171, 10-24-2005*)

**1120.05 Specifications for Plats.**

**Subd. 1 Sketch Plat.** Since this is a pre-application stage, subdividers shall prepare, for review with the Planning Commission, City Engineer, City Administrator, and others, a preliminary subdivision sketch plan which shall contain the following minimum information:

- A. Site location map showing north arrow, existing conditions on and adjacent to the site, the general layout of streets, blocks, and lots and general areas set aside for schools, parks, and other community facilities.
- B. Any information the subdivider might have regarding the market to be served and the suitability of the location for the proposed subdivision.

**Subd. 2 Preliminary Plat.** The preliminary plat is the second stage of the subdivision review process. During this stage, the subdivider details the proposals and the City details the platting requirements. The preliminary plat shall include the following elements:

- A. Date, north arrow and a scale.
- B. The title of the proposed subdivision.
- C. Names and addresses of the owner, subdivider, surveyor, or engineer preparing the plat.
- D. The names of the abutting subdivisions or the names of the owners of abutting unplatted property and the boundary lines of adjoining unsubdivided or subdivided land.
- E. Legal description and location of the subdivision, giving the numbers of section, township and range, and the name of the township, county and state.
- F. A map indicating plans for the development of the entire area, if the preliminary plat is a portion of a larger holding intended for subsequent development.
- G. A location map showing the relationship of the preliminary plat to the surrounding area.
- H. Block numbers, lot lines, lot numbers, and square footages of each lot. Streets, street names, right-of-way, roadway widths, approximate grades, location, parking stalls, loading spaces, access aisles, and all other circulation elements including bike and pedestrianways, and the total site coverage of all circulation elements.
- I. Other right-of-way or easements, showing location, width, and purpose.
- J. Total acreage of subdivision.
- K. Existing topography at five-foot intervals or less.
- L. Location and elevation of all water bodies including 100 year flood elevation and the Ordinary High Water Level (OHWL).
- M. Proposed and existing storm and sanitary sewers, water mains, other utilities, and their respective profiles, if required.
- N. All existing structures and other physical features which would influence the layout and design of the subdivision.
- O. Proposed sites, if any, for multi-family dwellings, shopping centers, churches, industry, and other non-public uses exclusive of single family dwellings.
- P. Sites proposed to be reserved or dedicated for parks, playgrounds, schools, or other public uses.
- Q. Building setback lines.
- R. Delineation of all wetlands.
- S. Existing zoning of the proposed subdivision and adjacent tracts, in zoned areas including the total acreage in each zoning district.
- T. Source of water supply.

- U. Location of historic and cultural sites.
- V. Front, rear, and side yard setbacks.
- W. Statement of the proposed use of lots stating type of residential buildings with number of proposed dwelling units; type of business or industry so as to reveal the effect of the development on traffic, fire hazards and congestion of population.

**Subd. 3 Final Plat.** The final plat shall be prepared by a land surveyor who is registered in the State of Minnesota and shall conform to Minnesota Statutes Section 505.02 and the requirements of this Ordinance.

Information to be shown:

- A. Name and right-of-way width of each street or other right-of-ways.
- B. An up-to-date certified abstract of title or registered property report and such other evidence as the City Attorney may require showing title or control in the application.
- C. Certifications by attached information showing that all taxes and special assessments currently due on the property to be subdivided have been paid in full.

### **Section 1130 – Design Standards**

**1130.01 Conformity with the Comprehensive Plan.** The proposed subdivision shall conform to the policies and standards of the comprehensive plan.

**1130.02 Streets.** The arrangement, character, extent, width, grade, and location of all streets shall conform to the Comprehensive Plan and to these regulations, and shall be considered in their relation to existing and planned streets, to reasonable circulation of traffic, to topographical conditions, to run-off of storm water, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

**Subd. 1 Street Width.** All right-of-way widths and pavement widths shall conform to the following minimum dimensions:

<u>Comprehensive Plan Designation</u>	<u>ROW</u>	<u>Roadway</u>
Arterials	100-200'	52'
Collectors	80'	40'
Local Streets	50-66'	28'
Cul-de-Sac Radius	60'	50'
Service Roads	40'	24'

Greater or lesser widths may be required depending upon anticipated traffic volumes, planned function of the street, and character of planned abutting land uses.

**Subd. 2 Street Continuation and Extension.** The arrangement of streets shall provide for the continuation of existing streets from adjoining areas into new subdivisions where this is desirable.

**Subd. 3 Deflections.** When connecting street lines deflect from each other at any one point by more than 10 degrees, they shall be connected by a curve with a radius of not less than 100 feet.

**Subd. 4 Grades.** Grades of streets shall conform as closely as possible to the original topography. A combination of steep grades and curves shall be avoided. All center line gradients shall be at least .5% and shall not exceed the following:

Arterial and Collector Streets	4% Gradient
Local Streets	8% Gradient

**Subd. 5 Cul-de-Sacs.** Maximum length of cul-de-sac streets shall be 500 feet measured along the center line from the intersection of origin to end of right-of-way.

**Subd. 6 Half Streets.** Half streets shall be prohibited, except where essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations; and except where it will be practicable to require the dedication of the other half when the adjoining property is subdivided. Wherever there is a half street adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract prior to the granting of access. The probable length of time elapsing before dedication of the full right-of-way shall be considered in this decision.

**Subd. 7 Stub Streets.** Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall be extended to the boundary line of the tract to make provision for the future projection of streets into adjacent areas.

**Subd. 8 Private Streets.** Private streets shall not be approved, nor shall public improvements be approved for any private right-of-way.

**Subd. 9 Service Streets.** Where a subdivision abuts or contains an existing or planned major arterial or a railroad right-of-way, a street approximately parallel to and on each side of such right-of-way for adequate protection of residential properties and to afford separation of through and local traffic may be required. Such service streets shall be located at a distance from the major arterial or railroad right-of-way suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.

**Subd. 10 Topography and Arrangement.** The grid street pattern shall be followed except in instances where topography or other physical conditions will prevent the strict application of the basic grid pattern.

**Subd. 11 Street Trees.** Street trees shall be placed within 6 feet of the right-of-way of the road or roads within and abutting the subdivision. One tree shall be planted for every forty (40) feet of frontage along the road, unless the City Council grants a waiver. Such waiver shall be granted only

if there are trees growing along such right-of-way or on the abutting property which in the opinion of the City Council comply with this Chapter. The following types of trees shall not be planted as a street tree as herein defined: Boxelder, Silver Maple, Birch, Catalpa, Black Walnut, Mulberry, Poplars, Black Locust, Willows and the Elm species. This prohibition will be prospective in effect. Planting of a prohibited type will be a misdemeanor.

**Subd. 12 Street Names.** Names of new streets shall not duplicate existing or platted street names unless a new street is a continuation of or in alignment with the existing or platted street, in which event it shall bear the same name as the existing or platted street so in alignment.

### 1130.03 Alleys.

**Subd. 1 Locational Requirements.** Except in the case of a planned unit development, either a public or private alley shall be provided in a block where commercially zoned property abuts a major arterial or a major street.

**Subd. 2 Widths.** An alley right-of-way and pavement widths shall conform to the following minimum standards:

<u>Classification</u>	<u>ROW</u>	<u>Pavement</u>
Residential (two way)	20 ft	16 ft
Residential (one way)	16 ft	12 ft
Commercial/Industrial	24 ft	20 ft

**Subd. 3 Grades.** All center line gradients shall be at least .5% and shall not exceed 8%.

### 1130.04 Intersections.

**Subd. 1 Angle of Intersection.** The angle formed by the intersection of streets shall be 90 degrees unless natural features such as topography and trees are to be protected wherein, an intersection shall not be less than 75 degrees.

**Subd. 2 Size of Intersection.** Intersections of more than four corners shall be prohibited.

**Subd. 3 Offset Intersections.** Proposed new intersections along one side of an existing street shall, wherever practicable, coincide with any existing intersections on the opposite side of such street. Street jogs with center-line offsets of less than 150 feet shall not be permitted, except where the intersected street has separated dual drives without median breaks at either intersection. Where streets intersect major streets, their alignment shall be continuous. Intersections of major streets shall be at least eight hundred (800) feet apart.

**Subd. 4 Vertical Alignment at Intersections.** Intersections shall be designed with a flat grade wherever practical. In hilly or rolling areas, at the approach to an intersection, a leveling area shall be provided having not greater than a two percent (2%) rate at a distance of sixty (60) feet, measured from the nearest right-of-way line of the intersecting street.

**Subd. 5 Sight Triangles.** Minimum clear sight distance shall be established for all intersections in which no building, pole, or other visual obstruction higher than two feet would be permitted. Vehicles should be visible to the driver of another vehicle when each is 75 feet from the center of the intersection for local streets. The standards of Carver County shall apply on other streets.

**1130.05 Pedestrian Ways.** Where sidewalks are proposed, they shall meet the following standards:

**Subd. 1 Widths.** Sidewalks shall be five (5) feet in width. Recreational trails shall be ten (10) feet in width.

**Subd. 2 Grades.** Sidewalks shall slope  $\frac{1}{4}$  inch per foot away from the property line and the profile grade shall not exceed 5%.

**1130.06 Utility Easements.**

**Subd. 1 Easements.** Easements shall be provided along rear and side lot lines as necessary for utility lines. The total width shall not be less than 10 feet. The easements should be centered on rear lot lines resulting in a 5-foot easement on one lot and 5-feet on the adjacent lot.

**Subd. 2 Storm Water or Right-of-Way.** Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, a storm water easement or drainage right-of-way shall be provided which conforms substantially with the lines of such watercourse or right-of-way.

**1130.07 Drainage.** The post-development runoff rate shall not exceed the pre-development runoff rate for the 1 year, 10 year, and 100 year storm events.

**1130.08 Blocks.**

**Subd. 1 Arrangement.** A block shall be so designed as to provide two tiers of lots wherever possible unless it adjoins a railroad, major Arterial, river or park where it may have a single tier of lots.

**Subd. 2 Length.** Block lengths shall not exceed 1,300 feet nor be less than 500 feet.

**1130.09 Lots.**

**Subd. 1 Conformance to Zoning.** The lot width, depth, and area shall not be less than the particular district requirements of the zoning ordinance.

**Subd. 2 Lot Frontage.** All lots shall front upon a publicly dedicated street.

**Subd. 3 Width Related to Length.** To prevent narrow deep lots, the depth of a lot shall not exceed  $2\frac{1}{2}$  times the width.

**Subd. 4 Corner Lots.** Corner lots shall have extra width as identified in Chapter 12 to permit appropriate building setbacks from both streets or orientation to both streets. Lots abutting a pedestrian mid-block crosswalk shall be treated as corner lots.



**Subd. 5 Butt Lots.** Butt lots shall be platted at least five feet wider than the average width of interior lots in the block; their use shall be avoided whenever possible.

**Subd. 6 Side Lot Lines.** Side lot lines shall essentially be at right angles to straight streets and radial to curved streets.

**Subd. 7 Back-up Lots.** Lots shall back, wherever possible, rather than face, onto such features as freeways and arterial streets, shopping centers, or industrial properties. Such lots should contain a landscape easement along the rear at least 20 feet wide to restrict access to the arterial street, to minimize noise and to protect outdoor living areas. Lots extending through a block and having frontage on two local streets should be prohibited.

**Subd. 8 Lot Remnants.** All remnants of lots below minimum size left over after subdividing of a larger tract must be added to adjacent lots, or a plan shown as to future use rather than allowed to remain as unusable parcels.

**Subd. 9 Double Frontage/Through Lots.** Such lots shall not be permitted except where such lots back onto an arterial or major highway; such lots shall have additional depth of ten feet for screen planting along the rear lot line.

**1130.10 Planting Strips.** Planting strips shall be placed next to undesirable features such as highways, railroads, or industrial uses to screen the view from residential properties. Such screens should be a minimum of 20 feet wide.

#### **1130.11 Erosion and Sediment Control.**

- A. The development shall conform to the topography and soils to create the least potential for soil erosion.
- B. The smallest practical increment of land shall be exposed at any one time during development.
- C. Detailed requirements for each plat shall be set forth in the development agreement.

### **Section 1140 – Dedication Requirements**

#### **1140.01 Park Land Dedication Requirements.**

##### **Subd. 1. Purpose and Findings**

- A. Minnesota Statutes Section 462.358. Subd. 2b provides that municipal subdivision regulations may require that a reasonable portion of any proposed subdivision be dedicated to the public or preserved for conservation purposes or for public use as parks, playgrounds, trails, wetlands, or open space, and that the municipality may alternatively accept an equivalent amount in cash. *(Amended by Ord. 165, 2/14/2005)*
- B. The City Council finds that:
  - 1. The preservation and development of parks, playgrounds, and open space areas within the City are essential to maintaining a healthy and desirable environment for residents and employees within the City. Further, the value and attractiveness of residential and

commercial/industrial developments is enhanced by the presence of parks and open space amenities.

2. New developments place a burden upon the City's parks and open space system. New facilities must be developed to maintain the current level of service and the quality of the environment for all. Therefore, new developments shall be required to contribute toward the City's park system in rough proportion to the relative burden they will place upon the park system. *(Amended by Ord. 165, 2/14/2005)*

### **Subd. 2. Dedication Required**

- A. At the time of subdivision, the developer shall dedicate land for public open space and public use as parks, playgrounds, recreation facilities, trails, in an amount equal to the development's proportional share of the City park system, as determined by this ordinance. *(Amended by Ord. 165, 2/14/2005)*
- B. Any land dedicated shall be in a location and of a character consistent with and suitable for meeting the needs identified by the City's Comprehensive Plan. In order to be accepted for the required dedication, land must be suitable for public uses. Land located within wetlands, areas subject to flooding, and land used for ponding or infiltration areas will not be accepted to meet the land dedication requirements. The City may consider accepting ownership of these lands without giving credit for park dedication. *(Amended by Ord. 165, 2/14/2005)*
- C. Existing natural features which enhance the attractiveness of the community, such as trees, watercourses, historical places, and similar irreplaceable assets such be preserved, insofar as possible, in the design of the subdivision and in meeting park land dedication requirements. *(Amended by Ord. 165, 2/14/2005)*
- D. If the City Council determines that land is not needed in the area of the proposed subdivision, the City requires payment of an equivalent amount in cash. Any money paid to the city for this purpose shall be placed in a special fund and used only for the acquisition of land for parks, open space, playgrounds, and recreational facilities, and for the development of new and existing park and playground sites. *(Amended by Ord. 165, 2/14/2005)*
- E. If the City Council determines that land is needed with a subdivision, but in a lesser amount than what is required, the Council may require payment of cash in lieu of land dedication based on a proportional share of the land dedication that would otherwise be required. *(Amended by Ord. 165, 2/14/2005)*
- F. The undeveloped land value shall be used to determine the cash payment required in lieu of land dedication. The amount required for payment is evaluated annually and is listed in the City of Norwood Young America Fee Schedule. *(Amended by Ord. 165, 2/14/2005)*
- G. The City Council may waive the park dedication fee under special circumstances, such as economic development projects, where public funding and subsidies are utilized for project feasibility. *(Amended by Ord. 165, 2/14/2005)*

**Subd. 3. Land Dedication/Payment of Fees.** Dedication of land and/or payment of park dedication fees shall be as follows:

#### **A. Calculation of Dedication.**

1. For residential subdivisions, a minimum of 10% of the total area of the property is deemed a reasonable portion to meet dedication requirements. The land must be suitable for public use and the City is not required to accept land which will not be usable for

park purposes or which would require extensive expenditures on the part of the public to make them usable. *(Amended by Ord. 165, 2/14/2005)*

2. For non-residential subdivisions, such as commercial or industrial plats, the city requires a minimum cash park dedication on a per acre basis, as specified in the Fee Schedule. However, where the City Council deems it in the public interest, it may require a minimum land dedication of five percent of the commercial or industrial land to be subdivided in lieu of a cash dedication. The lands must be indicated on the City's Comprehensive Plan or must be designated on specific area plans for parks, trails, and public open space. *(Amended by Ord. 165, 2/14/2005)*

**B. Land Dedication.**

1. When land is to be dedicated to satisfy the park dedication requirement, separate lots or outlots shall be indicated on the plat drawings for the area(s) to be dedicated. *(Amended by Ord. 165, 2/14/2005)*
2. Signed deeds for the lots or outlots shall be given to the City prior to the City's release of the final plat for filing. No building permits shall be issued for the development until the required deeds are received by the City. *(Amended by Ord. 165, 2/14/2005)*
3. The developer shall be responsible for finished grading and ground cover and construction of trails in all lands to be dedicated to the City. No credit toward the required dedication shall be given for this work, except that credit for the cost of improvements to trails included in the City's adopted trail plan may be reimbursed by the City. *(Amended by Ord. 165, 2/14/2005)*

**C. Cash Fee.** When a cash fee is to be paid in lieu of land dedication, the payment of such fee shall be required as follows:

1. For all residential developments, park dedication fees shall be paid prior to the City releasing the signed final plat for recording. An exception may be granted by the City Council for multiple-family structures, including multi-unit townhomes, condos and apartments, to allow payment of the fee prior to the issuance of building permits. Payment shall be made for all units within each building prior to issuance of any building permits for that structure. *(Amended by Ord. 165, 2/14/2005)*
2. For commercial and industrial developments, the total fee shall be paid prior to issuance of any building permits for the development. The City Council may grant deferral of a portion of the fees if the subdivider proposes to construct significantly less square footage than the site supports. The remaining fees shall be paid at the time of building permit application for additional square footage to be constructed on the site. *(Amended by Ord. 165, 2/14/2005)*
3. In plats that include outlots for future development, the subdivider shall pay to the City the required dedication fee for each phase at the time such outlots are replatted for development, according to the park dedication policy and fees in affect at the time of final plat for each phase. *(Amended by Ord. 165, 2/14/2005)*

**1140.02 Street Dedication.**

**Subd. 1 Existing Half-Streets.** Where an existing half-street is adjacent to a new subdivision, the other half of the street shall be improved and dedicated by the subdivider.

**Subd. 2 Local and Collector Streets.** The right-of-way of any new local or collector street that is part of a subdivision shall be dedicated for public use.

**Subd. 3 Widening and Realigning Existing Roads.** Where a subdivision borders an existing narrow road or when the Comprehensive Plan, County Transportation Plan, or zoning setback regulations indicate plans for realignment of those roads. Service roads and streets shall be improved and dedicated by the applicant at its own expense to the full width as required by these subdivision regulations when the applicant's development activities contribute to the need for the road expansion.

### **Section 1150 – Improvement Required**

**1150.01 Purpose.** It is the purpose of this section to establish and define the public improvements which will be required to be constructed by the subdivider as conditions for final plat approval and also to outline the procedures and responsibilities of the subdivider and the various public officials and agencies concerned with the administration, planning, design, construction, and financing of public utilities and facilities, and to further establish procedures for assuring compliance with these requirements.

**1150.02 Responsibility for Plans.** It shall be the responsibility of the subdivider of every preliminary subdivision to have prepared by a registered engineer, or registered land surveyor, a complete set of construction plans, including profiles, cross-sections, specifications, and other supporting data, for the hereinafter required public streets, utilities, and other facilities. Such construction plans shall be based on preliminary plans which have been approved with the preliminary plat, and shall be prepared in conjunction with the final plat. All construction plans shall be prepared in accordance with the following public improvement standards or specifications as approved by the various agencies of the City and County.

#### **1150.03 Procedure.**

**Subd. 1 Submittal.** Three complete copies of engineering plans and specifications of each required public improvement shall be filed with the City Administrator, coincident with the filing of the final plat.

**Subd. 2 Review.** The City Administrator shall transmit one copy of the engineering plans and specifications along with the final plat to the Planning Commission. The Planning Commission shall review the complete submission and report its recommendation to the City Council. The reasons for a recommendation of disapproval, approval with conditions, or approval shall be made in writing with reasons identified. Recommendation for disapproval, approval with conditions, or approval of engineering plans shall always be simultaneous with action on the final plat.

**1150.04 Required Public Improvements.** Every subdivision developer shall be required to install and pay for the following public and other improvements in accordance with the conditions and specifications as follows.

**Subd. 1 Monuments.** Monuments of a permanent character shall be required and installed in conformance to Minnesota Statutes.

**Subd. 2 Street Improvements.**

- A. Street Grading. All streets and alleys shall be required to be graded to their full right-of-way width by the subdivider so that pavements and sidewalks and other improvements can be constructed by using the finished grade level. Grades shall be approved by the City Engineer.
- B. Street Surfacing. Concrete or hot plant mix with adequate subbase shall be as approved by the City Council upon advise from the City Engineer.
- C. Curb and Gutter. Concrete curb and gutter, type B-618 shall be required.
- D. Street Signs. Shall be required to be installed in the appropriate locations at each street intersection as approved by the City Council.
- E. Street Trees. Shall be approved by the City Engineer and shall be planted in accordance with the specifications of the City Engineer. Such trees shall have a minimum trunk diameter (measured twelve inches above ground level) of not less than two inches. Only oak, honey locust, hard maples, ginkgo, or other long-lived shade trees, acceptable to the City Engineer and to the City Council, shall be planted.

**Subd. 3 Alley Improvements.**

- A. Street Grading. Grades shall be approved by the City Engineer.
- B. Street Surfacing. Shall be Class 5 aggregate, 100% crushed quarry stone.

**Subd. 4 Sidewalks.** When sidewalks are included as part of a subdivision, they shall be concrete four (4) inches thick placed on a four inch gravel base. Grades shall be as approved by the City Engineer. Sidewalks shall be placed in the public right-of-way, one foot from the property lines.

**Subd. 5 Utilities.**

- A. Watermain. A minimum watermain of six (6) inch ductile cast iron pipe or other approved pipe shall be required. Mains over eight (8) inches in size may be required with the additional cost to be born by the community.
- B. Sanitary Sewer. Sewer lines shall be of PVC pipe of a size approved by the City Engineer. Grades shall also be approved by the City Engineer. Service wyes shall be six (6) inches. Root repellent joint material shall be required.
- C. Drainage Facilities. All surface and underground drainage systems shall be in conformity to the City drainage plans.
- D. Utilities Location. When practicable and feasible, all utilities shall be placed underground; all underground work within the right-of-way shall be completed prior to street surfacing. All utility lines for telephone and electrical service shall be placed in rear line easements when carried on overhead poles.

**Subd. 6 House Services.** Each house service shall be run from the main to the property line where a cap or plug shall be placed until the service is extended to the structure. A one inch, Type K, copper water service, corporation cock and curb box and stop and six (6) inch of the type and class of adjoining pipe sewer service shall be minimum requirements and may be placed in a common trench in accordance with the City Plumbing Code. Curb boxes shall be easily located and visible.

**Subd. 7 Inspection.** All required improvements shall be inspected by the City Engineer during construction, at the expense of the subdivider.

**Subd. 8 Construction Plans (includes sediment and erosion control plans).** Construction plans for the required improvements conforming in all respects with the standards of the City Engineer and the ordinances of the City shall be prepared at the subdivider's expense by a professional engineer who is registered in the State of Minnesota, and said plans shall contain his seal. Such plans, together with the quantities of construction items, shall be submitted to the City Engineer for said approval and for said estimate of the total cost of the required improvements; upon approval they shall become a part of the contract required. The tracings of the plans approved by the City Engineer, plus two prints, shall be furnished to the City to be filed by the City Engineer as a record.

**1150.05 Condition of Approval of Final Plat.** No final subdivision plat shall be recommended by the Planning Commission and approved by the City Council, or be accepted for record by the County, until the improvements required under these subdivision regulations shall have been constructed in a satisfactory manner and approved by the respective public agency responsible for the public improvement, or in lieu of such prior construction, the filing of a performance bond, cash deposit, certified check, escrow deposit or special assessment agreement with the respective public agency responsible for administering the specific public improvements.

**1150.06 Financial Guarantees.** In lieu of the actual installation of required public improvements, the subdivider may elect to provide a financial guarantee of an escrow deposit, or furnish a performance bond as follows:

**Subd. 1 Escrow Deposit.** An escrow deposit shall be made to the City in a sum equal to 125% of the total cost of the public improvements as estimated by the City Engineer, including cost of inspection by the City of all of the improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to approval of the final plat.

The City shall be entitled to reimburse itself out of said deposit for any cost and expense incurred by the City for completion of the work in case of default of the subdivider under said contract, and for any damages sustained. Upon completion of the work and termination of any liability, the balance remaining in said deposit shall be refunded to the subdivider.

**Subd. 2 Performance Bond.** In lieu of making escrow deposit, the subdivider may furnish a public contractor's performance bond in form prescribed by statute, with corporate surety, in a penal sum equal to 125% of the total cost as estimated by the City Engineer, including cost of inspection by the City, of all of the improvements to be furnished and installed by the subdivider pursuant to the contract and which have not been completed prior to approval of the final plat. The bond shall be approved by the City Attorney and filed with the City Clerk.

**1150.07 Inspection.** All required improvements on the site that are to be installed under the provisions of this section shall be inspected during the course of construction by the City Engineer at the subdivider's expense, and acceptance shall be subject to the City Engineer's certificate of compliance with the contract.

**1150.08 Progressive Installations.** In addition to, and in conformance with the above provision for agreement to progressively repay a subdivider for completion of portions of the required public

improvement, when any portion of an improvement has actually been fully completed, the City shall upon reasonable advance notice, approve a partial withdrawal of funds or a reduction in the face value of the certified check or bond equal to the estimated cost of such completed portion.

**1150.09 Penalty in Case of Failure to Complete the Construction of a Public Improvement.** In the event the subdivider shall, in any case, fail to complete such work within such period of time as required by the conditions of the guarantee for the completion of public improvements, the City may assume responsibility for completion of such work. In order to accomplish this, the City shall reimburse itself for the cost and expense thereof by appropriating the cash deposit, or may take such steps as may be necessary to required performance by the bonding company.

### **Section 1160 – Civil Enforcement**

Appropriate actions and proceedings may be taken in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

### **Section 1170 – Effective Date**

This Ordinance shall take effect and be in force from and after its passage and publication according to law, passed by the City Council of the City of Norwood Young America this 27<sup>th</sup> day of May, 1997.

**CHAPTER 10. BUILDING, HOUSING AND MOBILE HOMES****Section 1000 – Building Code**

**1000.01 Codes Adopted by Reference.** The Minnesota State Building Code, as adopted by the Commissioner of Labor and Industry pursuant to Minnesota Statutes Chapter 16B.59 to 16B.75, including all of the amendments, rules and regulations established, adopted and published from time to time by the Minnesota Commissioner of Labor and Industry, through the Building Codes and Standards Unit, is hereby adopted by reference with the exception of the optional chapter, unless specifically adopted in this ordinance. The Minnesota State Building Code is hereby incorporated in this ordinance as if fully set out herein. *(Amended by Ord. 196, 7/23/07)*

**1000.02 Application, Administration, and Enforcement.** The application, administration, and enforcement of the code shall be in accordance with Minnesota State Building Code. The code shall be enforced within the extraterritorial limits permitted by Minnesota States, 16B.62, Subdivision 1, when so established by this ordinance. *(Amended by Ord. 196, 7/23/07)*

The code enforcement agency of the City of Norwood Young America is called the contracted Building Officials Department of Paul A. Waldron and Associates. *(Amended by Ord. 196, 7/23/07)*

This code shall be enforced by the Minnesota Certified Building Official designated by the City of Norwood/Young America to administer the code (Minnesota Statute 16B.65) Subdivision 1.  
*(Amended by Ord. 155, 8/11/03)*

**1000.03 Permits and Fees.** The issuance of permits and the collection of fees shall be as authorized in Minnesota Statutes, 16B.62, Subdivision 1. Permit fees shall be assessed for work governed by this code in accordance with the fee schedule adopted by the City in Chapter 20 of the Norwood Young America City Code. In addition, a surcharge fee shall be collected on all permits issued for work governed by this code in accordance with Minnesota Statute 16B.70. *(Amended by Ord. 196, 7/23/07)*

An investigation fee, in addition to the permit fee, shall be collected whenever any work for which a permit is required by this code has been commenced without first obtaining said permit. The investigation fee shall be set in the Fee Schedule by the City Council. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law. *(Amended by Ord. 188, 2/12/2007)*

A reinspection fee may be assessed for each reinspection when such portion of work for which inspection is called is not complete or when corrections called for are not made. Reinspection fees may be assessed when the inspection record card is not readily available, approved plans are not readily available, failure to provide access on the date for which inspection is requested or for deviating from plans requiring the approval of the building official. The fee shall be in accordance with the fee schedule adopted by the jurisdiction. *(Amended by Ord. 155, 8/11/03)*

In order to renew a building permit, the applicant must pay a fee equal to one half the amount required for a new permit for such work, provided no changes have been made or will be made in the original plans and specifications for such work. *(Amended by Ord. 160, 9/13/04)*



Fee refunds may be authorized by the Building Official of any fee paid hereunder which was erroneously paid or collected. The Building Official may authorize refunding of not more than 80 percent of the permit fee paid when no work has been done under a permit issued in accordance with this code. The Building Official shall not authorize refunding of any fee paid except on written application filed by the original permittee not later than 180 days after the date of fee payment. All plan review fees shall be paid by the applicant whether the project is to be completed or not. *(Amended by Ord. 155, 8/11/03)*

**1000.04 Violations and Penalties.** A violation of the code is a misdemeanor (Minnesota Statute 16B.69). *(Amended by Ord. 196, 7/23/07)*

**1000.05 Completion Time.** Any residence for which a building permit has been issued shall be completed and ready for occupancy according to the approved plans and specifications within one year following issuance of the permit or as required in the State Building Code for expiration of permits under Uniform Building Code, Section 106.4.4. *(Amended by Ord. 155, 8/11/03)*

**1000.06 Pole Construction Buildings.** Pole construction buildings shall not be permitted in a residential district. Pole construction buildings may be erected in other districts upon the application for and issuance of a special use permit for the pole building construction by the Council. *(Amended by Ord. 155, 8/11/03)*

**1000.07 Incompatible Structures.**

**Subd. 1 Referral by Inspector and Administrator.** Whenever an application is filed with the City for a building permit for any structure to be built, enlarged, or altered within, or moved in or into the City, and the building inspector finds that the application, plans, and specifications, and the plot plan submitted (the application papers) comply with the Code of the City except that the application papers provide for a structure, the exterior design, appearance, and functional plan which the building inspector and the Administrator feel may be so at variance or so similar with the exterior design, appearance, and functional plan of structures in the neighborhood and same zoning district of the proposed structure as to cause a material depreciation generally to property in the neighborhood, then the building inspector shall within 10 days after the receipt of the application papers, file the papers and the opinion in writing, signed by the building inspector and the Administrator, with the planning commission. *(Amended by Ord. 155, 8/11/03)*

**Subd. 2 Call of Hearing.** Within seven days after the receipt of the application papers and opinions, the Administrator shall give notice to each member of the planning commission and to the public by publication in the official paper, and to any other persons the Administrator deems advisable, of a hearing to be held by the planning commission with respect to the application. The notice shall state the purpose of the hearing and the location of the structure. Notice to the applicant shall be by registered mail at least three days in advance of the hearing, provided appearance at the hearing shall constitute a waiver of any defect in the notice of the hearing. The hearing on the application shall be held not less than one week nor more than two weeks after receipt of the application by the City. *(Amended by Ord. 155, 8/11/03)*

**Subd. 3 Hearing and Findings.** Before or during the hearing, each member of the planning commission may view the premises upon which the structure is located or to be located, and at

the hearing the commission shall examine the application papers and hear the applicant. It may also hear any citizens of the neighborhood and other individuals who request to be heard. Within 48 hours of the close of the hearing, the commission shall, pursuant to a majority vote of all the members of the commission, file written findings of the fact. It shall determine whether the exterior design, appearance and functional plan of the structure is or is not at a variance or so similar with the exterior design, appearance and functional plan of structures constructed or in the course of construction in the neighborhood of the proposed structures, (in the same zoning district) as to cause material depreciation generally to property in the neighborhood. The commission shall further make a recommendation that the application be accordingly granted or denied. The finding, determination and recommendation shall be in writing, signed on behalf of the planning commission by its chairman. The Administrator shall file a certified copy of the finding, determination and recommendation with the building official and shall mail a copy to the applicant. The application papers, the written opinions, and the findings, determinations, and recommendations of the planning commission shall immediately be presented by the Administrator to the Council at its next regular meeting. Further action with respect to the application shall be held in abeyance pending order and direction of the Council. In such case, no permit with respect to the application shall be issued except upon order and direction of the Council. (*Amended by Ord. 155, 8/11/03*)

**1000.08 Protection of Adjoining Property.** Any person making or causing an excavation to be made a depth of twelve feet (12') or less, below grade, shall protect the excavation so that the soil of adjoining property will not cave in or settle, or shall be liable for the expense of underpinning or extending the foundation on adjoining property where the excavation necessitates such work. (*Amended by Ord. 155, 8/11/03*)

**1000.09 Commercial Plumbing Permits.** Prior to installation of a system of plumbing other than for a single-family dwelling, with independent plumbing service, complete plumbing plans and specifications, together with any additional information that the Building Official may require, shall be submitted in triplicate and approved by the Building Official. No construction shall proceed except in accordance with the approved plans. Any alteration or extension of any existing plumbing system shall be subject to these same requirements. (*Amended by Ord. 188, 2/12/2007*)

### **Section 1005 – Moved-In Buildings**

**1005.01 Purpose.** The purpose of this Section shall be to regulate the moving of permanent structures within the City in order to protect the health, safety and welfare of the general public, to protect the City's infrastructure, to require minimum standards for structures that may be moved and to fix penalties for violations of the provisions in this Section.

**1005.02 Compliance with Other Laws.** A permittee under this Section shall comply with the building code, the zoning ordinance and all other applicable ordinances and laws upon relocating a building in the City.

**1005.03 Definitions.** The following terms have the meaning given them in this Section.

**Building.** A building shall mean a structure designed, built or occupied as a shelter or roofed enclosure for persons, animals or property and use for residential, business, mercantile, storage, commercial, industrial, institutional assembly, educational or recreational purposes.

**Placement Location.** Placement location shall mean the location in the City to which a building may properly be moved and on which such building may be properly located after the move.

**Removal Location.** Removal location shall mean the location from which a building may properly be moved.

#### **1005.04 Permits.**

**Subd. 1 Permit Required.** No person shall move any building over, along or across any highway, street or alley in the City without first obtaining a permit from the City.

**Subd. 2 Permit Application.** Any person seeking issuance of a permit under this section shall first file an application upon forms provided by the City. The application shall set forth the following:

- A. A description of the building proposed to be moved, including construction materials, dimensions, number of rooms, conditions of exterior and interior and photos showing ground and street elevations;
- B. A legal description of the removal location;
- C. A legal description of the placement location;
- D. A survey of the placement location property, showing the proposed location of the building and setbacks to property lines;
- E. Plans indicating the footing size, spacing and depth for the building on the placement location;
- F. The highways, street and alleys over, along or across which the building is proposed to be moved;
- G. The proposed moving date and hours;
- H. Any additional information, which the City will find necessary to make a fair determination of whether a permit should be issued.

#### **Subd. 3 Standards for Issuance.**

- A. The City may refuse to issue a permit under this Section if it finds:
  - 1. That there has not been compliance with any application requirement or any fee or deposit requirement;
  - 2. That the building is too large to move without endangering persons or property in the City;

3. That the building is in such a state of deterioration or disrepair or is otherwise so structurally unsafe that it could not be moved without endangering persons and property in the City;
  4. That the building is structurally unsafe or unfit for the purpose for which moved, if the placement location is in the City;
  5. That the applicant's equipment is unsafe and that persons and property would be endangered by its use;
  6. That the building in its placement location would fail to comply in any respect with any provision of the zoning ordinance or other ordinance of the City or, that proper assurance of such compliance has not been given;
  7. That for any reason persons or property in the City would be endangered by the moving of the building;
  8. That the building is in variance with either the established or the expected pattern of building development with the neighborhood to which the building is to be moved. Comparative age, bulk, architectural style and quality of construction between the building to be moved and the buildings either existing or expected in the neighborhood would be used in determining the degree of variance.
- B. No permit will be issued to any person who is not licensed as a building mover by the State of Minnesota.
- C. Prior to moving from the removal location, the building inspector shall inspect the building wherever located, and the applicant's equipment to determine whether the standards for issuance of a permit are met.

**Subd. 4 Fees, Deposits.**

- A. Pre-Move Inspection Fee. The application for the permit required by this Section shall be accompanied by a pre-move inspection fee as established by ordinance in the City's Fee Schedule.
- B. Travel and Mileage. If the property from which the building is being moved is located outside of City limits, the applicant shall pay, in addition to all other required fees, for travel by the building inspector in making an inspection under this Section.
- C. Building Permit Fee. The applicant shall apply and pay for a permit for the footings, foundation and any other work regulated by the Minnesota State Building Code, as well as a final move-in inspection of the building at the time the permit is issued.
- D. Utility Deposit. The applicant shall pay a utility deposit, as established by ordinance in the City's Fee Schedule, at the time the permit is issued. Upon completion of the move and removal of all moving equipment the City shall refund the utility deposit in full, unless there is damage to the City's infrastructure as a result of the move, as regulated in D. below.
- E. Liability for Damage. The applicant shall be liable for any expense associated with damage to the City's infrastructure in excess of the utility deposit.

**1005.05 Additional Regulations.**

**Subd. 1 Notice to City of Revised Moving Time.** A permittee under this Section shall notify the City in writing of a desired change in moving date and hours as proposed in the permit application.

**Subd. 2 Designation of Streets for Removal.** The City shall have final determination along or across which highways, streets and alleys the building may be moved. In making the determination, the City will act to assure maximum safety to persons and property and minimum congestion and traffic hazards on public streets in the City.

**Subd. 3 Display of Safety Mechanisms.** A permittee under this Section shall cause red lights to be displayed on every side of the building during the night time and red flags during the daytime while the building is being moved or standing on the street, in such manner as to warn the public of the obstruction and will, where necessary, erect and maintain barricades across the streets in such manner as to protect the public from damage or injury.

**Subd. 4 Maximum Period of Street Occupancy.** A permittee under this Section shall remove the building from the City streets after two days of such occupancy, unless an extension is granted by the City.

**Subd. 5 Clearing Old Premises.** A permittee under this Section shall remove all rubbish and materials, properly abandon all utility connections and fill all excavations to existing grade at the removal location, when located within the City, so that the premises are left in a safe and sanitary condition. If the permittee fails to do so, the City may proceed to do the work necessary to establish the original premises in a safe and sanitary condition at the expense of the permittee.

**Subd. 6 Occupancy of Building Moved.** The building to be located upon the placement location shall be brought up to Building Code standards and/or completed for occupancy within six (6) months after the date of permit to move the building.

**Subd. 7 Notice to City of Damages to City Property.** A permittee under this Section shall notify the City of any and all damage done to property belonging to the City within 24 hours of the damage or injury occurring.

**1005.06 Penalty and Violation.** Violation of any provision of the Section shall constitute a misdemeanor. All subsequent offenses shall constitute a separate violation of this Section.

*(Amended by Ord. 198, 9/10/2007)*

**Section 1010 – Mobile Home Parks**

**1010.01 Purpose.** The purpose of this Section shall be to maintain property values and otherwise promote the health, safety, order, convenience and general welfare by defining a certain class of manufactured housing as mobile homes, by regulating the location and use of mobile homes; and by establishing minimum standards for the design, construction, alteration and enlargement of mobile home parks; providing for the inspection of mobile home parks, the licensing of operators of the mobile home parks, and fixing penalties for violations of the provisions in this Section.

**1010.02 Definitions.** Unless the context clearly indicates otherwise, the following terms have the meaning given them in this Section.

**Subd. 1 Driveway.** A driveway means a minor private way used by vehicles on a mobile home lot.

**Subd. 2 Mobile Home.** A mobile home is a manufactured home that is less than 20 feet wide over at least 30 feet of its length in the erected mode, suitable for a year-round occupancy, and containing the same water supply, waste disposal and electrical conveniences as immobile housing and subject to tax or registration under state law, and having no foundation other than wheels, jacks or skirting. Width measurement shall not take account of overhangs and other projections beyond the principal exterior walls.

**Subd. 3 Mobile Home Lot.** Means a plot of ground within a mobile home park designed and designated for the accommodation of one mobile home.

**Subd. 4 Mobile Home Court.** Any site, lot, field, or tract of land upon which two or more occupied mobile homes are harbored, either free of charge or for revenue purposes, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as an accessory building or part of the equipment of the mobile home court. The term mobile home court shall include the terms trailer park, trailer court and mobile home park.

**Subd. 5 Mobile Home Pad.** A mobile home pad means that part of an individual lot which has been reserved for the placement of one mobile home unit.

**Subd. 6 Park Manager.** A park manager means the person who owns or has charge, care or control of the mobile home park.

**Subd. 7 Park Street.** A park street means a private way which affords principal means of access to individual mobile home lots or auxiliary buildings.

**Subd. 8 Permit.** A permit means a written permit or certification issued by the building inspector permitting the construction, alteration and extension of any permanent structure within the mobile home park under provisions of this Section and regulations issued under this Section.

**Subd. 9 Person.** A person means any individual, firm, trust, partnership, public or private association, corporation, or any other legal entity.

**Subd. 10 Service Building.** A service building means a structure housing toilet, lavatory, laundry and other facilities as may be required by this Section.

**Subd. 11 Inspector.** An inspector means the City building inspector.

**1010.03 General Provisions.**

**Subd. 1 Mobile Homes Regulated.** Unless meeting the requirements of the applicable district zoning regulation, no mobile home shall be permitted on any lot or parcel within the City which is not located within an approved mobile home park as established in this Section.

**Subd. 2 Mobile Homes Prohibited.** Mobile homes shall be prohibited that:

- A. Do not conform to the requirements of state law;
- B. Are in any unsanitary condition or have an exterior in bad repair;
- C. Are structurally unsound and do not protect the inhabitants against the elements.

**Subd. 3 Outdoor Camping Prohibited.** There shall be no outdoor camping anywhere in a mobile home park.

**Subd. 4 Sales Lot Prohibited.** No sales lot for new or used mobile homes shall be permitted within a mobile home park.

**Subd. 5 Purchase as a Condition of Rent.** No person shall be required to purchase a mobile home from any particular person or place as a condition of rental of a lot.

**Subd. 6 Advertising.** Advertising shall be limited to one sign not to exceed 25 square feet with lighting, height and location as approved by the governing body. Signs shall be set back at least 15 feet from the front lot line.

**Subd. 7 Registry Required.** The operator of every mobile home park shall maintain a registry of the mobile home park showing:

- A. The name and address of each guest or permanent resident;
- B. The make, type, and license number of each mobile home;
- C. The date each unit entered and departed the park

**Subd. 8 Building Permits Required.** All buildings shall require a building permit.

**Subd. 9 Skirting.** The area beneath a mobile home in a mobile home park shall be skirted or enclosed, provided that such enclosures must be designed to provide an opening for maintenance and inspection purposes.

**Subd. 10 Clothes Lines.** Laundry and clothes shall be hung out to dry only on lines located in approved areas established and maintained exclusively for that purpose in mobile home parks.

**Subd. 11 Sewer and Water.** A mobile home park shall be provided with an approved centralized sewage disposal system and water supply system, both of which must meet the

minimum requirements of applicable and State regulations and the provisions of Chapter 9 of this Code.

**Subd. 12 Screening.** All mobile home parks shall be screened in an aesthetic manner to protect the privacy of adjacent lot owners.

**Subd. 13 Appearance.** All mobile home parks and campgrounds shall be constructed and maintained in a manner compatible with the appearance and use of the surrounding area.

#### **1010.04 Permits.**

**Subd. 1 Permit Required.** It shall be unlawful for any person to operate any mobile home park within the limits of the City without first obtaining a permit issued by the Council. The permit shall contain the name of the person under whose ownership or control the operation is proposed.

**Subd. 2 Application for Permits.** Each application for a mobile home permit shall contain the following information:

- A. The name and address of the applicant;
- B. The location, legal description and size in acres of the property proposed for a mobile home park;
- C. A sketch of the existing topography of the property;
- D. The number, location and size of all mobile home lots;
- E. The location and width of roadways and walkways;
- F. The location of all water and sewer lines, including the location of riser pipes;
- G. Plans and specifications of the water supply sewage disposal, and refuse disposal facilities;
- H. Plans and specifications of all existing and proposed buildings constructed or to be constructed within the mobile home park;
- I. The location and details of lighting and electrical systems, including street lighting facilities;
- J. A landscaping plan approved by the Council;
- K. A plan of the park ground area and recreational facilities;
- L. A survey by a registered surveyor of the boundaries of the proposed park;



M. A plan showing existing and proposed streets designed to accommodate the traffic generated by the proposed park.

**Subd. 3 Permit Fee.** The applicant shall pay to the City a fee in an amount as set in the fee schedule as adopted from time to time by the Council.

**Subd. 4 Review of Applications.** The planning commission shall review all applications for permits issued under this Section. The planning commission shall hold hearings as they may deem proper with respect to the application. The findings and recommendation of the planning commission shall be forwarded to the Council for appropriate action.

**Subd. 5 Denial.** Any person whose application for permit under this Section has been denied may request, and if requested, shall be granted a hearing on this matter before the Council.

**Subd. 6 Transfer of Permit.** Every person holding a permit shall give notice in writing to the inspector within 72 hours after having sold, transferred, given away or otherwise disposed of interest in or control of any mobile home park. The notice shall be made to the inspector to include the name and address of the person succeeding to the ownership or control of the mobile home park. Upon application in writing for transfer of the permit, the permit shall be transferred.

**Subd. 7 Suspension and Revocation.** Any permit for a mobile home park issued under this Section shall be conditioned upon compliance with the terms of this Section and any conditions attached to the permit. Any substantial and continued violation of these terms after issuance of the permit shall be grounds for the suspension or revocation of the license. Whenever upon inspection of any mobile home park, the inspector finds that conditions or practices exist which are in violation of this Code, the inspector shall give notice in writing to the person to whom the permit was issued. The notice shall state the nature of the conditions or practices shall be corrected within a period of 30 days following the delivery of the notice by the inspector. Mailing the notice by certified mail shall constitute delivery. Upon expiration of the 30-day period, the inspector shall reinspect the mobile home park in violation and, if the conditions or practices have not been corrected, shall notify the Council and the Council will give notice in writing to the person to whom the permit was issued of the intent to suspend or revoke the permit and the process by which such suspension or revocation may be appealed.

If the work necessary to correct the conditions or practices which are the subject of a notice cannot be completed in the 30-day period, written extensions may be granted by the Council if reasons for hardship prevail and can be verified.

Any person affected by any notice which has been issued in connection with the enforcement of any provisions of these regulations may request and shall be granted a hearing of the same before the Council.

#### **1010.05 Inspection.**

**Subd. 1 Compliance with Ordinance.** The inspector shall be authorized and directed to make inspections as are necessary to determine satisfactory compliance with the regulations of this

Section, including the power to enter at reasonable times upon any private or public property for inspections.

**Subd. 2 Registration Record.** The inspector, chief of police, or their duly authorized representatives of the City, shall have the power to inspect the register containing a record of all residents of the mobile home park.

**Subd. 3 Access.** It shall be the duty of the park management to give the inspector free access to all lots at reasonable times for the purpose of inspection.

**Subd. 4 Repairs.** It shall be the duty of every occupant of a mobile home park to give the owner of the mobile home park or the owner's agent or employee access to any part of the mobile home park at reasonable times for the purpose of making the repairs or alterations necessary to effect compliance with this Section.

**1010.06 Emergency.** Whenever the inspector finds that an emergency exists which requires immediate action to protect the public health, the inspector may, without notice or hearing, issue an order reciting the existence of an emergency and requiring that action be taken as the inspector may deem necessary to meet the emergency. Notwithstanding any other provision of these regulations, the order shall be effective immediately. Any person to whom an order is directed shall comply with it immediately. Upon petition to the inspector, the person shall be afforded a hearing before the planning commission as soon as possible. Pending the hearing, the emergency orders shall be in full force and effect until and unless later removed, modified or changed by the inspector, planning commission or the Council.

#### **1010.07 Environmental, Open Space and Access Requirements.**

**Subd. 1 General Requirements.** The condition of all soil, groundwater level, drainage, and topography shall not create hazards to the property or the health and safety of the occupants. The site should not be exposed to objectionable smoke, noise, odors, or other adverse influences and no portion subject to unpredictable or sudden flooding.

**Subd. 2 Soil and Ground Cover Requirements.** Exposed ground surfaces in all parts of the mobile home park shall be paved or covered with stone, screening, or other solid materials or projected with a vegetable growth that is capable of preventing soil erosion and of eliminating objectionable dust.

**Subd. 3 Site Drainage Requirements.** The ground surface in all parts of the mobile home park shall be graded and equipped to drain all surface water in a safe, efficient manner.

**Subd. 4 Use Requirements.** No part of any park shall be used for non-residential purposes, except uses that are required for the direct servicing and well-being of park residents and for the management and maintenance of the park or other uses that are permitted in single-family dwellings and approved by the park management.

**Subd. 5 Required Separations between Mobile Homes.** Unless separated by fireproof structures approved by the fire marshal and the Council, mobile homes shall be separated from each other and from other buildings and structures by at least 20 feet or the sum of the heights of both trailer units, whichever is greater. Unless separated by fireproof structures approved by fire

marshal and the Council, mobile homes placed end-to-end must have minimum clearance of 15 feet; an accessory structure such as an awning, cabana, storage cabinet, carport, windbreak, or porch which has a floor area exceeding 25 feet, and has an opaque top or roof, shall for purposes of all separation requirements, be considered to be a part of the mobile home; and minimum lot sizes shall not be less than 5,000 square feet.

**Subd. 6 Open Space.** A minimum of 500 square feet per mobile home shall be provided for definable play areas and open space within the mobile home park. Areas of open space and play area shall not be areas included within any setback nor shall they include any areas of less than 20 feet in length or width.

**Subd. 7 Required Setbacks, Buffer Strips and Screening.** All mobile homes shall be located at least 30 feet from any property line abutting upon a public street or highway and at least 20 feet from other property boundary lines; there shall be a minimum distance of 15 feet between the mobile home stand and abutting park street; and all mobile home parks located adjacent to residential, recreational, commercial or industrial land uses shall provide screening such as fences, shrubs, trees, along the property boundary line separating the park and such uses, and shall be maintained in a neat and orderly fashion.

**Subd. 8 Average Density.** Notwithstanding the type of development concept used, the maximum density shall be seven mobile homes per acre.

**Subd. 9 Accessory Buildings.** One accessory building for storage of equipment and refuse is required and the accessory building shall be a minimum of 48 square feet and designed of water resistant material that will enhance the general appearance of the lot.

**Subd. 10 Park Street System and Car Parking.**

- A. General Requirements. All mobile home parks shall be provided with safe and convenient vehicular access from abutting public streets or roads to each mobile home lot. The access shall be provided by streets, driveways or other means.
- B. Park Entrance. Entrances to mobile home parks shall be designed to minimize congestion and hazards and allow free movement of traffic on adjacent streets. No parking shall be permitted on the park entrance street for a distance of 30 feet from its point of beginning.
- C. Internal Streets. Surfaced roadways shall be of adequate width to accommodate anticipated traffic and, in any case, shall meet the following minimum requirements.
  - 1. All park streets except minor streets shall be a minimum of 30 feet in width from face of curb to face of curb. Park streets without curb shall be considered minor streets.
  - 2. Dead-end park streets shall be limited in length to 500 feet and shall be provided at the closed end with a cul-de-sac having an outside roadway diameter of at least 100 feet. All dead-end park streets shall be marked with approved signs at the entrance to the dead-end park streets.

**D. Street Construction and Design Standards.**

1. Pavements. All park streets shall be provided with a paved concrete or bituminous surface. Pavement edges shall be protected to prevent raveling of the wearing surface and shifting of the pavement base. Park street surfaces shall be maintained reasonably free of cracks, holes, and other hazards.
2. Grades. Longitudinal grades of all park streets shall range between 0.4 percent and 8.00 percent. Transverse grades (crown) of all park streets shall be sufficient to insure adequate transverse drainage.
3. Storm Sewers. If conditions warrant, an adequate storm sewer system shall be provided to dispose of all runoff water. The storm sewer system shall be connected to existing City storm sewer systems upon City approval.
4. Intersections. Within 50 feet of an intersection, park streets shall be at right angles. Intersections of more than two park streets at one point shall be avoided.
5. Car Parking. For all new mobile home parks, or additions to present parks, off-street parking areas for the use of park occupants and guests are required. The areas shall be furnished at a rate of at least two car spaces for each mobile home lot, of which at least one-half of the spaces may be in compounds. All off-street parking areas shall be paved concrete or bituminous surface.

**Subd. 11 Walks.**

- A. General Requirements. All mobile home parks shall be provided with safe, convenient, all-season pedestrian access of adequate width for intended use, durable and convenient to maintain, between individual mobile homes, the park's streets and all community facilities provided for park residents. Sudden changes in alignment and gradient shall be avoided.
- B. Common Walk System. A common walk system shall be provided and maintained between locations where pedestrian traffic is concentrated. The common walks shall have a minimum width of four and one-half feet.
- C. Individual Walks. All mobile homes shall be connected to common walks to paved streets or to paved driveways or parking spaces connecting to a paved street. The individual walks shall have a minimum width of two feet.

**Subd. 12 Patio.** Each mobile home lot shall have a patio of 4" concrete with minimum dimensions of nine feet by twenty feet.

**Subd. 13 Trees.** A minimum of one tree per lot is required. In open area and park area, a minimum of 20 trees per acre is required.

**1010.08 Service Building and Other Community Service Facilities.**

**Subd. 1 General.** The requirements of this Section shall apply to service buildings, recreation buildings and other community service facilities such as management offices, repair shops,

storage areas, sanitary facilities, laundry facilities, indoor recreational areas, and commercial uses supplying essential goods or services for the exclusive use of park occupants.

**Subd. 2 Structural Requirements for Buildings.** All portions of the structure shall be properly protected from damage by ordinary uses and by decay, corrosion, termites and other destructive elements. Exterior portions shall be of such materials and be so constructed and protected as to prevent entrance or penetration of moisture and weather.

**Subd. 3 Barbecue Pits, Fireplaces, Stoves and Incinerators.** Cooking shelters, barbecue pits, fireplaces, woodburning stoves and incinerators shall be so located, constructed, and maintained and used as to minimize fire hazards and smoke nuisances both on the property on which used and on neighboring property and shall comply with all appropriate ordinances, laws or other regulations.

**1010.09 Refuse Handling.** The storage, collection and disposal of refuse in the mobile home parks shall be so constructed as to satisfy the requirements of Section 320 of this Code.

#### **1010.10 Insect and Rodent Control.**

**Subd. 1 Buildings.** The grounds, buildings and structures shall be maintained free of insects and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the state and county health code.

**Subd. 2 Parks.** Parks shall be maintained free of accumulation of debris which may provide rodent harborage or breeding places of flies, mosquitoes and other pests.

**Subd. 3 Storage Areas.** Storage areas shall be so maintained as to prevent rodent harborage.

**Subd. 4 Screens.** Where the potential for insect and rodent infestation exists, all exterior openings in or beneath any structure shall be appropriately screened with wire mesh or other suitable materials.

**Subd. 5 Brush, Weeds and Grass.** The growth of brush, weeds and grass shall be regulated by Section 600 of this Code.

#### **1010.11 Fire Protection.**

**Subd. 1 Litter, Rubbish, etc.** Mobile home parks shall be kept free of litter, rubbish and other flammable material.

**Subd. 2 Fire Extinguishers.** Portable fire extinguishers rated for classes A, B, and C fires shall be kept visible and in service buildings and at other locations conveniently maintained in good operating condition. Their capacity shall not be less than 10 pounds.

**Subd. 3 Fires.** Fires shall be made only in stoves, indoor incinerators and other equipment intended for such purposes.

**Subd. 4 Fire Hydrants.** Fire hydrants shall be installed if the park water supply system is capable to serve them in accordance with the following requirements:

- A. The water supply system shall permit the operation of standard City fire hydrants; and
- B. Fire hydrants, if provided, shall be located within 300 feet of any mobile home, service building or other structure in the park.

#### **1010.12 Responsibilities of the Park Management.**

**Subd. 1 General Requirements.** The person to whom a permit for a mobile park is issued shall operate the park in compliance with this Section and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.

**Subd. 2 Inspection of Register.** The park manager shall keep the required register available for inspection at all times by law enforcement officers, public health officers and other officials whose duty necessitates acquisition of the information contained in the register. The register record for the occupant registration shall not be destroyed for a period of three years following the date of departure of the registrant from the park.

### **Section 1020 – Numbering of Homes and Business Places**

**1020.01 Display.** The current address of all homes and other buildings occupied for living purposes and business buildings as assigned pursuant to Section 810 of this Code shall be displayed on the exterior of the home or business facing the street adjacent to the home or business building in compliance with this Section.

**1020.02 Size of Numbers.** Each number of the address attached to the home or business shall be three inches or greater in size. The number shall be of a color that contrasts to the color of the building to which it is attached. The number of the address shall be in Arabic numbers. Roman numerals, numbers in writing or in other forms are insufficient and if used, Arabic numerals shall also be displayed in accordance with this Section.

**1020.03 Location.** All numbers attached to a home or business place shall display the address of the home or business place and shall be located in a position near the front door of the building so it may be seen from the street or road clearly at night with a spotlight or a porch light attached to the building.

### **Section 1030 – Fire Code**

#### **1030.01 Fire Code.**

- A. The 2003 Minnesota State Fire Code, as adopted pursuant to the authority of Minnesota Statutes Section 299F.011, including appendix Chapter D, is hereby adopted by reference as the fire code for the City of Norwood Young America. Such code, except as hereinafter amended or modified, is incorporated in this ordinance as completely as if set out in full and includes Minnesota Rules Chapter 7510, and all amendments and changes adopted thereto. One copy of this code shall be on file in the office of the City Clerk-Treasurer.

- B. The 2003 Minnesota State Fire Code incorporates the 2000 edition of the *International Fire Code* as promulgated by the International Code Council, Inc. (Falls Church, Virginia, December 1999) and made part of Minnesota Rules.
- C. This ordinance is adopted for the purpose of regulating and governing the safeguarding of life and property from fire and explosion hazards arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the occupancy of buildings and premises in the City of Norwood Young America and providing for the issuance of permits for hazardous uses or operations.
- D. If there is a conflict between or among any of the provisions or policies of the stated codes, standards or policies, the following orders of precedence shall apply:
  - 1. City of Norwood Young America Fire Prevention Code.
  - 2. Minnesota State Fire Code.
  - 3. Standards of the National Fire Protection Association or other nationally recognized fire-safety standards as are approved by the Fire Chief.

#### **1030.02 Definitions.**

**Subd. 1 City.** City of Norwood Young America

**Subd. 2 Code Official.** The fire chief, fire marshal, code enforcement officer, or other designated authority charged by the Norwood Young America City Council or the Minnesota State Building Code with the duties of administration and enforcement of this code, or a duly authorized representative. For purposes of enforcing this code it also includes the state fire marshal and the state fire marshal's representatives.

**Subd. 3 This Code.** The code adopted pursuant to this ordinance.

**Subd. 4 Chief.** The fire chief of the City of Norwood Young America Fire Department.

**Subd. 5 Board of Appeals.** The Norwood Young America City Council.

**Subd. 6 Jurisdiction.** Municipal limits of the City of Norwood Young America.

#### **1030.03 Penalties.**

- A. Any person who shall violate any of the provisions of this code or standards hereby adopted or fails to comply therewith, or who shall violate or fail to comply with any order made thereunder, or who shall fail to comply with such an order as affirmed or modified by the city council or by a court of competent jurisdiction, within the time fixed herein or therein, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder and from which no appeal has been taken, shall be guilty of an offense punishable as a misdemeanor for each and every such violation and non-compliance respectively.

- B. Notice of violations shall be given in writing and shall contain a reasonable time to comply as well as a statement explaining the right to appeal.
- C. The imposition of one penalty for any violation shall not excuse the violation or permit it to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each day that prohibited conditions are maintained shall constitute a separate offense.
- D. The application of the above penalties shall not be held to prevent the enforced removal of prohibited conditions.

**1030.04 Enforcement.** The fire chief or the code official or their representatives or other authority designated by the city is authorized to administer and enforce the provisions of this code.

**1030.05 Negligent Fires.** Section 104.10 of the 2003 Minnesota State Fire Code is hereby amended by adding a new Section 104.10.2 to read as follows:

It shall be an offense punishable as a misdemeanor to negligently or carelessly start or cause to be started a fire which endangers the property of another or to negligently or carelessly allow a fire to extend beyond the limits of one's property or property within one's control. The term "property" shall include real and personal property.

**1030.06 Permits.** Section 105 of the 2003 Minnesota State Fire Code pertaining to permits is hereby amended by adding the following provisions:

- A. Permit required. No person shall engage in any activity, operation, practice or function listed below without first having obtained a permit from the fire chief or his representative:
  - 1. Installation, modification, changing and/or removal of all fire protection systems.
  - 2. Installation and removal of underground or aboveground tanks for the storage or use of flammable or combustible liquids, or gas or any hazardous material.
  - 3. Spray booths or spray areas involving spraying or dipping operations utilizing flammable or combustible liquids. Spray booths involving the application of powders by powder spray guns, electrostatic powder spray guns, fluidized beds, or electrostatic fluidized beds.
  - 4. Refinishing and resurfacing operations utilizing flammable and combustible liquids.
  - 5. Tents, canopies, and temporary membrane structures. A permit is required for the public use or the use in public areas of tents and membrane structures having an area over 400 square feet, and canopies in excess of 600 square feet, or when heat sources, cooking equipment, spark/ember producing processes or open flame are contained within or near the tent, canopy, or structure.
  - 6. Carnivals, fairs, and other special events open to the public.
  - 7. Smoke removal systems as required by the fire code.
  - 8. Storage of explosives, black powder, and blasting agents.
  - 9. An application for the use explosives shall require a permit initially made at the city's designated police services. **Exception:** Police and Fire Departments are not required to apply for a permit.



10. Sale of fireworks, fireworks displays and pyrotechnic special effects material. The use of pyrotechnics, flares or signals of any kind are prohibited within any premises.

- B. The fees for such permits shall be in an amount established by the city council by resolution or ordinance.

**1030.07 Appeals.** Section 108 of the 2003 Minnesota State Fire Code is hereby deleted in its entirety and is replaced to read as follows:

- A. Whenever the code official shall disapprove or refuse to grant a permit, or issue an order or notice as provided in the Minnesota State Fire Code, or when it is claimed that the Minnesota State Fire Code has been wrongly applied or interpreted, the aggrieved person may appeal the decision of the code official as provided in this section.
- B. The aggrieved person must first request the code official to reconsider his decision. The request to reconsider must be made within ten (10) days from the date of the code official's initial decision and must submit in writing the reasons for the request for reconsideration.
- C. A person aggrieved by the final decision of the code official may appeal the decision to the Board of Appeals. The appeal must be in writing and made within ten (10) days of the date of the final decision of the code official.
- D. A person aggrieved by the decision of the Board of Appeals may appeal to the state fire marshal in accordance with Minnesota Statutes Section 299F.011, Subdivision 5.
- E. All requests and appeals specified in this section shall be made in writing. An aggrieved party who does not appeal within the time limits specified shall be deemed to have waived his right to appeal and shall be bound by the latest decision in the appeal process.

**1030.08 Fire or Barbecues on Balconies or Patios.** Section 307.5 of the 2003 Minnesota Fire Code is hereby deleted in its entirety and is replaced to read as follows:

- A. In any structure containing three (3) or more residential units, no person shall kindle, maintain, cause, or use any fire, open flame or electric heating element on any balcony or deck above the ground; nor shall such activity occur under a deck or overhang nor on any patio set in and level with the ground unless such activity occurs at least 15 feet from all portions of all such units in such a structure.
- B. Except as otherwise provided in this section, no person shall keep or use any charcoal, nor any lighter fluid, natural gas, fuel, torch, barbecue grill or other similar heating or lighting chemical or device in any place, structure, property, lot, or premises that is any part of a location where fire, open flame or electric heating element is prohibited in subsection A above. Charcoal barbecue grills devoid of all flammable materials may be kept in a garage.
- C. Barbecue grills that burn natural gas are prohibited in any place where prohibited in subsections A and B above unless such a grill is permanently mounted, plumbed to the structure's natural gas supply, and set at least six (6) feet at all points from all combustibles and all portions of all such residential units.

- D. It shall be a violation of this section for a person to conduct or allow any of the activities prohibited therein. The term “person” shall include, but not be limited to, the owner of real property described in subsections A through B above, the owner’s agent, and any tenant of such real property.
- E. Vehicles, vehicles containing any type of fuel, flammable or combustible liquids, or hazardous materials or liquids, regardless if stored in an approved container, shall not be located on any balcony or patio regardless if the balcony or patio is constructed of non-combustible materials or is protected by an automatic fire sprinkler system.

**1030.09 Premises Identification.** Section 505.1 of the 2003 Minnesota State Fire Code is amended to read as follows:

**Subd. 1 Address Numbers.**

- A. New and existing buildings shall have approved address numbers, building numbers, or approved building identification placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches high with a minimum stroke width of ½ inch.
- B. Buildings which have a range of addresses for one building shall display the range of numbers or addresses from the lowest to the highest.
- C. Buildings with multiple tenants/addresses shall place approved numbers or addresses on front and rear doors identifying each address in the manner required in this section.
- D. Dwellings that are remote/auxiliary from the main dwelling shall display approved numbers or addresses on each dwelling in the manner required in this section and in such a manner as to be visible from either direction of travel on the road or street fronting the property.
- E. If any dwelling, business or building as required, is too remote from the fronting road or street to make it unreasonable to be seen from the fronting road or street, a sign or post with visible and legible approved numbers or addresses, or range of numbers or addresses from lowest to highest, shall be placed at the driveway entrance in such a manner that the numbers or addresses are visible from either direction of travel on said road or street.
- F. Addressing of residential and commercial properties that do not fall under the provisions of subsection E above, and as such, are visible from the roadway they are fronting shall conform to the following:

Building Setback  
0 – 40 feet

Minimum Address Size  
4 inches minimum height

41 – 60 feet  
61 feet or greater

6 inches minimum height  
8 inches minimum height

- G. Approved numbers of addresses shall be placed on all construction sites in such a position as to be plainly visible and legible from the street or road fronting the property.

**Subd. 2 Street or Road Signs.**

- A. Streets and roads shall be identified with approved signs. Temporary signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles. Signs shall be of an approved size, weather resistant and be maintained until replaced by permanent signs.

**1030.10 Fire Hydrants.** Section 508.5.1 of the 2003 Minnesota State Fire Code is hereby amended to read as follows:

Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 150 feet from a hydrant on a fire apparatus road, as measured by an approved route around the exterior of the facility or building, on site fire hydrants and mains shall be provided where required by the code official.

- A. For buildings equipped throughout with an approved fire sprinkler system installed in accordance with NFPA 13 or NFPA 13R, the distance requirement shall be one fire hydrant within 100 feet of the fire department connection and 600 feet for all other fire hydrants.
- B. In buildings with high piled combustible storage or buildings that are inherently hazardous in nature because of hazardous processes or which store, use, or handle flammable, combustible or hazardous materials, additional fire hydrants may be required by the code official. **Exceptions:** 1. For Group R-3 and Group U occupancies, the distance requirements shall be 300 feet. 2. For buildings equipped throughout with an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 or 903.3.1.2, the distance requirement shall be 600 feet.

**1030.11 Hydrants.** Section 508.5.5 of the 2003 Minnesota State Fire Code is hereby amended to read as follows:

**Subd. 1 Clear Space around Hydrants.** A six (6) foot clear space shall be maintained around the circumference of fire hydrants except as otherwise required or approved. An approved accessible route to the hydrant from a public access shall be provided and maintained

**Subd. 2 Dangerous Structures.** Any building or structure is a public nuisance which is dangerous to public safety or health or to other property by reason of the existence of any of the conditions set forth as follows:

- A. Damage by fire;

- B. Defective chimney or decay;
- C. Dilapidated condition or decay;
- D. Defective electric wiring;
- E. Defective gas installation;
- F. Defective heating apparatus;
- G. Defective sewage disposal system or plumbing.

*(Amended by Ord. 176, 4/24/2006)*

**CHAPTER 9. UTILITIES****Section 900 – General**

**900.01 Definitions.** As used in this Chapter, the following terms shall have the definition given:

**Subd. 1 Approving Authority.** “Approving Authority” shall mean the City Council, or its duly authorized board, agent or representative.

**Subd. 2 Back Flow Device.** “Back Flow Device” shall mean a device designed to restrict water flow into the water system.

**Subd. 3 Base Charge.** Those charges required by the City to financially support the costs of maintaining water and sewer service facilities. *(Amended by Ord. 234, 01-09-2012)*

**Subd. 4 BOD (Biochemical Oxygen Demand).** “BOD (Biochemical Oxygen Demand)” shall mean the quantity of oxygen expressed in parts per million by weight, utilized in the biochemical oxidation of organic matter under standard laboratory conditions if five (5) days at 20 degrees Celsius. The laboratory determinations shall be made in accordance with procedures set forth in “Standard Methods”.

**Subd. 5 Building Drain.** “Building Drain” shall mean that part of the lowest horizontal point of a drainage system which receives waste from inside the building and conveys it to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

**Subd. 6 Building Sewer.** “Building Sewer” shall mean the extension from the building drain to the public sewer or other place of disposal, (also called a house connection).

**Subd. 7 COD (Chemical Oxygen Demand).** “COD (Chemical Oxygen Demand)” shall mean the oxygen equivalent of that portion of the organic and inorganic matter in a sample of wastewater, expressed in parts per million by weight, that can be oxidized by a strong chemical oxidizing agent. The laboratory determinations shall be made in accordance with procedures set forth in “Standard Methods”.

**Subd. 8 Collection System.** “Collection System” shall mean the system of sewers and apparatuses for the collection, transportation and pumping of domestic wastewater and industrial wastes.

**Subd. 9 Combined Sewer.** “Combined Sewer” shall mean a sewer intended to receive both wastewater and storm or surface water.

**Subd. 10 Compatible Pollutant.** “Compatible Pollutant” shall mean biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the City NPDES permit, if the City treatment works is capable of removing such pollutants, and in fact does remove such pollutants to a substantial degree. Examples of such additional pollution may include, but shall not be limited to the following: Chemical Oxygen Demand, total organic carbon, phosphorus, phosphorus compounds, nitrogen, and/or nitrogen compounds.

**Subd. 11 Connection.** “Connection” shall mean each connection to the collection system.

**Subd. 12 Construction Cost.** “Construction Cost” shall mean the total cost incurred in the construction of sewerage works, which shall consist of but not limited to the sums spent for the following purposes:

- A. Actual sums paid for construction of wastewater treatment facilities and for land acquisition.
- B. Actual engineering fees paid for preliminary engineering studies, plans and specifications, services during construction, staking, operation and maintenance manuals and initial operator training.
- C. Actual sums paid for soils investigations, wastewater sampling, and materials testing required for such construction.
- D. Actual fees and wages paid for legal, administrative and fiscal services required by construction of wastewater treatment facilities.
- E. Actual interest paid on the total amount financed by debt obligation for construction of wastewater treatment facilities.

**Subd. 13 Corporation.** “Corporation” shall mean a device designed to connect a water service sized 2” or smaller to a water main.

**Subd. 14 Curb Box.** “Curb Box” shall mean a device designed to provide access to a curb stop.

**Subd. 15 Curb Stop.** “Curb Stop” shall mean a device designed to control the flow of water within a service line from a water main.

**Subd. 16 Debt Service Charge.** “Debt Service Charge” shall mean the total charge levied on users for purposes of paying construction cost (principal and associated interest) of obligations incurred to finance acquisition and/or construction of sewerage works.

**Subd. 17 Domestic Wastewater.** “Domestic Wastewater” shall mean water-borne wastes normally discharged into the sanitary conveniences of dwellings (including apartment houses and hotel), office buildings, factories, and institutions, free of storm and surface water, and industrial wastes.

**Subd. 18 Floatable Oil.** “Floatable Oil” shall mean oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pre-treatment facility. A wastewater shall be considered free of floatable fat if it is properly pre-treated and the wastewater shall not interfere with the collection system.

**Subd. 19 Incompatible Pollutant.** “Incompatible Pollutant” shall mean any pollutant which is not a compatible pollutant.

**Subd. 20 Industrial Wastes.** “Industrial Wastes” as distinct from domestic or sanitary wastes, shall mean the wastewater from industrial processes, trade, or business.

**Subd. 21 Infiltration.** “Infiltration” shall mean the water entering the sanitary sewer system and service connections from the ground, through such means as, but shall not be limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration shall not include, and shall be distinguished from, inflow, except when used to determine total water quantity from Infiltration/Inflow as defined in Subd. 21.

**Subd. 22 Infiltration/Inflow.** “Infiltration/Inflow” shall mean the total quantity of water from both infiltration and inflow without distinguishing the source.

**Subd. 23 Inflow.** “Inflow” shall mean the water discharged into the sanitary sewer system from such sources as, but not limited to, roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections to storm sewers, catch basins, storm waters, surface run-off, street wash waters, or drainage. Inflow shall not include, and shall be distinguished from infiltration, except when used to determine total water quantity from Infiltration/Inflow as defined in Subd. 21.

**Subd. 24 Major Contributing Industry.** “Major Contributing Industry” shall mean an industrial user of the City treatment works that:

- A. has an equivalent wastewater flow of 25,000 gallons or more per average work day;
- B. has a wastewater flow greater than 5% of the flow or load carried by the City system receiving the wastewater;
- C. has in its wastewater a toxic pollutant in toxic amounts as defined in standards issued under Section 307 (a) of PL-92-500; or
- D. is found by the permit issuance authority, in connection with the issuance of an NPDES Permit to the City treatment works receiving the wastewater, to have significant impact, either singly or in combination with other contributing industries on the City treatment works or up on the quality of effluent from the City treatment works.

**Subd. 25 Meter.** “Meter” shall mean a device that records gallons of water used.

**Subd. 26 Natural Outlet.** “Natural Outlet” shall mean any storm sewer or surface water which overflows into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

**Subd. 27 Normal Strength Domestic Wastewater.** “Normal Strength Domestic Wastewater” shall mean normal strength wastewater from the City in which the average concentration of suspended material and five (5) day BOD shall be established at not greater than 200 parts per million by weight suspended materials and 200 parts per million by weight BOD. The COD of normal domestic wastewater shall not exceed 350 parts per million. Such wastewater shall not include infiltration and/or inflow, and it shall be composed of domestic wastewater.

**Subd. 28 NPDES Permit.** “NPDES Permit” shall mean the National Pollutant Discharge Elimination System Permit held by the City. This permit, which establishes limits on quality and quantity of discharges from the City treatment works, was issued by the State and Federal governments in accordance with the provisions of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1251, et, seq.; the “Act,” Sec. 402 & 405).

**Subd. 29 Operation and Maintenance Cost.** “Operation and Maintenance Cost” shall mean annual expenditures made by the City in the operation and maintenance of its sewage works, consisting of but not limited to the sums spent for each of the following purposes:

- A. Wages and salaries of operating, maintenance, administrative, and supervisory personnel, together with all premiums paid on such wages and salaries (State of Minnesota Worker's Compensation Coverage, for example);
- B. Actual sums paid for electricity for light and power used for wastewater collection and treatment facilities;
- C. Actual sums paid for chemicals, fuel and other operating supplies;
- D. Actual sums paid for repairs to and maintenance of wastewater collection and treatment facilities and the equipment associated therewith;
- E. Actual sums paid as premiums for hazard insurance carried on sewage works;
- F. Actual sums paid as premiums for insurance providing coverage against liability imposed by law for the injury to persons and/or property (including death) of any person or persons resulting from the use and maintenance of the sewerage works;
- G. Actual sums paid for replacement of equipment with the useful life of the wastewater treatment facilities, for example the cost to replace an electric motor or pump that fails, or a broken part in a pump; and
- H. Actual sums set aside in a sinking fund established to provide a future capital amount for replacement of sewerage works equipment.

**Subd. 30 Parts Per Million.** "Parts Per Million" shall mean a weight-to-weight ratio; the parts per million value multiplied by the factor 8.345 shall be equivalent to pounds per million gallons of water. Parts per million and milligrams per liter (mg/l) shall be synonymous terms.

**Subd. 31 pH.** "pH" shall mean the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution. Neutral water, for example has a pH value of 7 and a hydrogen ion concentration of 0.000,000,1 gram/liter, or 10<sup>-7</sup> grams per liter.

**Subd. 32 Properly Shredded Garbage.** "Properly Shredded Garbage" shall mean the wastes from the preparation, cooking, and dispensing of foods that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than ½ inch (1.27 centimeters) in any dimension.

**Subd. 33 Public Sewer.** "Public Sewer" shall mean a common sewer controlled by a governmental agency or public utility.

**Subd. 34 Replacement.** "Replacement" shall mean expenditures for obtaining and installing equipment, accessories, or apparatuses which are necessary during the service life of the sewerage works to maintain the capacity and performance for which the facilities were designed and constructed.

**Subd. 35 Sanitary Sewer.** "Sanitary Sewer" shall mean a sewer that carries liquid and water carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface waters (infiltration/inflow) that are not admitted intentionally.

**Subd. 36 Sewage.** "Sewage" shall mean the spent water of a community. The preferred term shall be "wastewater".



**Subd. 37 Sewer.** “Sewer” shall mean a pipe or conduit that carries wastewater or drainage water.

**Subd. 38 Sewer Service Charge.** “Sewer Service Charge” shall mean the total charge levied on users for sewer service and shall be equal to the sum of “user charge” and “debt service charge”.

**Subd. 39 Sewerage Works.** “Sewerage Works” shall mean all facilities for collecting, pumping, treating and disposing of wastewater and industrial wastes.

**Subd. 40 Slug.** “Slug” shall mean any discharge of water or wastewater which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation and shall adversely affect the collection system and/or performance of the wastewater treatment works.

**Subd. 41 Standards Method.** “Standards Method” shall mean the examination and analytical procedures set forth in the latest edition at the time of the analysis of “Standard Methods for the Examination of Water and Wastewater” as prepared, approved and published jointly by the American Public Health Association, the Water Pollution Control Federation, and the American Water Works Association. Such “standard methods” shall also conform to Federal Register Reprint 40 CFR 136, “Guidelines Establishing Test Procedures for Analysis of Pollutants” (Oct. 16, 1973).

**Subd. 42 Storm Drain.** “Storm Drain” (sometimes termed “storm sewer”) shall mean a drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any source.

**Subd. 43 Storm Water Runoff.** “Storm Water Runoff” shall mean that portion of the rainfall that it drained into the storm sewer or storm drains.

**Subd. 44 Sump Pump.** “Sump Pump” shall mean a pump for disposing of storm drainage.

**Subd. 45 Superintendent.** “Superintendent” shall mean the superintendent of wastewater facilities of the City, or his or her authorized deputy, agent, or representative.

**Subd. 46 Suspended Solids.** “Suspended Solids” or “Total Suspended Solids” or “TSS” shall mean total suspended matter that either floats on the surface of, or is in suspension in, water, wastewater, or other liquids, and that is removable by laboratory filtering as prescribed in “Standard Methods for the Examination of Water and Wastewater” and referred to as nonfilterable residue.

**Subd. 47 Unit.** “Unit” shall mean a measurement of water equal to 1,000 gallons.

**Subd. 48 User.** “User” shall mean any person who discharges, causes, or permits the discharge of wastewater into the City’s sanitary sewer system.

**Subd. 49 User Charge.** “User Charge” shall mean a charge levied on users to recover the cost of operation, maintenance, and replacement of sewerage works, pursuant to Section 204(b) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.).

**Subd. 50 User Class.** “User Class” shall mean the division of users by wastewater characteristic or discharge similarities (example: residential, commercial, industrial, institutional and governmental).

- A. “Commercial User” shall mean any establishment listed in the office of Management and Budget “Standard Industrial Classification Manual” (1972 edition) involved in a commercial enterprise, business or service which, based on a determination by the City, discharges primarily segregated domestic wastewater or wastewater from sanitary conveniences.
- B. “Governmental User” shall mean any Federal, State, or local government user of the wastewater treatment facilities.
- C. “Industrial User” shall mean any non-governmental user of the publicly owned treatment facilities identified in the 1972 Standard Industrial Classification Manual (SICM) Office of Management and Budget as amended and supplemented under the following division:

Division A	Agriculture, Forestry, and Fishing;
Division B	Mining;
Division D	Manufacturing;
Division E	Transportation, Communications, Electric, Gas and Sanitary Services;
Division I	Services

An industrial user shall also be defined as a user who discharges to the City sanitary sewer system any liquid wastes resulting from the processes employed in industry for manufacturing, or in the development of any natural resource.

- D. “Institutional User” shall mean any establishment listed in the “SICM” involved in a social, charitable, religious, or education function which, based on a determination by the City, discharges primarily segregated domestic wastewater from sanitary conveniences.
- E. “Residential User” shall mean a user of the treatment facilities whose premises or building shall be used primarily as a residence for one or more persons, including dwelling units such as detached, semi-detached, and row houses, mobile homes, garden and standard apartments or permanent multi-family dwellings. (Transit lodging, considered commercial in nature, shall not be included.).

**Subd. 51 Unpolluted Water.** “Unpolluted Water” shall mean water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

**Subd. 52 Wastewater.** “Wastewater” shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.

**Subd. 53 Wastewater Facilities.** “Wastewater Facilities” shall mean the structures, equipment, and processes required to collect, carry away, and treat domestic and industrial wastes and dispose of the effluent.

**Subd. 54 Wastewater Treatment Facilities.** “Wastewater Treatment Facilities” shall mean an arrangement of devices and structures for treating wastewater, industrial wastes, and sludge. Sometimes used as synonymous with “waste treatment plant” or “wastewater treatment plant” or “water pollution control plant”.

**Subd. 55 Water Main.** “Water Main” shall mean a pipe, or system of pipes and fittings, designed and used to distribute water to the water service of any customer.

**Subd. 56 Watercourses.** “Watercourses” shall mean a natural or artificial channel for the passage of water either continuously or intermittently.

## **Section 910 – Sewers**

### **910.01 Use of Public Sewers Required.**

**Subd. 1 Unlawful Deposits.** It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under jurisdiction, any human or animal excrement, garbage or objectionable waste.

**Subd. 2 Natural Outlet Discharge.** It shall be unlawful to discharge to any natural outlet within the City, or in any area under City jurisdiction, any wastewater, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Code.

**Subd. 3 Privies.** Except as provided in this Section, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of wastewater.

**Subd. 4 Connection Required.** The owner(s) of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on that part of any street, alley, or right-of-way, in which there is now located or may in the future be located a public sanitary sewer of the City shall be hereby required at the owner(s) expense to install a suitable service connection to the public sewer in accordance with the provisions of this Code, within ninety (90) days after date of official notice to do so.

**Subd. 5 Abatement.** In the event an owner shall fail to connect to a public sewer in compliance with a notice given under Subd. 4 of this Code, the City may undertake to have the connection made and shall assess the cost thereof against the benefited property. The assessment shall be a lien against the property. The assessment, when levied, shall bear interest at the rate determined by the City Council and shall be certified to the County Auditor, and shall be collected and remitted to the City in the same manner as assessments of local improvements. The rights of the City shall be in addition to any remedial or enforcement provisions of this Code.

### **910.02 Private Wastewater Disposal.**

**Subd. 1 Sewer Service Unavailable.** Where a public sanitary sewer is not available under the provisions of this Code, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of the City’s on-site sewer requirements.

**Subd. 2 Owner Liability.** The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the City.

**Subd. 3 Relation to Other Law.** No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the City or the State of Minnesota.

**Subd. 4 Conversion to Public Sewer.** At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, a direct connection shall be made to the public sewer within ninety (90) days in compliance with this Code, and within one hundred twenty (120) days any septic tanks, cesspools, and similar private wastewater disposal systems shall be cleaned of sludge. The bottom shall be broken to permit drainage, and the tank or pit filled with suitable material. All costs of conversion shall be the responsibility of the property owner and shall be assessable against the property.

### **910.03 Building Sewers and Connections.**

**Subd. 1 Permit Required.** No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Approving Authority.

**Subd. 2 Costs.** All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). A connection charge as set in the fee schedule adopted by the Council from time to time shall be due at the time of connection.

**Subd. 3 Indemnification.** The owner(s) shall defend, indemnify, and hold the City harmless from or for any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**Subd. 4 Separate Connections.** A separate and independent building sewer shall be provided for every building; unless written permission for an alternative shall be obtained from the City. The City shall not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

**Subd. 5 Old Sewers.** Old building sewers may be used in connection with new buildings only when they shall be found, on examination and test by the Approving Authority, to meet all requirements of this Code.

**Subd. 6 Construction Standards.** The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City.

**Subd. 7 Elevation.** Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary wastewater carried by the building drain shall be lifted by an approved means and discharged to the building sewer.

**Subd. 8 Prohibited Connections.** Unless temporarily authorized by the Council to prevent perceived safety hazards, no person shall make any connection of roof downspouts, foundation drains, sump pumps, or other sources of surface runoff or groundwater to a building sewer or

building drain which in turn shall be connected directly or indirectly to a public sanitary sewer. Any temporary connection authorized by the Council shall be disconnected by the date specified in the authorization received from the City. If the temporary connection is not disconnected by the date specified in the authorization received from the City, the City may arrange to have the connection severed and the costs of the billed to the property owner. If the property owner fails to pay, the charges for disconnection may be assessed to the property.

**Subd. 9 Applicable Codes.** The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the City. All such connections shall be made gas-tight and water-tight and verified by proper testing. Any deviation from the prescribed procedures and materials shall be approved by the Approving Authority before installation.

**Subd. 10 Inspections.** The applicant for the building sewer permit shall notify the Approving Authority when the building sewer is ready for inspection and connection to the public sewer. The connecting and testing shall be made under the supervision of the Approving Authority.

**Subd. 11 Excavations.** All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Approving Authority.

#### **910.04 Use of the Public Sewers.**

**Subd. 1 Unpolluted Waters.** No person(s) shall discharge or cause to be discharged any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or cooling water to any sewer. Stormwater runoff from limited areas, which may be polluted at times, may be discharged into the sanitary sewer by permission of the Approving Authority. Storm water other than that exempted, and all other unpolluted drainage shall be discharged to such sewers as shall be specifically designated storm sewer or to a natural outlet approved by the Approving Authority and other regulatory agencies. Unpolluted industrial cooling water or process waters may be discharged, on approval of the Approving Authority and in accordance with the provisions of the State and Federal regulations, to a storm sewer, or natural outlet.

**Subd. 2 Prohibited Discharges.** No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:

- A. Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- B. Any waters containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any waste treatment process, constitute a hazard to humans or animals, create a public nuisance, result in a violation of State or Federal water quantity standards, or create any hazard in the wastewater treatment plant or the receiving waters.
- C. Any waters or wastes having a pH lower than 5.5 or higher than 9.5, or having any other corrosive property capable of causing damage or hazard to structure, equipment, and personnel of the wastewater facilities. Exceptions may be granted (by the Approving

Authority) for short duration flows where it has been, or can be shown that high or low pH would not cause any significant wastewater facilities problems.

- D. Solid or viscous substances in quantities or of such size capable of causing obstruction, to the flow in sewer, or other interference with the proper operations of the wastewater facilities such as, but shall not be limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, paunch manure, hair and fleshings, entrails, paper dishes, cups, milk container, etc. either whole or after passage through garbage grinders.
- E. Any wastewater or matter that would directly or indirectly result in a violation of the City's NPDES Permit.

**Subd. 3 Restricted Discharges.** The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which shall not violate design criteria or harm either the sewers, wastewater treatment process or equipment, shall not have an adverse effect on the receiving stream, or shall not otherwise endanger lives, limb, public property, or constitute a nuisance. The Approving Authority may set limitations lower than the limitations established in the regulations below if in its opinion such more severe limitations shall be necessary to meet the above objectives. In forming the opinion as to the acceptable level, the Approving Authority shall give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, degree treatable of the waste in the wastewater treatment plant, and other pertinent factors. The limitations of restrictions on materials or characteristics of waste or wastewater discharged to the sanitary sewer which shall not be violated without approval of the Approving Authority shall be as follows:

- A. Wastewater having a temperature higher than 150 degrees Fahrenheit (65 degrees Celsius);
- B. Wastewater containing more than 25 milligrams per liter of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin;
- C. Wastewater from industrial plants containing floatable oil, fat, or grease, in excess of concentrations permitted by the Approving Authority;
- D. Any garbage that has not been properly shredded. Garbage grinder may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises, or consumption elsewhere when served by caterers;
- E. Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances to such degree that any such material received in the composite wastewater at the wastewater treatment works exceeds the limits established by the Approving Authority for such materials;
- F. Any water or wastes containing odor-producing substances exceeding limits which may be established by the Approving Authority;
- G. Any radioactive materials of such half-life or concentration as may exceed limits established by the Approving Authority, or applicable State and Federal regulations;
- H. Quantities of flow, concentrations, or both which constitute a "slug";
- I. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, from suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.

**Subd. 4 Special Requirements.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in Subd. 3, and which in the judgment of the Approving Authority may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Approving Authority may:

- A. Reject the wastes;
- B. Require pre-treatment to an acceptable condition for discharge to the public sewer, pursuant, to Section 307(b) of the Clean Water Act as amended 33 U.S.C. 1251, et. Seq.;
- C. Require control over the quantities and rates of discharge, and/or;
- D. Require payment to cover added cost of handling and treating the wastes not covered by existing taxes or service charges.

If the Approving Authority permits the pre-treatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the Approving Authority and costs shall be borne at the user's expense.

**Subd. 5 Interceptors.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the Approving Authority, they shall be necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters of dwelling units. All interceptors shall be of a type and capacity approved by the Approving Authority, and shall be located as to be readily and easily accessible for cleaning and inspection. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by the appropriate means of the captured material and shall maintain records of the dates, and means of disposal which shall be subject to review by the Approving Authority. Any removal and hauling of the collected materials not performed by owner(s) personally shall be performed by currently licensed waste disposal firms.

**Subd. 6 Pretreatment.** Where pre-treatment of flow-equalizing facilities are provided or required for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner(s) at his or her expense.

**Subd. 7 Observation Facilities.** When required by the Approving Authority, the owner(s) of any property serviced by a building sewer carrying industrial or domestic wastewater shall install a suitable structure together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Approving Authority. The structure shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.

**Subd. 8 Measurements and Tests.** An industrial user may, at the discretion of the City, be required to provide laboratory measurements, tests, or analysis of waters or wastes to illustrate compliance with this Code and any special condition for discharge established by the City or regulatory agencies having jurisdiction over the discharge. The number, type, and frequency of sampling and laboratory analysis to be performed by the owner shall be as stipulated by the City. The industry shall supply a complete analysis of the constituents of the wastewater discharge to assure that compliance with Federal, State, and local standards shall be met. The owner shall report

the results of measurements and laboratory analysis to the City at such times and in such manner as prescribed by the City. The owner shall bear the expense of all measurements, analysis, and reporting required by the City. At such times as deemed necessary, the City reserves the right to take measurements and samples for analysis by an independent laboratory.

**Subd. 9 Test Standards.** All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this Code shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association. Sampling methods, locating, times, durations and frequencies shall be determined on an individual basis subject to approval by the Approving Authority.

**Subd. 10 Capacity.** New connections to the sanitary sewer system shall be prohibited unless sufficient capacity shall be available in all downstream facilities, which shall include, but shall not be limited to, capacity for flow, BOD, and suspended solids.

**Subd. 11 Unauthorized Access.** No person, unless authorized shall uncover, make any connection with or opening into, use, alter, or disturb any sanitary or storm sewer within the City or any part of the City wastewater facilities.

**Subd. 12 Construction Standards.** No sanitary or storm sewers shall be constructed in the City (except house or building service sewers) except by the City or by others in accordance with plans and specifications approved by a professional engineer. No such sewers shall be constructed or considered to be part of the public sewer system unless accepted by the City.

**Subd. 13 Size and Slope.** The size, slope, alignment, material of construction, methods to be used in excavation placing of pipe, jointing, testing, backfilling, and other work connected with the constructing of sewer shall conform to the requirements of the City.

**Subd. 14 Special Agreements.** No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, when such City treatment can be provided in compliance with the requirements of the NPDES permit and subject to payment therefore by the industrial concern and providing that national categorical pre-treatment standards shall not be violated.

**910.05 Protection from Damage.** No person(s) shall maliciously, willfully, or negligently enter, break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the wastewater facilities. Any person(s) violating this Provision shall be subject to immediate arrest under charge of disorderly conduct.

#### **910.06 Powers and Authority of Inspectors.**

**Subd. 1 Entry.** Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing pertinent to discharge to any public sewer or natural outlet in accordance with the provisions of this Code.



**Subd. 2 Industries.** Sampling pertaining to industry shall reflect the number of days an industry is not operating as well as the days in operation and discharging waste to a public sewer.

**Subd. 3 Industrial Information.** The Approving Authority or other duly authorized employees shall be authorized to obtain information concerning industrial processes which have a direct bearing on the kind and source of discharge to the wastewater collection system. The industry may withhold information considered confidential. The industry shall establish that the revelation to the public of the information in question might result in an advantage to competitors.

**Subd. 4 Safety Rules.** While performing the necessary work on private properties referred to in Paragraph A of this Subsection, duly authorized employees of the City shall observe safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury, or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this Code.

**Subd. 5 Easements.** Duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but shall not be limited to, inspection, observation, measurements, sampling, repair, and maintenance of any portion of the wastewater facilities lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

#### **910.07 Penalties.**

**Subd. 1 Notice.** Any person found to be violating any provision of this Code except Subsection 910.05, "Protection from Damage," shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender, shall within the period of time stated in the notice, permanently cease all violations.

**Subd. 2 Misdemeanor.** Any person who shall continue any violation beyond the time limit provided for in the notice shall be guilty of a misdemeanor. Each day in which any such violation shall continue shall be deemed a separate offense.

**Subd. 3 Liability.** Any person violating any of the provisions of this Code shall become liable to the City for any expense, loss, or damage occasioned the City by reason of the violation. Any Industrial User who has an agreement with the City, as required by the MPCA, who exceeds the agreed upon discharge limit or in any other way makes an unlawful discharge causing disruption or resulting in any damage to the City, its wastewater treatment system or the Plant shall be responsible and shall indemnify the city for:

- A. Any fine or assessment levied against the City by the MPCA, or any other regulatory or governmental agency.

- B. Any and all costs or damages incurred by the city, including but not limited to, engineering fees, attorney's fees, administrative time, labor, materials or equipment charges occasioned by the discharge. *(Amended by Ord. 132, 11-22-1999)*

### 910.08 Sewer Service Charges.

**Subd. 1 Volume.** The billable volume of normal strength domestic waste shall be calculated as described in Subsection 930 "Residential & Commercial Sewer and Water Rates." This service charge shall include a user charge component (to meet all costs associated with operation, maintenance, and replacement of the wastewater collection and treatment facilities) and a debt retirement component (to meet facility construction costs).

**Subd. 2 City Costs.** As an equitable share of the expenses incurred by the City in the construction, administration, operation, maintenance, and replacement of the sewerage works, each user shall pay to the City a quarterly amount based upon the following formula:

$$A = V(F) + Q$$

Where: A = Service charge to user, with units of \$/quarter

V = Average City unit cost of wastewater collection and treatment, with units of \$/1,000 gallons of normal strength domestic wastewater

F = Volume of wastewater from user with units of 1,000 gallons per quarter (according to the method set forth in part A of this section)

Q = Quarterly administrative cost

**Subd. 3 Average City Unit Cost.** Average City unit costs shall be computed annually, and shall include a user charge rate attributed to operation and maintenance and replacement costs and a debt service charge rebate attributed to the retirement of debt costs for construction. Costs shall be distributed in the manner demonstrated in the "Sewer Service Charge Outline," for Norwood Young America, dated 1986.

Initial unit cost figures for the service charge shall be established by City Council resolution. Computations supporting unit cost figures (f, b, and ss) and service charges shall be revised annually. All users discharging normal strength domestic wastewater shall be billed a fixed rate per 1,000 gallons of metered water used.

Industrial users that discharge above the normal strength domestic wastewater shall be billed quarterly based upon the volume of wastewater, the pounds of BOD, and the pounds of suspended solids discharged. Quarterly bills shall be computed as follows:

$$\text{Service charge} = f (\text{Quarterly flow}) + b (\text{lb BOD/quarter}) + Q$$

Where: f = Average City unit cost of wastewater treatment chargeable to flow, with units of \$/1,000 gallons

b = Average City unit cost of wastewater treatment chargeable to BOD, with units of \$/lb of BOD

ss = Average City unit cost of wastewater treatment chargeable to suspended solids, with units of \$/lb suspended solids

Q = Quarterly administrative cost

Each user of the City sewer system that does not have a metered source of water shall install an accurate water or wastewater flow metering device (at user's expense) that shall serve as a basis for estimating the volume of wastewater discharged, and determining the sewer service charge.

All users of City water that is not discharged to the City sanitary sewer system may install a separate water system and meter (one only in the same building as the main meter) to isolate and meter non-sewered water for which no sewer charge shall be required. If at any time after this independent system is installed, water from this system enters the sanitary sewer system, the user shall be subject to the penalties of this Code and shall be ordered to eliminate the independent system if this violation is continued.

**Subd. 4 Annual Review.** To insure the required financial surveillance, the City Administrator shall annually review the cash flows, associated with providing wastewater treatment services for the City, and shall report the findings to the City Council at the regular April meeting of each year. Any inequities and/or shortages of revenue caused by unforeseen changes in the cost revenue pattern of the wastewater treatment facilities shall be remedied immediately by a City Council resolution adjusting the unit cost figures. Adjusted unit figures shall be computed in accordance with the principals of this Subdivision.

**Subd. 5 Billing.** Wastewater service charges provided for in this Code shall be included as a separate item on the regular bill for water. Charges shall be paid at the same time that the water charges of the person become due. The City shall annually notify all users what portion of the service charge shall be necessary to meet the operation, maintenance and replacement costs (user charge).

#### **910.09 Sewer Service Fund.**

**Subd. 1 Fund Established.** The City shall maintain a "Sewer Service Fund" as an income fund to receive all revenues generated by the Sewer Service Charge System, and all other income dedicated to the operation, maintenance, replacement and construction of the wastewater treatment works, including taxes, special charges, fees, and assessments intended to retire construction debt.

**Subd. 2 Special Reserve Funds.** The City also continues the following accounts as income and expenditure accounts within the sewer service fund:

- A. Operation and Maintenance Reserve
- B. Equipment Replacement Reserve
- C. Debt Retirement Reserve

**Subd. 3 Revenues.** All revenues generated by the sewer service charge system, and all other income pertinent to the treatment system including taxes and special assessments dedicated to reject construction debt, shall be held by the Administrator separate and apart from all other funds of the City. Funds received by the sewer service fund shall be transferred to the "Operation and Maintenance Reserve" the "Equipment Replacement Reserve" and the "Debt Retirement Reserve" in accordance with State and Federal regulations and the provisions of this Code.

**Subd. 4 Equipment Replacement Reserve.** Revenue generated by the sewer service charge system sufficient to insure adequate replacement throughout the design or the useful life, whichever shall be longer, of the wastewater facility, shall be held separate and apart in the “Equipment Replacement Reserve” and dedicated to affecting replacement costs. Interest income generated by the “Equipment Replacement Reserve” and dedicated to affecting replacement costs. Interest income generated by the “Equipment Replacement Reserve” shall remain in the “Equipment Replacement Reserve.”

**Subd. 5 Operation Maintenance Account.** Revenue generated by the sewer service charge system sufficient for operation and maintenance shall be held separate and apart in the “Operation and Maintenance Reserve.”

### Section 920 – General Water Regulations

**920.01 General.** The City Council shall have the control and management of the public water supply system of the City. The Council shall appoint a water superintendent whose duty shall be the administration of these regulations.

**920.02 Water Superintendent.** The water superintendent shall have charge of all pumping stations, pumping machinery, water storage facilities, tools and equipment, and shall operate the water system in the manner directed by the Council.

**920.03 Meter Records.** The water superintendent shall keep an accurate record of each meter in use. Meters shall be read monthly by the city water department or public works director and reported to the City Clerk for billing purposes on forms supplied by the City. (*Amended by Ord. 217, 11-23-2009*)

**920.04 Inspection by Fire Department.** The chief of the fire department shall have the right to inspect the mains, gates, hydrants and taps of the water system. He or she shall insure that all gates and hydrants shall be restored to proper condition after use by the fire department, and shall report immediately to the Council all breaks, defective hydrants and taps.

**920.05 Master Plumber.** The uncovering or making of any connection with, or opening into any main of the City water supply system, or the laying, installing construction, removal or repair of any water service line connecting with the system shall be performed only under the direct supervision of a master plumber licensed by the State of Minnesota, or by a city employee authorized by the City Council.

**920.06 Bonds.** No person, firm or corporation shall engage in the business of installing, constructing, and repairing connections with the City water supply system, or the laying, installing, construction, removal or repair of any water service line within the City without procuring and posting with the City Administrator a bond in the amount of five thousand (\$5,000.00) dollars in favor of the City and the public, conditioned upon the faithful performance of contracts and compliance with these regulations. The person shall also file with the City Administrator a certificate of insurance or copies of public liability and property damage insurance policies containing a provision that they shall not be canceled without ten (10) days written notice to the City Administrator, showing coverage of not less than fifty thousand (\$50,000.00) dollars for injuries, including accidental death to any one person and subject to the same limit for each person in an amount not less than one hundred thousand (\$100,000.00) dollars on account of any one accident, and property damage insurance in the amount of not less than twenty five thousand (\$25,000.00) dollars.

**920.07 Permit Required.**

**Subd. 1 Application for Connection.** No person, firm or corporation shall connect with the water supply system without first obtaining a permit therefore from the City. Application for a permit to connect to the City water supply system shall be made on forms furnished by the City, and shall state the legal description and official street number, if any, of the premises to be supplied, the nature of the improvement on the premises, and the purpose for which water is to be used, size of service line, time of connection to curb stop or water main, and the name and address of the plumber employed to do the work. The application shall be signed by the owner or his or her duly authorized agent. By such application, each applicant shall be bound by all provisions of these regulations and amendments thereto. Permits shall be valid for a period of six (6) months from date of issue.

**Subd. 2 Application for Service.** After service connections have been installed, application for water service may be made by the owner, his or her duly authorized agent, a tenant or occupant of the premises. The applicant shall pay to the City the fees and deposits as may be required.

**Subd. 3 Application Fee.** The application fee shall be as set in the fee schedule adopted from time to time by the Council.

**920.08 Connection to Main.**

**Subd. 1 Tapping of Main.** The tapping of any water main shall be done only under the direct supervision of the water superintendent, and only persons authorized by the City shall tap any main or insert stop cocks or ferrules therein.

**Subd. 2 Turn on Service.** Water service from water mains shall be turned on or off, as the case may be, only by the water superintendent, or such other persons as may be so authorized by written permit from the City Administrator.

**Subd. 3 Minimum Size of Connection.** The minimum size of connection to be employed in tapping a main shall be three quarter of one inch. The minimum size of service lines from the main to the structure served shall be three quarters of one inch.

**Subd. 4 Costs of Tapping.** All costs incurred in tapping a main, including cost of materials, excavation and backfilling, shall be paid by the applicant for service.

**Subd. 5 Water Metering.** Except for extinguishing of fires, no person except authorized City personnel shall use water from the water supply system or permit water to be drawn therefrom, unless the same shall be metered by meters furnished from the City. Water meters shall be purchased from the City as the time of making of each application for permit to connect to the water supply system.

**Subd. 6 One Service Supply.** No more than one (1) dwelling or building shall be supplied from one service connection except by special permission of the City Council.

**Subd. 7 Placement of Service Lines.** All service lines shall be installed in such manner as to prevent rupture by settlement, and shall be placed no less than seven (7) feet below the surface of

the ground and so installed as to prevent rupture by freezing. All service lines shall extend to the inside of the hydrant or other fixture which it is intended to supply. A shut-off or other stop cock with waste valve, of a size and strength specified by the water superintendent shall be replaced near the inside wall of the structure served and shall be well protected from freezing.

**Subd. 8 Size of Service.** The minimum size water service shall be one inch type “K” copper water tube. All service lines up to and including two (2) inch service shall be of this type. Joints in copper tubing shall be kept at a minimum with no more than one (1) joint used for a service up to seventy (70) feet in length. All joints shall be left uncovered until inspected. All service lines over two (2) inches shall be case iron.

**Subd. 9 Installation of Meters.** All meters shall be so installed as to be protected from freezing and shall be accessible for reading and inspection.

**Subd. 10 Excavations.** All excavations within street right-of-way shall be backfilled and compacted to 95% of proctor density.

**Subd. 11 Inspection.** The water superintendent shall be permitted at all times to inspect and supervise all work in connection with the installation of all service lines. Any refusal to permit the inspection or supervision or any interference with the water superintendent in the performance of his or her duties shall be cause for cancellation of the permit to connect with the water system.

**Subd. 12 Replacement of Old Service.** When new structures are erected on the site of old structures and a change in the water service is desired by the owner thereof, no new connection with the main shall be permitted until the entire old service shall be made inoperative either by removing or capping.

**920.09 Line Material.** The line from the water main to the meter shall be copper on all new construction or replacement. Any line larger than 2” shall be ductile material.

#### **920.10 Responsibility.**

**Subd. 1 City.** The City shall maintain ownership of the water main, the corporation, the curb box and the curb stop. *(Amended by Ord. 129, 9-27-1999)*

**Subd. 2 Property Owner.** Property owners shall bear responsibility for their water system beginning at the water line after it leaves the curb box and ending with their home water pipes, including the cost of installation, maintenance, repair, replacement or abandonment, except that:

- A. Installation of the meter shall be performed by the City. The cost of the meter and any costs associated with its installation shall be the responsibility of the property owner.
- B. The replacement or repair of a defective meter shall be performed by the City at its expense. The repair or replacement of a damaged meter shall be performed by the City.
- C. Repair, replacement or abandonment of a water service by a property owner shall be performed by a contractor hired or approved by the City. The cost shall be borne by the property owner.
- D. The City shall at all times have the right to inspect, repair or otherwise service the meter, pipes and equipment.

In case of failure on the part of any consumer or owner to repair any leak occurring in the service line within twenty-four (24) hours after oral or written notice has been given the individual, the water shall be shut-off. A fee as set in the fee schedule from time to time adopted by the Council shall be charged for turning on the water service after repairs have been made.

*(Amended by Ord. 129, 9-27-1999)*

**920.11 Discontinuance of Service for Non-payment of Assessment.** Water service shall be shut off at the stop box connection when it is determined that any core facility charge payable, or the cost of constructing mains and laterals attributable to the premises served as established by assessment proceedings or pursuant to the provisions of Section 650, has not been paid or is not in the process of being paid in regular installments with the real estate taxes levied against the premises.

**920.12 Deficiency of Water and Shutting Off Water.** The City shall not be liable for any deficiency or failure in the supply of water to consumer from any cause whatever. In case of fire, or alarm of fire, water may be shut off to insure a supply for fire fighting.

**920.13 Use of Fire Hydrants.** No person other than an employee of the City in the course of his or her employment, or as a member of the Fire Department in performance of department operations, shall operate fire hydrants.

**920.14 Use Confined to Premises.** No consumer shall permit water from the City water supply system to be used for any purpose except upon his or her own premises.

**920.15 Restricted Hours for Sprinkling.** Whenever it shall be determined that a shortage of water supply threatens the City, the City Administrator and/or the Public Utilities Director may limit the times and hours during which water may be used from the City water supply system for lawn and garden sprinkling, irrigation, car washing, air conditioning or other uses specified therein. Any water customer who shall cause or permit water to be used in violation of the provisions of the ordinance shall be charged a penalty as set in the fee schedule adopted from time to time by the Council for each day of the violation, which charge shall be added to his or her next water bill. Continued violation shall be hereby prohibited and shall be cause for discontinuance of water service. *(Amended by Ord. 141, 7-23-2001)*

**920.16 Access to Premises.** The owner or occupant of premises served by the water supply system shall give the water superintendent access to the premises at a reasonable time for the purpose of making inspections in connection with the enforcement of these regulations.

### **Section 930 – Residential and Commercial Sewer and Water Rates**

**930.01 Sewer Charges.** Sewer charges shall be as set in the fee schedule adopted by the Council. The sewer charges for residential and commercial users shall be calculated from the volume of metered water used. The per month billable flow shall be based on the average of the winter quarter (January, February, March) actual water used. *(Amended by Ord. 217, 11-23-2009)*

**930.02 Water Charges.** Water charges shall be as set in the fee schedule adopted from time to time by the Council.

**930.03 Base Charges.** Water and Sewer Base Charges, as set in the fee schedule adopted from time to time by the Council, shall be billed to all users with sewer and/or water connections, whether or not consumption occurs, except for those users who have had their service lines disconnected at the curb-stop. *(Amended by Ord. 234, 01-09-2012)*

**930.04 Responsible Party.** The owner(s) of any premises shall be solely responsible for the payment of any water or sewer usage or service charge, whether or not the water or sewer, usage or service have been used by the owner(s) or by tenants.

**930.05 Payment Dates.** Owners shall be billed monthly on or about the 15<sup>th</sup> day of the month. The amounts duly billed shall be payable on or before the last day in the month of billing or such amounts shall become delinquent. *(Amended by Ord. 217, 11-23-2009)*

**930.06 Late Payment Penalty.** If any water or sewer usage or service charge is not paid on or before the last day in the month of billing, such charges shall become delinquent and the City Clerk shall attach a late payment penalty as set in the fee schedule adopted by the Council. *(Amend by Ord. 145, 11/13/2001)*

**930.07 Lien for Unpaid Bills.** Any unpaid and delinquent water/sewer charges may be recovered from the owner of the premises billed therefore in a civil action by the City in any court of competent jurisdiction or, in the discretion of the City Council, may be certified with an interest rate of eight percent (8%), to the County Auditor as taxes against any such property to be collected and paid over to the City along with other taxes.

Either or both of such methods of collection thereof may be pursued by the City until payment in full has been made, and the initiation of one such method of collection shall not be deemed to be an election preventing the City from thereafter using the other method of collection until paid in full.

Payment of delinquent water/sewer charges shall be credited to the same fund used for current water/sewer charges, deducting therefrom any costs of collection accruing to the City therefore.  
*(Amended by Ord. 142, 8-28-2001)*

**930.08 Discontinuance of Service.** Water service to the premises may be shut off at any stop box connection whenever:

- A. Any charge for water, sewer, service, meter, or any other financial obligations imposed on the present or former owner or occupant of the premises served is unpaid; or
- B. Fraud or misrepresentation by the owner or occupant in connection with an application for service; or
- C. Failure of the occupant and/or owner to notify the City Clerk's office of all pertinent information necessary for the accurate and timely preparation of utility bills may result in discontinuance of service pursuant to this chapter. *(Amended by Ord. 142, 8-28-2001)*

**Subd. 1 Disconnection Charges.** Disconnection charges, seasonal sprinkler or non-seasonal, shall be as set in the fee schedule adopted by the City Council. *(Amended by Ord. 214, 6-23-2009)*

**930.09 Water Service Reinstated.** In the event water service is turned off, the service shall not be reinstated by the City until:



- A. The unpaid bill plus interest, any applicable penalty, and a reconnect charge as set in the fee schedule adopted by the Council, are tendered in advance to the City Clerk.
- B. All pertinent billing and service information is complete and accurate on service application.  
(Amended by Ord. 142, 8-28-2001)

**Subd. 1 Water service reconnection charges.** Water service reconnection charges, seasonal sprinkler or non-seasonal, shall be as set in the fee schedule adopted by the City Council.  
(Amended by Ord. 214, 6-23-2009)

## **Section 940 – Surface Water Management**

**940.01 Purpose.** This Section shall be designated for the purpose of managing surface water runoff so that there shall be no adverse impact on water quality. Pursuant to Minnesota Statutes 103b.245 provisions of this Section shall also be applicable for obligations incurred by the Joint Powers Agreement establishing the Watershed Commission for Bevens Creek and the Crow Wing Watershed District.

**940.02 Authority for Storm Water Drainage Utility District.** For the purpose of providing funds to defray the cost of maintenance and operation of the storm water drainage system, the costs of construction, maintenance and operation of storm pipe, holding ponds, drainage ways and creeks, payment of capital charges represented by bonds, certificates of indebtedness, or otherwise, and the payment of reasonable requirements for replacement and obsolescence thereof, there shall be hereby levied and assessed upon each lot, parcel of land, building or premises, presently or hereafter having any connection directly or indirectly with the storm water drainage system of the City, a monthly storm water utility charge as provided in this Chapter.

**940.03 Authority to Impose a Storm Water Drainage Connection Charge.** In addition to charges for storm water drainage utility charges pursuant to Subsection 940.02, the storm water utility connection charge shall be required of each individual or entity requesting or receiving a connection to the storm water drainage system shall be deemed to have occurred whenever, in the opinion of the City, a use is made of any parcel of property, which increases the discharge of storm water from the parcel.

**940.04 Operation and Enforcement of Storm Water Drainage.** The municipal storm water drainage system shall be operated as a public utility pursuant to Minnesota Statutes Section 444.075 et. Seq. and this Chapter. The storm drainage utility shall be a part of the City public works department and under the administration of the public works superintendent or his or her designee as set forth in this Chapter. All revenues shall be derived subject to the provisions of this Chapter and Minnesota Statutes.

**940.05 Collection of Fees.** Storm water drainage utility charges and connection charges shall be determined by ordinance of the City Council upon advice of the City Engineer. Storm water utility charges shall be collected in conjunction with other City utility charges. Storm water utility connection charges shall be payable with building permits. All fees shall be just and equitable and in accordance with Minnesota Statutes Section 444.075 et. Seq. (Amended by Ord. 217, 11-23-2009)

**940.06 Exemptions.** The following land users shall be exempt from storm water drainage fees:

- A. Public Right-Of-Ways; and
- B. Vacant unimproved land with ground cover.

**940.07 Revenues.** All revenues derived from those storm water drainage utilities charges and connection charges adopted by City Council ordinance shall be credited to the storm water drainage utility funds. *(Amended by Ord. 217, 11-23-2009)*

**940.08 Enforcement for Collection of Fees.** Any unpaid or delinquent storm water utility connection charges may be recovered from the occupant or owner of the premises billed therefore in a civil action by the City or in any competent jurisdiction or, in the discretion of the City Council, may be certified to the County Auditor as taxes against any such property to be collected and paid over to the City along with other taxes. Either or both of such methods of collection thereof may be pursued by the City until payment in full has been made, and the initiation of one such method of collection shall not be deemed to be an election preventing the City from thereafter using the other method of collection until paid in full. Payment of delinquent storm water drainage utility and connection charges shall be credited to the same fund used for current storm utility charges, deducting therefrom any costs of collection accruing to the City therefore.

## **Section 950 – City Plat and Water/Sewer Maps**

### **950.01 Responsibility.**

**Subd. 1 Developed Property.** A developer or property owner who develops or plats property located within the corporate limits of the City shall be obligated to reimburse the City for the expense of updating the City's plat maps and water/sewer maps.

**Subd. 2 Existing Property.** Whenever the City Council deems it necessary that the City's plat, and/or water/sewer maps should be updated, upon receiving a bill for the expense of updating the maps, the City Administrator shall equitably and reasonably prorate the expense of bringing the maps current amongst all property owners or developers who have platted, re-platted, altered, improved or developed property within the City limits in such manner as to render an existing City plat or water/sewer map obsolete.

**950.02 Payment.** A bill shall be forwarded to each such owner and developer who has an obligation under this Code to reimburse the City, which shall be due and payable within thirty (30) days.

In the event a property owner or developer who is obligated under this code to reimburse the City, in good faith believes that their pro-rated share of the expense of updating the City's maps is excessive or otherwise unreasonable, they may, within thirty (30) days following receipt of their bill, request a hearing before the City Council to review the matter.

**CHAPTER 8. STREETS, SIDEWALKS, PUBLIC PARKS AND GROUNDS****Section 800 – In General**

**800.01 Obstructions Generally.** No person shall encumber, obstruct, place, park or leave upon or in any of the streets, sidewalks or other public places within the City, any vehicle, machinery, goods, wares, merchandise, boxes, refuse, lumber, loose signs, stands or other materials, except when it may be necessary in the erection of buildings or in making other improvements, or when granted permission through the issuance of a conditional use permit for the use of the public sidewalk for activities such as sidewalk dining and cafes or through the issuance of a temporary permit by the City for the selling of merchandise during a designated period of time.

When it becomes necessary to encumber or obstruct a portion of a sidewalk, street or other public place where erecting a building, making improvements, or establishing sidewalk activities including outdoor dining and/or outdoor cafes or with the sale of merchandise, the person performing the work or providing the service of outdoor dining shall first obtain permission therefore from the City Council. The permission shall specify the portion of the sidewalk, street or public place to be used for the erection, improvement, or activity, and the permission may be revoked at any time by the Council when it deems a permit holder is not complying with this Section, or when it is otherwise determined to be necessary to protect the health, safety, and welfare of the public. At the expiration of the permission or on revocation thereof, such person shall immediately remove any material, substance or obstruction from the street, sidewalk, or other public place. *(Amended by Ord. 149, 8/26/02)*

**800.02 Height of Limbs Above Sidewalks.** No person owning or occupying any property within the City shall allow to remain any tree limbs which are less than eight (8) feet above the surface of any public sidewalk.

**800.03 Obstructing Intersections Prohibited.** It shall be unlawful for any person to maintain or permit to remain on property owned by or occupied by him or her any tree, hedge, billboards or other obstruction which prevents persons from having a clear view of traffic approaching an intersection from cross streets in sufficient time to bring a motor vehicle, driven at a reasonable speed, to a full stop before the intersection is reached.

**800.04 Removal of Snow Required.** The owner of any lot or parcel of land within the City shall, within twenty-four (24) hours after snow shall fall or otherwise accumulate upon any sidewalk designated by a resolution of the City Council as a part of the sidewalk thoroughfare program in front of or adjoining such lot or parcel of land, remove or cause the snow to be removed from the sidewalk.

**800.05 Removal of Snow by City; Assessment.** In case the owner of any lot or parcel of land within the City shall fail to remove any snow that has fallen or otherwise accumulated upon any sidewalk as required by Subsection 800.04, it shall be the duty of the street commissioner of the City to cause the snow to be removed from the sidewalk at the expense of the owner and the expense incurred in the removal thereof may be recovered against the owner in a civil action, or be assessed upon the lot or parcel of land from in front of which the snow shall be removed, and returned, collected and enforced as City taxes.

**800.06 Temporary Permit.** A temporary permit shall be obtained for the use of public sidewalks as outdoor merchandise areas. The City, contingent upon meeting specific requirements, shall issue a

permit. When applying for a permit, the permit holder is consenting to the following rules and conditions:

- A. Displayed merchandise must allow for a six-foot (6') pedestrian passageway.
- B. Displayed merchandise will not obstruct the line-of-sight of vehicles, especially at intersections.
- C. Merchandise areas shall be adjacent to the building or structure in which the permit is being used. Merchandise is not allowed within the pedestrian passageway or within the public street.
- D. All merchandise and equipment used for displaying such merchandise shall be removed from the sidewalk area at the end of business hours.
- E. The permit holder is responsible for the maintenance and upkeep of the equipment used to display and hold merchandise, the City shall not be held responsible.
- F. The permit allows the permit holder to display merchandise within the public sidewalk only for the time stated on the permit, after such day the permit is considered null and void.

*(Amended by Ord. 149, 8/26/02)*

#### **800.07 Public Parking Lots.**

- A. No person shall park a vehicle or permit a vehicle to park for longer than forty-eight (48) consecutive hours within any public parking lots. *(Amended by Ord. 150, 11-25-2002)*

### **Section 810 – Naming and Numbering System**

**810.01 Uniform Naming and Numbering System.** A uniform system of naming and numbering properties and principal buildings, as shown on that map identified and adopted by the Council as the City Street Map shall be hereby adopted for use in the City. The map and all explanatory matter thereon shall be hereby adopted and made a part of this Code.

**810.02 Assignment of Names and Numbers.** Upon adoption of this Code, all properties or parcels of land within the City shall be identified by reference to the uniform numbering system adopted in this Section, and all existing properties and buildings not in conformity with the provisions of this Section shall be changed to conform to the system adopted within six (6) months of the enactment date of this Code. The names and numbers of all streets shall be designated by the uniform street naming and numbering system. Each house or other building shall have its assigned number posted in accordance with Section 1020 of this Code.

**810.03 Administration.** The City Administrator shall be responsible for maintaining the numbering system. In the performance of this responsibility he or she shall be guided by the provisions of Subsection 810.02 above. The City Administrator shall keep a record of all numbers assigned under this Section, and shall issue to any property owner upon request and without charge, a number for each principal building or separate front entrance to the building. In doing so, the Administrator shall issue only the number assigned to the building under the provisions of this Section. Provided, however, that the City Administrator may issue additional numerals in accordance with the official numbering system whenever a property has been subdivided, a new front entrance opened, or undue hardship has resulted to any property owner. The property owner shall be responsible for obtaining suitable numbers for property identification.

### **Section 820 – Excavations**

**820.01 Definitions.** For the purpose of this Section the following words and phrases shall have the meanings ascribed to them.

**Subd. 1 Applicant.** “Applicant” shall mean any person making written application to the City engineer for an excavation permit under this Section.

**Subd. 2 Engineer.** “Engineer” shall mean the City engineer of the City or his or her duly authorized representative.

**Subd. 3 Excavation Work.** “Excavation Work” shall mean the excavation and other work permitted under an excavation permit and required to be performed under this Section.

**Subd. 4 Permittee.** “Permittee” shall mean any person who has been granted and has in full force and effect excavation permit issued pursuant to this Section.

**Subd. 5 Street.** “Street” shall mean any street, highway, sidewall, alley, avenue or other public way or grounds or public easements in the City.

**820.02 Permit Required.** No person shall undermine, break, dig, bore, tunnel, remove, ditch or otherwise excavate into or under any street, alley, easement, sidewalk, curb or gutter without first obtaining a permit from the City.

**820.03 Application.** No excavation permit shall be issued unless a written application for the issuance of an excavation permit, on forms provided by the City for that purpose, has been submitted to the City. Each application shall contain the following:

- A. The name and address of the applicant.
- B. The nature, location and purpose of the excavation.
- C. The date of commencement and the date of completion of the excavation.
- D. Such other data as may reasonably be required by the engineer, such as:
  - 1. Plans showing the extent of the proposed excavation work.
  - 2. The dimensions and elevations of both the existing ground prior to the excavation and of the proposed excavated surfaces.
  - 3. Plans for the use of streets and sidewalks, and accommodations for pedestrian safety.
  - 4. A description of how the project will be rebuilt when complete.
  - 5. Such other information as may be prescribed by the engineer.

**820.04 Permit Fee.** Upon approval of the application for an excavation permit by the City, the applicant shall pay a fee as set in the fee schedule adopted from time to time by the City Council to cover reasonable costs for the issuance of an excavation permit.

**820.05 Surety Bond.** Before an excavation permit shall be issued, the applicant shall deposit with the City Administrator a surety bond in the amount of five thousand (5,000) dollars in favor of the City. The required surety bond shall be:

- A. With good and sufficient surety by a surety company authorized to do business in the State of Minnesota.

- B. Satisfactory to the City attorney in form and substance.
- C. Conditioned that the applicant shall faithfully comply with all the terms and conditions of this Section and all rules, regulations, and requirements pursuant thereto as required by the City, and all reasonable requirements of the City.
- D. Conditioned that the applicant shall secure, defend, indemnify, and hold the City and its officers harmless against any and all claims, judgments or other costs arising from the excavation permit or for which the City, the City Council or any City officer may be made liable by reason of any accident or injury to person or property through the fault of the permittee.
- E. Recovery on the surety bond for any injury or accident shall not exhaust the bond, but it shall in its entirety, cover any or all future accidents or injuries during the excavation work for which it is given.
- F. In the event of any suit or claim against the City by reason of the negligence or default of the permittee, upon the City giving written notice to the permittee of the suit or claim, any final judgment against the City requiring it to pay for the damage shall be conclusive upon the permittee and his or her surety.
- G. An annual bond shall be given under this Provision which shall remain in force for one (1) year conditioned as above, in the amount specified in this Section and in other respects as specified in this Section but applicable as to all excavation work in streets by the permittee during the term of one (1) year from the date.

**820.06 Exemption from Surety Bond Requirement.** The surety bond required by this Section shall not apply to a duly licensed and bonded plumber or to any public utility permitted to operate within the City limits, by franchise or otherwise, for the purpose of supplying gas, electric or telephone service or for any excavation which is made under a contract awarded by the City or made by the City.

**820.07 Insurance.** Each permittee, prior to the commencement of any excavation work, shall furnish the City satisfactory evidence in writing that the permittee has in force and shall maintain in force during the performance of the excavation work and the period of the excavation permit, public liability insurance of not less than fifty thousand (50,000) dollars for any one (1) person and one hundred thousand (100,000) dollars for any one (1) accident and property damage insurance of not less than twenty-five thousand (25,000) dollars duly issued by an insurance company authorized to do business in the State of Minnesota and on which policy the City shall be named as a co-insured.

**820.08 Indemnification; Payment of Suit Costs and Judgments.** Each permittee shall defend, indemnify, and keep and hold the City free and harmless from liability on account of injury or damage to persons or property arising or growing out of the permittee's negligence in making any street excavation. In the event that suit shall be brought against the City, either independently, or jointly with the permittee, on account therefore, the permittee, upon notice to it by the City, shall defend the City in any suit at the cost of the permittee, and in the event of a final judgment being obtained against the City, either independently or jointly with the permittee, the permittee shall pay the judgment with all costs and hold the City harmless therefrom.

**820.09 Exemption from Fee Payment and Insurance Provisions.** The provisions of this Section requiring payment of a permit fee and evidence of public liability and property damage insurance shall not be applicable to any excavation work carried on by the City or its employees, or by persons operating under contract by the City for which other insurance provisions have been made.

**820.10 Terms to Which Applicants Shall Agree Prior to Issuance of Permit.** Every applicant for a permit required by this Section shall sign an agreement in substantially the following terms:

In consideration of the granting of the excavation permit this day applied for, the undersigned agrees:

- A. To do the work as directed by the engineer or his or her agent so as to occasion the least possible inconvenience to the public, and to provide for the passage of water along the gutters;
- B. To leave at least one-half (½) of the street clear for the passage of vehicles, and to provide safe bridgeways on sidewalks for pedestrians;
- C. To guard any open excavation with substantial railings or fences constructed and placed so as to bar all entrances to the excavation, and from sunset to sunrise show the limits of the railings or fence and the excavation by warning lights or flares, and also to mark the limits of piles of material by the warning lights or flares;
- D. To refill the excavation as soon as is reasonably possible in accordance with appropriate City regulations and replace paving, sidewalks and all appurtenances in at least as good condition as before the excavation. If within one (1) year after the refilling, the engineer shall find any defects caused by improper excavation or improper refilling, to remedy the defects on reasonable notice. If the person doing the excavation work shall fail to remedy any defect found therein within a year after its completion, upon notice from the engineer, the City may cause the work to be done at his or her expense;
- E. To remove at once all rubbish and surplus earth;
- F. To defend, indemnify and hold the City harmless from all damages or claims arising out of the excavation work or accidents caused or claimed by the injured party to have been caused by the excavation or by failure to do the work or guard it properly.

**820.11 Authority to Prepare and Modify Regulations.** The engineer shall prepare the regulations with respect to excavations within any street, and shall modify them with respect to particular work, as the engineer shall deem necessary or advisable to protect the public from injury and to prevent damage to public use of the streets.

**820.12 Approval of Regulations.** All regulations promulgated by the engineer shall be approved by the City Council and a copy of the regulations shall be given to each permittee upon issuance of the street excavation permit.

**820.13 Coverage of Regulations.** Regulations promulgated by the engineer shall include:

- A. Requirement that all public utilities be notified by the permittee of permittee's intent to make a street excavation, giving notice of time and the obtaining of the exact nature and location of all underground facilities existing in the area intended to be excavated.
- B. The manner and method of connecting facilities placed within the excavation with other facilities.
- C. Manner and method of backfilling street excavation and procedure to be followed in compacting backfilled material.
- D. Specifications as to material to be used in backfilling street excavation.
- E. Manner and method of making street excavations, including procedure to safeguard and protect adjoining and adjacent property and existing underground and aboveground facilities.
- F. Requirements for restoration of street surfaces.

**820.14 Franchised Utilities.** Special provisions shall be made for simplifying procedures and supervision in respect to excavation by franchised utilities.

**820.15 Supervision of Work.** All work done pursuant to an excavation permit issued under the provision of this Section shall be performed under the direction and to the satisfaction of the engineer or his or her duly authorized agent.

**820.16 Excavation Placard.**

- A. The City shall provide each permittee, at the time the permit shall be issued, a suitable placard which shall state the permittee's name, the permit number and the date of expiration.
- B. It shall be the duty of any permittee to keep the placard posted in a conspicuous place at the site of the excavation work.
- C. It shall be unlawful for any person to exhibit the placard at or about any excavation not covered by the permit or to misrepresent the permit number or the date of expiration.

**820.17 Emergency Action.** In the event of any emergency in which a main, conduit or utility facility in or under any street breaks, bursts, or otherwise is in such condition as to immediately endanger the property, life, health, or safety of any individual, the person owning or controlling the main, conduit or utility facility without first applying for and obtaining an excavation permit under this Section, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health, and safety of individuals; however, the person owning or controlling the facility shall apply for an excavation permit not later than the end of the next succeeding day during which the engineer's office is open for business, and shall not proceed with permanent repairs without first obtaining an excavation permit under this Section.

**820.18 Noncompletion or Abandonment.** Work shall progress in an expeditious manner until completion in order to avoid unnecessary inconvenience to the general public. In the event that the work shall not be performed in accordance with the applicable regulations of the engineer or in accordance with the provisions of this Section, or shall cease or be abandoned without cause, the City may, after twenty-four (24) hours notice in writing to the holder of the permit of intent to do so, correct the work or fill the excavation and repair the street, and in any such event the entire cost to the City of the work, shall be a liability of and shall be paid by the person to whom the permit was issued.

**820.19 Completion Date.** In no case shall the project exceed three weeks unless approval, either in advance or as an extension, shall be received from the City Council. The City reserves the right to alter the proposed start and/or completion date of the project.

**820.20 Curb Cuts.** Curb replacements for driveway purposes shall follow Minnesota Department of Transportation standard plate number 7035J, except that 6 inch driveway pavement shall not be required. Where curb cuts have not been provided the existing curb shall be removed and a curb return installed.

**820.21 Public Convenience and Safety.** The permit holder shall at all times conduct his or her operations and perform the work in such a manner as to ensure the least obstructing and interference to traffic and to the public. The permit holder shall take adequate precaution to ensure the safety of the general public, including those who require access to abutting property.



Precaution shall be exercised at all times for the protection of persons and property. The safety provisions of applicable laws and building and construction codes shall be observed; machinery, equipment and all hazards shall be guarded or eliminated in accordance with the safety provisions of the Manual of Accident Prevention in Construction, published by the Association of General Contractors of America, to the extent that such provisions shall not be in conflict with applicable law.

**820.22 Utility Connection Charge.** The provisions of this Section shall not be in lieu of but in addition to all utility connection permits that may be required by the rules and regulations of the engineer of the City.

**820.23 Gopher State One Call.** Any person or firm to whom a permit has been issued shall notify Gopher State One Call before beginning any digging.

**820.24 When and How Sidewalks shall be built.** All sidewalks and crosswalks within the City shall be built when and in such manner as the City Council may prescribe.

**820.25 Supervision of Sidewalk Construction.** All sidewalks and crosswalks within the City shall be constructed under the supervision of the street commissioner of the City.

**820.26 Sidewalk Construction Requirements Generally.** All sidewalks shall be constructed of the material and in the manner prescribed by resolution of the City Council. Each sidewalk shall be so laid and built as to conform to the grade of any street upon which the same is laid, and shall not exceed six (6) inches above the surface of the street, and shall be upon a line of grade to be given each builder, on application, by the City Council.

**820.27 Record of Construction Costs to be Kept and Presented to Council.** An accurate account of the cost of constructing or repairing all sidewalks and crosswalks shall be kept and shall be reported to the City Council at its next meeting after the cost is incurred.

**820.28 Assessment of Costs.** The cost of constructing crosswalks may be assessed upon all the property of the City. The cost of constructing sidewalks in front of all real property owned by the City may be assessed upon all the property of the City, and the cost of constructing any sidewalks in front of or adjoining any lot or parcel of land in the City may be assessed upon the lot or parcel of land in front of or adjoining the sidewalk, except in the City's business district where the Council may determine sidewalk construction to be of general public benefit and thereby assess a portion of the cost upon all the property of the City.

**820.29 Sidewalk Repairs.** If the owner of any lot or parcel of land shall permit any sidewalk along the same to become broken, rotten or out of repair, it shall be the duty of the street commissioner to immediately repair the same in a good, substantial and thorough manner, and to report to the City Council the costs of the repair, together with a description of the lot or parcel of land abutting which such repairs were made, and the report shall be filed with and be preserved by the City Administrator. The City Council shall, once in each year, at or as near as conveniently may be, the time of levying the yearly city taxes, assess and levy upon each of the lots or parcels of land fronting or abutting upon sidewalks which are being repaired by the street commissioner, the cost of making the repairs and the same shall be returned, collected and enforced in the same manner as City taxes are returned, collected and enforced.

**820.30 Derricks and Hoists Prohibited.** No person shall place or use derricks or hoists of any kind or any portion thereof, including outriggers and pads, upon any sidewalk unless the permit specifically permits such action.

**820.31 Lifting.** Whenever any person applies for a permit for the use of a street or sidewalk portion thereof for the purpose of hoisting or lifting equipment or material over, across and above the street or sidewalk, he or she shall provide for closing off those portions of the street and/or sidewalk encompassed within the lifting area with suitable barricades, signs, and warning lights and shall provide a four-foot pedestrian walkway around the lifting area, the walkway to be suitably enclosed on the street side with barricades and warning lights.

**820.32 Flaggers.** The public works coordinator may direct that flaggers, as described in Section 6F of the Manual on Uniform Traffic Control Devices for Streets and Highways, State of Minnesota, be used to control traffic.

**820.33 Notice of Traffic Closure.** The permittee shall notify the public works coordinator when the permit area is closed to pedestrian and vehicular traffic and again when it is open to such traffic.

**820.34 Parking Prohibited.** The parking of private vehicles within or adjacent to the permit area shall be prohibited. The loading or unloading of trucks adjacent to the permit area shall be prohibited unless specifically authorized by the permit.

**820.35 Double Fee.** Should any person or persons begin work of any kind without having first secured the necessary permit for the work, they shall be required to pay double the fee provided for the permit.

### Section 830 – Parks

**830.01 Purpose and Application.** The regulations of this Section shall apply to all City parks and other recreation areas under the jurisdiction of the City Council. The purpose of these regulations shall be to protect the City parks and recreation areas and all persons within the boundaries of those parks and areas and to further regulate the use of those parks and areas.

**830.02 Definitions.** For the purpose of this Chapter, the following words shall have the stated definitions:

**Subd. 1 Park.** “Park” shall mean those geographical areas within the City or under control of the City Council designated by them as being a part of the City park system.

**Subd. 2 Park Manager.** “Park Manager” shall mean the person designated by the City Council with responsibility for the operation and management of a particular park.

**Subd. 3 Park Visitor.** “Park Visitor” shall mean any person, firm, partnership, association, corporation, governmental unit, company or organization of any kind within a park.

**Subd. 4 Vehicle.** “Vehicle” shall mean any motorized, self-propelled, animal drawn or human powered conveyance.

**Subd. 5 Motor Recreational Vehicle.** “Motor Recreational Vehicle” shall mean any self-propelled, off-the-road, or all-terrain conveyance which shall include, but shall not be limited to, snowmobiles, minibikes, amphibious vehicles, motorcycles, go-carts, trail bikes or dune buggies.

**Subd. 6 Intoxicating Liquor.** “Intoxicating Liquor” shall mean any liquor which is intoxicating pursuant to Minnesota Law and includes ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing in excess of 3.2 percent of alcohol by weight.

**Subd. 7 Weapon.** “Weapon” shall mean any device from which shot or a projectile of any type can be discharged by means of an explosive, gas or compressed air, otherwise propelled, which shall include, but shall not be limited to, firearms, bow and arrows, slings and spring-guns.

**Subd. 8 Wildlife.** “Wildlife” shall mean all living creatures, not human, wild by nature, endowed with sensation and power of voluntary motion, including quadruped, mammals, birds, fish, amphibians, reptiles, crustaceans and mollusks.

**Subd. 9 Tobacco Product.** “Tobacco Product” shall mean cigarettes, cigars, cheroots, stogies, perique, granulated, plug cut, crimp cut, ready, rugged and other smoking tobacco; snuff, snuff flowed, Cavendish, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco prepared in such a manner as to be suitable for chewing, sniffing, or smoking in a pipe; rolling paper or other tobacco-related devices. *(Amended by Ord. 156, 9/22/03)*

**Subd. 10 Tobacco Use.** “Tobacco Use” shall mean smoking, chewing, snuffing or otherwise inhaling or ingesting any tobacco products. *(Amended by Ord. 156, 9/22/03)*

**830.03 Disorderly Conduct.** No person shall do any of the following knowing or having reasonable ground to know that it shall or shall tend to alarm, anger or disturb others or provoke an assault or breach of the peace:

- A. Engage in brawling or fighting; or
- B. Disturb an assembly or meeting not unlawful in its character; or
- C. Engage in offensive, obscene or abusive language or in boisterous and noisy conduct.

**830.04 Littering.** No person shall deposit, drop or abandon garbage, rubbish, offal, waste of any kind or other litter in or upon any waters or land within a park.

**830.05 Fires.** Whoever is culpably negligent in causing a fire to burn or get out of control and thereby creates an unreasonable risk and high degree of probability of damage or injury to another, and the property or person of another is damaged or injured or endangered thereby, shall be guilty of a misdemeanor.

**830.06 Soliciting.**

- A. No person shall distribute or disseminate leaflets, pamphlets or other printed material or use any mechanical or electrical device in a park for soliciting or advertising, except upon prior written consent of the City.
- B. No person shall carry or conduct any business or service within a park without the prior written approval of the City.

**830.07 Use of Weapons.**

- A. No person shall possess any weapon within a park without authorization by the Council, and any unauthorized weapon shall be subject to seizure by the park manager or other authorized personnel to be disposed of in the same manner as weapons confiscated by the Minnesota Department of Natural Resources.
- B. No person shall discharge any weapon or explosive in a park or into a park from beyond park boundaries.

**830.08 Horseback Riding.** Horses shall be prohibited in any City park.**830.09 Vehicles and Recreation Vehicles.**

- A. No person shall operate any motorized vehicle within a park, except upon roadways, parking areas, or other designated locations.
- B. Speed limit within parks shall be fifteen (15) miles per hour.
- C. It shall be unlawful to operate any two wheeled motorized vehicle within any park.

**830.10 Animals.**

- A. No person shall intentionally kill, trap, hunt, pursue or in any manner disturb or cause to be disturbed, any species of wildlife within a park, except that fishing may be permitted in designated areas.
- B. No person shall remove any animal living or dead, from a park, and any animal so taken shall be considered contraband and subject to seizure and confiscation.
- C. No person shall bring a dog, cat or other pet into a park unless caged or kept on a leash not more than six (6) feet in length, or tether any animal to a tree or other plant.
- D. No person shall permit a dog, cat or other pet to disturb, harass or interfere with any park visitor or a park visitor's property.

**830.11 Use of Park Shelters and Buildings.** No person shall use any park shelter or building for his or her private personal use, or the use of his or her guests, without having first obtained a lease for such use from the City. Any use outside of the activities authorized by the lease shall be prohibited.

**830.12 Meetings, Speeches, Demonstrations and Parades.** No person shall conduct public meetings, assemblies, entertainment, parades, demonstrations, worship services or any other meeting of any organization within a park without first obtaining a lease for the park's facilities.

**830.13 Park Hours.** No one shall be permitted in any City Park before sunrise or after sunset except persons participating in an event for which a valid lease has been obtained under Subsection 830.11, may be in park facilities during other hours as set forth in the terms of the lease.

*(Amended by Ord. 137, 10-9-2000)*

**830.14 Tobacco Use.** No person shall use any form of tobacco at or on any City-owned or operated outdoor recreational facility, including the restrooms, spectator and concession areas during organized youth activities in which participants consist primarily of minors. These facilities include Willkommen Park, Pool Park, Sports Complex, South Park, Kehrner Park, Friendship Park, Casper Circle Park,

Skateboard Park and any future parks and recreational areas established by the City. (*Amended by Ord. 156, 9/22/03*)

**830.15 Enforcement.** Any person found guilty of violating the provisions of Section 830 shall be guilty of a misdemeanor. The penalty for a misdemeanor or petty misdemeanor shall be as allowed by State law. (*Amended by Ord. 156, 9/22/03*)

**Section 840 – Consumption and Possession of Beer,  
Wine or Liquor on Public Streets and Public Property**

**Section 840.01 Purpose.** This section is adopted to address the negative effects of alcohol consumption on City-controlled property.

**Section 840.02 Open Containers Restricted.** No person shall consume or possess in any unsealed container any alcoholic beverage on or in any of the following: 1) in a City park between the hours of 12:00 a.m. and 8:00 a.m. with the exception of public celebrations or activities where the City Council has authorized consumption and possession; 2) on a City street or sidewalk in the C-2, C-3, B-1, and I-1 Zoning Districts; 3) on other public property, unless the Council has authorized consumption and possession. (*Amended by Ord. 245, 7-22-2013*)

**CHAPTER 7. TRAFFIC AND VEHICLES****Section 700 – General Provisions**

**700.01 State Traffic Regulations Adopted.** The provisions of Minnesota Statutes Chapter 169 relating to traffic regulations, together with the provisions contained in this Chapter shall be hereby adopted as the traffic code for the City of Norwood Young America. It shall be unlawful for any person to operate any vehicle in the City, or to use the streets of the City in any manner contrary to that described in the provisions adopted by reference and contained in this Chapter.

**700.02 Safe Driving.** No person shall operate or halt any vehicle upon a highway within the City of Norwood Young America carelessly or heedlessly in disregard of the rights or safety of others or in a manner so as to endanger or to be likely to endanger any person or property.

**700.03 Speed.** Any person driving a vehicle on any highway within the City shall drive the vehicle at a speed not greater than is reasonable and proper, having due regard to the traffic, the surface and width of the highway, and of any other conditions then existing. Operating a vehicle at speeds exceeding those specified in this Section shall be prima facie evidence that the operator of the vehicle is driving the vehicle at a speed greater than shall be reasonable and proper:

- A. Not more than 30 miles per hour on any street or highway in the City except where a higher speed is posted.
- B. Fifteen miles per hour when passing a school during school recess or while children are going to or leaving from school during opening or closing hours.
- C. Not more than 25 miles per hour on Lake Street between the intersection with Oak Street (CSAH 33) and the intersection with Reform Street. *(Amended by Ord. 120, 9-14-1998)*
- D. Not more than 25 miles per hour on Reform Street between the intersection with Lake Street and the intersection with Elm Street (CSAH 31). *(Amended by Ord. 120, 9-14-1998)*

**700.04 Stop Before Entering Through Street.**

- A. It shall be unlawful for the driver of any vehicle to fail to bring the vehicle to a full stop before entering any through street properly designated as such by the action of the City or its duly authorized representative.
- B. No driver shall use their Jake Brakes within the City Limits. *(Amended by Ord. 121, 9-28-1998)*

**700.05 Regulation of Large Vehicles.** It shall be unlawful to operate any motor vehicle with a gross weight of 5 tons or larger on any street, avenue, alley or other thoroughfare within the City limits. A tractor-trailer combination with a combined gross weight of 5 tons or more shall for purposes of this Chapter be deemed to be one motor vehicle; however, the prohibition as stated in this sub-Section shall apply to all or a part (tractor only) of any such tractor or trailer combination.

**700.06 Exceptions.** Subsection 700.05 and the prohibitions provided by it shall not apply to the following streets, where the limit shall be nine (9) tons, except that the prohibitions shall apply during road weight restrictions as posted by the Minnesota Department of Transportation, inclusive, of each year. In addition, the prohibition shall not apply to emergency vehicles, city vehicles or city authorized vehicles in the performance of their duties, or to delivery trucks upon the roads only for the minimal distance and time required to make a delivery to a place within the city limits.

- A. Central Avenue
- B. Railroad Street
- C. County Road 33
- D. Morse Street
- E. Reform Street from Railroad Street to Elm Street
- F. Faxon Road from Central Avenue to Elm Street East
- G. Industrial Boulevard
- H. County Road 34
- I. County Road 31
- J. Elm Street from Oak Street to Faxon Road
- K. Tacoma Avenue from Highway 212 south to city limits
- L. Tacoma Boulevard
- M. Tacoma Circle
- N. 7<sup>th</sup> Street Southwest
- O. Merger Street from Highway 212 to Hill Street
- P. Hill Street from Merger Street to Faxon Road

*(Amended by Ord. 252, 7-14-14)*

**700.07 Special Temporary Use Permit.** Upon application made and a showing of good cause the City Administrator may issue a special temporary use permit allowing a motor vehicle with a gross weight of 5 tons or larger to be temporarily operated on a street where it would otherwise be prohibited. Good cause shall include a showing that the street surfaces and other public property shall be protected from damage resulting from any such temporary use.

**700.08 Turns.** The Council may prohibit turns at any intersection where it is determined that such restrictions are necessary to regulate traffic or to protect safety. Such restrictions shall not be enforced until they are posted at the intersection to which the restriction is to apply.

**700.09 Penalty.** Except as otherwise provided, any person who shall violate any provision of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than \$700.00, or by imprisonment for not more than ninety (90) days, or both, for the offense. Each day that a violation occurs shall be a separate offense.

## **Section 710 – Exhibition Driving**

**710.01 Exhibition Driving.** No person shall start, stop, accelerate, or otherwise operate any motor vehicle in an unnecessary exhibition of speed or driving manner in any public or private way within the City limits. Prima facie evidence of such unnecessary exhibition of speed shall be unreasonable squealing or screeching sounds emitted by the tires, the throwing of sand or gravel by the tires of the vehicle, skids or sliding by the vehicle upon acceleration or stopping, unnecessary engine noise or backfiring, simulation of a race, or abrupt turns or swaying.

## **Section 720 – Parking**

### **720.01 Definitions.**

**Subd. 1 Snowfall.** “Snowfall” shall mean any accumulation of two or more inches of snow on a street when snow is falling or has fallen within the previous twenty-four hours.

*(Amended by Ord. 150, 11/25/02)*

**Subd. 2 Blowing Snow.** “Blowing Snow” shall mean any accumulation on a street of two or more inches of snow which is blowing or has been blowing for the previous twenty-four hours.

*(Amended by Ord. 150, 11/25/02)*

**Subd. 3 Street.** “Street” shall mean the entire width of the dedicated or acquired right-of-way of any street within the City. *(Amended by Ord. 150, 11/25/02)*

**Subd. 4 Truck.** “Truck” shall mean any motor vehicle designated and used for carrying things other than passengers except pickup trucks and vans, which are included as passenger vehicle.

*(Amended by Ord. 150, 11/25/02)*

**720.02 Restricted Parking During Snowfall & Blowing Snow.** No person shall park or leave a motorized vehicle on any street within the City during or after a snowfall or a period of blowing snow until the snow has been removed from the street. Parking may be prohibited or restricted following the snow removal as provided by City Code or State law.

**720.03 General Parking Time Limit.** No person shall park any vehicle for a longer period of time than forty-eight (48) consecutive hours on any street in this City.

**720.04 Parking on Private Property.** No person shall park any motor vehicle on any private property without the consent of the property owner.

**720.045 Off-street Residential Parking.**

**Subd. 1 Purpose.** The purpose of this section is to reduce the visual clutter and surface soil runoff, promote the general safety and welfare, and protect the property values of adjoining properties by controlling the number of vehicles that may be parked on a residentially zoned lot.

*(Amended by Ord. 158, 3-22-2004)*

**Subd. 2 Restrictions.** Parking in all residential districts shall be subject to the following requirements:

- A. Off-street parking in the residential districts shall be on the same lot as the principal building unless otherwise approved by the City Council;
- B. No more than four (4) vehicles per lawful dwelling unit may be parked or stored anywhere outside on property zoned residential. This maximum does not include guests who do not reside on the property. For purposes of this Chapter, the words “motor vehicle” and “vehicle” shall be defined to mean every vehicle which is self-propelled. The terms “motor vehicle” and “vehicle” do not include an electric personal assistance mobility device or a vehicle moved solely by human power. *(Amended by Ord. 158, 3-22-2004, Amended by Ord. 247, 12-9-13)*

**Subd. 3 Exemptions.** The City Council may approve an annual “on site parking permit” for exterior parking of more than four vehicles, but not to exceed six vehicles, on residential lots provided the applicant meets the following standards:



- A. The applicant provides the City with an affidavit stating that all abutting property owners have been notified and given an opportunity to respond, in writing, if they have specific concerns regarding the request; and
- B. The applicant annually pays an administrative permit fee as set in the fee schedule adopted from time to time by the Council. (*Amended by Ord. 158, 3/22/2004, Amended by Ord. 247, 12/9/13*)

**Subd. 4. Vehicle Repair on Street.** It is unlawful for any person to service, repair, assemble or dismantle any vehicle parked upon a street, alley, or City-owned parking lot, or attempt to do so, except to service the vehicle with gasoline or oil or to provide emergency repairs, but in no event for more than twenty-four (24) continuous hours.

**Subd. 5 Parking for the Purpose of Advertising or Selling Merchandise.** It is unlawful for any person to park a vehicle on any street for the purpose of advertising the vehicle for sale, for the purpose of advertising for sale or selling merchandise from or in the vehicle, or for the purpose of advertising any merchandise for sale or a forthcoming event.

**Subd. 6 Violations and Penalties.** Upon discovery of a suspected violation, the violator shall be issued a citation by the City's designated law enforcement agent and given notice of his or her right to be heard on the accusation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. Any person found to be in violation of this Section shall be guilty of a misdemeanor and subject to the maximum penalty authorized by State law for a misdemeanor. (*Amended by Ord. 158, 3-22-2004, Amended by Ord. 247, 12-9-13*)

#### **720.05 Other Restricted Parking.**

- A. There shall be no parking at any time of the day or night on that portion of Faxon Road between:
  - 1. Its intersection with U.S. Highway 212 on the south and its point of termination on the north.
  - 2. Its intersection with US Highway 212 on the north and its intersection with Railroad Street on the south. (*Amended by Ord. 150, 11/25/02*)
- B. No person shall park or leave a motorized vehicle for longer than three (3) hours upon the below described streets between the hours of 7:00 a.m. to 6:00 p.m. on any day of the week except Sunday:
  - 1. Elm Street between Reform Street and Oak Street
  - 2. Union Street between Elm Street and the Twin Cities and Western Railroad right-of-way
  - 3. Morse Street between Elm Street and the Milwaukee Railroad right-of-way  
(*Amended by Ord. 150, 11/25/02*)
- C. Effective November 1 to April 1, no parking shall be permitted from 2:00 a.m. until 7:00 a.m. on the following streets:
  - 1. Elm Street between Reform Street and Oak Street
  - 2. Union Street between Elm Street and the Twin Cities and Western Railroad right-of-way
  - 3. Morse Street between Elm Street and the Milwaukee Railroad right-of-way
  - 4. Central Avenue North

5. Central Avenue South      *(Amended by Ord. 174, 1/9/06)(Amended by Ord. 284, 3/13/17)*

D. There shall be no parking at any time in the following designated areas:

1. On the southern side of 7<sup>th</sup> Street SW between the five-way stop until 650 feet west of its intersection with Fourth Avenue SW, unless for the purpose of loading and unloading of school buses during school hours
2. Poplar Ridge Drive from Industrial Boulevard to Faxon Road
3. Industrial Boulevard from Highway 212 to Faxon Road
4. On the eastern side of Reform Street from its intersection with Elm Street until its termination on the south with Lake Street
5. On the western side of 5<sup>th</sup> Avenue NE, beginning at its intersection with 4<sup>th</sup> Avenue NE until its intersection with 118<sup>th</sup> Street
6. CSAH 34/County Road 134 between Highway 212 to 300 feet south of Second Street S.E.  
*(Amended by Ord. 175, 2/27/06)*

E. There shall be two hour parking during school hours on:

1. Fourth Avenue SW from 7<sup>th</sup> Street SW until its intersection with Webster Street
2. The northern side of 7<sup>th</sup> Street SW from the five-way stop until its intersection with Fourth Avenue SW      *(Amended by Ord. 150, 11/25/02)*

F. There shall be one hour parking between signs from 7:00 a.m. and 4:00 p.m. during school hours on Morse Street in front of Central High School *(Amended by Ord 270, 3/14/16)*

G. There shall be no parking between signs on the eastern side of Brush Street unless for the purpose of loading or unloading of vehicles

H. There shall be no parking on Main Street from 2:00 am until 7:00 am beginning at its intersection with Central Avenue until its intersection with Third Avenue NE

I. There shall be no parking 8:00 am to 4:00 pm, Monday through Friday on the north side of Main Street from its intersection with Third Avenue NE, until the posted sign

J. No person shall park a vehicle or permit it to stand attended or unattended at any parking lot at Friendship Park, including the Park and Ride Lot off of Fourth Avenue SW at State Highway 5, while displaying a "For Sale" sign or similar sign, unless the driver is using the park facilities or Park and Ride service during the time in which the vehicle is so parked

K. During the annual Stiftungsfest event, normally scheduled on or about the last full weekend in August, no parking shall be permitted from 2:00 am Friday until Noon Monday on the following streets:

1. Main Street from Second Avenue SE to the far western end
2. First Avenue SE and NE from First Street SE to First Street NE

L. During the annual Stiftungsfest event, normally scheduled on or about the last full weekend in August, no parking shall be permitted from 3:00 am to 6:00 pm on Saturday on the following streets:

1. First Street SE from First Avenue SE to Second Avenue SE
2. Second Avenue SE from First Street SE to Main Street E
3. Main Street E from Second Avenue SE to Third Avenue SE

M. During the City's annual Stiftungsfest event, normally scheduled on or about the last full weekend in August, no person shall park in the City parking lot located at 10 First Avenue NE, except by permit issued by the City Office, from 6:00 am on Friday until 11:00 pm on Sunday. *(Amended by Ord. 150, 11-25-2002)*

#### **720.06 Recreational Vehicles.**

**Subd. 1 Definitions.** Recreational Vehicle shall mean all boats; canoes; all terrain vehicle; snowmobiles; utility trailers used to transport boats, canoes, snowmobiles, and all terrain vehicles; travel campers; house trailers; slip in camper tops whether or not attached to a truck; and motor vehicles designated, constructed, or used to provide temporary movable living quarters.

**Subd. 2 Parking Prohibition.** To prevent traffic flow problems created by blockage or partial blockage of streets by the size of recreational vehicles, and to discourage the use of recreational vehicles as a primary dwelling, except in emergency situations, no recreational vehicle shall be parked on any city street in a residential district except to allow for the packing or unpacking of equipment, and for the boarding or exiting of passengers. No recreational vehicle shall be allowed to remain on any public street for more than forty-eight (48) consecutive hours, and in no case shall any person be allowed to park a recreational vehicle on a public street in a residential neighborhood more than four times per any calendar month, except that a resident may apply for a temporary parking permit to allow him or her to park such a vehicle for an additional forty-eight (48) hour period. No more than two permits shall be issued to any single household per calendar year.

#### **720.07 Commercial Vehicle Parking.**

**Subd. 1 Restricted Vehicles.** No person shall at any time park or leave standing any truck, semi trailer, truck tractor, tractor, or bus with a gross vehicle weight equal to or greater than 11,000 pounds upon any residential street unless for the purpose of loading or unloading such a vehicle or for the pick-up and delivery of goods and/or services to home or businesses in the area. *(Amended by Ord. 150, 11/25/02)*

**Subd. 2 Additional Restrictions.** Nor shall any person at any time park or leave standing any trailer upon any residential street unless for the purpose of loading or unloading such a vehicle. *(Amended by Ord. 150, 11/25/02)*

**720.08 Violations of Parking Restrictions.** The penalty for parking in the restricted areas listed in this Section, shall be no more than the maximum penalty allowed for a petty misdemeanor. Each offense shall be subject to a separate penalty, and each day the offense exists shall count as a separate offense. *(Amended by Ord. 154, 8/11/03)*

### **Section 730 – Junk, Abandoned, and Unauthorized Vehicles**

#### **730.01 Definitions.**

**Subd. 1 Abandoned Vehicle.** "Abandoned Vehicle" shall mean a motor vehicle that has:

A. remained illegally:

1. for a period of 48 hours on any property owned or controlled by a unit of government, or more than four (4) hours on such property when it is properly posted; or
2. on private property for a period of time as determined by Minnesota Statutes, § 168B.04, subd. 2, without the consent of the person in control of the property; and

B. lacks vital component parts or is in an inoperable condition such that it has no substantial potential for further use consistent with its usual functions, unless it is kept in an enclosed garage or storage building;

Classic cars or pioneer cars as defined by Minnesota Statute § 168.10 shall not be considered abandoned vehicles; nor shall any vehicle located on the premises of a junk yard or automobile graveyard properly licensed and maintained pursuant to Minnesota Statute § 161.242 or pursuant to any provision of this Code or other City ordinance. No vehicle being held for storage by agreement or being held under police authority or pursuant to court order shall not be considered an abandoned vehicle. *(Amended by Ord. 247, 12-9-13)*

**Subd. 2 Junk Vehicle.** “Junk Vehicle” shall mean any vehicle that:

- A. is three years old or older;
- B. is extensively damaged, with the damage including such things as broken or missing wheels, motor, drive train, or transmission;
- C. is apparently inoperable;
- D. does not have a valid, current registration plate; and
- E. has an approximate fair market value equal to the approximate value of the scrap in it.

**Subd. 3 Unauthorized Vehicle.** “Unauthorized Vehicle” shall mean a vehicle that is subject to removal and impoundment pursuant to Minnesota Statutes, § 168B.04, subd. 2, or § 169.041, but is not a junk vehicle or an abandoned vehicle.

**730.02 Declaration of Public Nuisance.** Abandoned, junk, and unauthorized vehicles within the City shall be hereby found to create a public nuisance or blight condition tending to reduce the value of private property, to invite theft or vandalism, to create fire and other safety hazards, to attract vermin, and to constitute an unattractive nuisance creating a hazard to the health and safety of the public. The accumulation and outside storage of abandoned and junk vehicles shall be determined to be in the nature of rubbish, litter and unsightly debris, and a detriment to the environment, and shall be hereby declared to constitute a public nuisance which may be abated as provided in this Section or as provided under any other ordinance, specifically Section 600.06, of the City or by the laws of the State. *(Amended by Ord. 168, 7/25/05)*

**730.03 Parking and Storage of Abandoned, Junk, and Unauthorized Vehicles Prohibited.** No person shall park, store, or leave, or permit the parking, storing, or leaving of any abandoned or junk vehicle for a period in excess of 48 hours unless:

- A. the vehicle is completely within a building or is otherwise screened from view by fencing or other barrier approved by the City;

- B. the vehicle is stored or parked on private property in connection with a duly licensed or authorized commercial enterprise operated and conducted pursuant to law when such parking or storing of vehicles shall be necessary to the operation of the commercial enterprise.

In no case shall any vehicle be parked so as to constitute being an unauthorized vehicle.

**730.04 Towing of Motor Vehicles.** The Carver County Sheriff and the City Administrator shall be hereby authorized to remove, towed away by commercial towing service, and impounded at the City designated storage facility, any abandoned, junk, or unauthorized motor vehicle in violation of this Code. The owner of the vehicle shall be responsible for all cost associated with removal of the vehicle.

**730.05 Notice of Impounded Motor Vehicles.** Notice shall be given to the owner of any vehicle impounded under this Section in accordance with the terms of Minnesota Statutes 168B and this Section. The notice shall include the time limit within which the vehicle may be reclaimed before it is subject to disposal by the City in accordance with applicable State law and this Section.

**730.06 Public Sale.**

**Subd. 1 Auction.** After the time period provided for in Subsection 730.05, any vehicle impounded and not reclaimed under this Section shall be sold to the highest bidder at public auction or sale held in compliance with Minnesota Statutes § 168B.08, following ten (10) days published notice of the auction in the legal newspaper for the City. The purchasers shall be given a receipt in a form which shall be sufficient title to dispose of the vehicle. The receipt shall also entitle the purchaser to register the vehicle and receive a certificate of title, free and clear of all liens and claims of ownership.

**Subd. 2 Proceeds.** From the proceeds of the sale of an impounded vehicle, the City shall reimburse itself for the cost of towing, preserving and storing of the vehicle, and all notice, publication and administrative costs incurred pursuant to this Section. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle at the time of impoundment or any entitled lienholder for ninety (90) days and if not claimed, shall thereafter be deposited in the City treasury.

**730.07 Right to Reclaim.** The owner or any lienholder of any impounded vehicle or any person in lawful possession or control of the property upon which the vehicle was abandoned or otherwise illegally parked shall have a right to reclaim the vehicle from the City upon payment of all towing and storage charges, and administrative fees as set in the fee schedule adopted from time to time by the Council, resulting from the taking of the vehicle into custody within the time period specified in the notice required by Subsection 730.05.

**730.08 Unsold Vehicles.** Any impounded vehicle that is neither reclaimed or sold at auction pursuant to this Section may be disposed of by the City in accordance with Minnesota Statutes § 168B.09.

**730.09 Entry Upon Private Property for Removal or Abatement.** Any person, at the direction of the City Administrator, police chief or any other police officer of the City shall be hereby expressly authorized to enter upon private property for the purpose of enforcing this Section.

**730.10 Liens.** Nothing in this Section shall be construed to impair any lien of a garage keeper under the laws of this State or the right of a lienholder to foreclose. For the purposes of this Section “Garage

keeper” shall mean an operator of a parking place or establishment, an operator of a motor vehicle storage facility, or an operator of an establishment for the servicing, repair, or maintenance of motor vehicles.

### **Section 740 – Snowmobiles and All-Terrain Vehicles**

**740.01 Intent.** It shall be the intent of this section to regulate the use and operation of certain vehicles, commonly called Snowmobiles, and All-Terrain Vehicles or ATV’s to include Class 1 ATV’s and Class 2 ATV’s as defined in section 740.04.

**740.02 State Snowmobile and All-Terrain Vehicle Laws and Statutes Adopted.** Laws of the State of Minnesota, Chapter 84.81 through 84.88 and Chapters 168 through 171, Minnesota Statutes as amended, insofar as applicable to the operation of snowmobiles shall be hereby adopted by reference and shall be as effective as if recited here in full.

**740.03 Compatibility with other Regulations.** Where the conditions of this section are comparable with conditions imposed by any other law, ordinance, statute, resolution, or regulation, the regulations, which are more restrictive, shall apply.

**740.04 Definitions.** For purposes of this Section terms defined in this Section shall have the meaning ascribed to them.

**All-Terrain Vehicle(s).** All-Terrain Vehicle(s) shall include all “Class 1 ATV’s” and “Class 2 ATV’s.” Class 1 ATV’s shall mean at least three (3) low-pressure flotation tires, under 800 cc’s and under 900 pounds dry weight [MS 84.92(8) and (9)]. Class 2 ATV’s shall mean at least three (3) low pressure flotation tires and under 800cc’s, dry weight is 900 pounds through 1,500 pounds [MS 84.92 (8) and (10)]. Class 2 ATV’s were formerly defined as “Off-Road Vehicles” (ORV’s) by the Minnesota Department of Natural Resources.

**Body of Water.** Body of Water shall mean all water wholly within the city limits of Norwood Young America and all portions of boundary waters within the city limits of Norwood Young America contained within any wilderness areas designated hereunder and which the public have a right to use for navigation, fishing, hunting or any other beneficial public use.

**Commissioner.** Commissioner shall mean the commissioner of natural resources.

**Deadman Throttle or Safety Throttle.** Deadman Throttle or Safety Throttle shall mean a device which when pressure is removed from the engine accelerator or throttle, causes the motor to be disengaged from the driving mechanism.

**Operate.** Operate shall mean to ride in or on and control the operation of a snowmobile or all-terrain vehicle.

**Operator.** Operator shall mean every person who operates or shall be in actual physical control of a snowmobile or all-terrain vehicle.

**Owner.** Owner shall mean a person, other than a lien holder having the property in title to a snowmobile or All-Terrain Vehicle, or entitled to the use or possession thereof.

**Person.** Person shall mean and include an individual, partnership, corporation, the State and its agencies and subdivision, and any body of persons, whether incorporated or not.

**Right-of-Way.** Right-of-Way shall mean the entire strip of land traversed by a highway or street in which the public owns the fee or an easement for roadway purposes.

**Roadway.** Roadway shall mean that portion of a highway or street improved, designed or ordinarily used for vehicular travel.

**Snowmobile(s).** Snowmobile(s) shall mean a self-propelled vehicle designed for travel on ice or snow, steered by skis or runners.

**Street.** Street shall mean a public thoroughfare, roadway, or alley used for motor vehicular traffic which is not an interstate, trunk, county state aid or county highway.

**Treads.** Treads shall mean any metal device, or array of metal devices attached to a snowmobile track to enhance traction. This includes metal components that extend more than one-fourth of an inch from the bottom of the track.

**740.05 Intersections.** No snowmobile or ATV shall enter any uncontrolled intersection without making a complete stop. The operator shall then yield the right-of-way to any vehicles or pedestrians which constitute an immediate hazard.

**740.06 Traffic Ordinances.** City traffic ordinances shall apply to the operation of snowmobiles and ATV's upon streets and roadways, except for those relating to required equipment, and except those which by their nature have no application.

**740.07 Operation Generally.**

**Subd. 1** Except as otherwise specifically permitted and authorized, it shall be unlawful and punishable for any person to operate a snowmobile or ATV within the city limits of Norwood Young America in violation of the following restrictions:

- A. On any private property within the City unless the private property shall be a designated snowmobile trail or operator shall have express consent of property owner;
- B. In any planting or tree nursery in a manner which damages or destroys growing stock;
- C. Through any wildlife sanctuary, either public or private;
- D. In any cemetery;
- E. At any place while under the influence of intoxicating liquor or narcotics or habit forming drugs;
- F. On any public street or roadway while in possession of an open container containing any amount of an alcoholic beverage, intoxicating liquor, narcotics, or habit forming drugs;
- G. At a rate of speed greater than reasonable or proper (not to exceed 10 mph at any given time) under all the surrounding circumstances;

- H. At any place in a careless, reckless or negligent manner so as to endanger the person or property of another or to cause injury or damage thereto;
- I. In a manner so as to create a loud, unnecessary or unusual noise which disturbs, annoys or interferes with the peace and quiet of other persons;
- J. So as to tow any person or thing except through use of a rigid tow bar attached to the rear of the snowmobile or ATV;
- K. While the snowmobile or ATV is equipped with treads;
- L. On a public sidewalk or walkway provided or used for pedestrian travel or on boulevards within any public right-of-way;
- M. On any public or private school grounds except as permission shall be expressly obtained from responsible school authorities;
- N. On any other publicly owned lands which shall include but shall not be limited to park property, playgrounds, recreation areas and golf courses, or any frozen bodies of water within the City of Norwood Young America, except authorized areas previously listed for such use by the proper authority. Authorized areas in the City owned by the City shall be designated by Council resolution.

**Subd. 2 Exceptions.**

- A. Snowmobiles may be operated on public streets used to provide the most direct access to any snowmobile trail adopted by resolution of the Council.
- B. ATV's may only be operated on public streets or roads used to provide the most direct access to any state owned ATV trail adjacent to the City of Norwood Young America, except for the purposes of snow removal on the owners property, or City owned and operated ATV's for official City business.

**Subd. 3** It is unlawful for the owner of a snowmobile or an ATV to permit the snowmobile or ATV to be operated contrary to the provisions of this section.

**740.08 Required Equipment.** It shall be unlawful to operate any snowmobile or ATV within the City unless the snowmobile or ATV is equipped with:

- A. Brakes adequate to control the movement of and to stop and hold the snowmobile or ATV under any condition or operation;
- B. A safety or so-called "deadman" throttle in operating condition;
- C. When operated between the hours of one-half hour after sunset to one-half hour before sunrise or at times of reduced visibility, at least one clear lamp attached to the front, with sufficient intensity to reveal persons and vehicles at a distance of at least 100 feet ahead during the hours of darkness under normal atmospheric conditions. The head lamp shall be so aimed that glaring rays shall not be projected into the eyes of an oncoming snowmobile or ATV operator. It shall also be equipped with at least one red tail lamp having a minimum candlepower of sufficient intensity to exhibit a red light plainly visible from a distance of 500 feet to the rear during hours of darkness under normal atmospheric conditions;
- D. Standard mufflers which are properly attached and which reduce the noise of operation of the motor to the minimum necessary for operation. No person shall use a muffler cutout, bypass, straight pipe, or similar device on a snowmobile or ATV motor.



**740.09 Hours of Operation.** It shall be unlawful to operate a snowmobile or ATV within the City of Norwood Young America from 10:00 p.m. to 7:00 a.m. for any purpose other than going to or returning from an evening ride by way of the most direct route, to the owner's residence or location where the snowmobile or ATV is generally stored and while complying with applicable laws.

**740.10 Minimum Age of Operator.**

- A. No person under the age of fourteen (14) years of age shall operate a snowmobile or ATV on any public land in the city. A person fourteen (14) years of age or older, but less than eighteen (18) years of age, may operate a snowmobile or ATV on the streets and highways as permitted under this chapter and make a direct crossing of streets and highways only if he or she has in his or her possession a valid snowmobile or ATV safety certificate issued by the Commissioner, and then only for the purposes of travel between his or her home, or the home location of the snowmobile or ATV, and a point outside the city. This travel must be accomplished by the shortest distance, taking the most direct route while complying with applicable laws.
- B. It shall be unlawful for the owner of a snowmobile or ATV to permit the snowmobile or ATV to be operated contrary to the age provisions of this Subsection.

**740.11 Penalties.** Any persons violating any provision of this Section shall be guilty of a misdemeanor and shall be punished by a fine not to exceed seven hundred (\$700.00) dollars, or by imprisonment in the county jail for a period not to exceed 90 days or both; but if a minimum fine or imprisonment is prescribed by the State Highway Traffic Act for an offense, the penalty shall apply to a person convicted of the same offense under this Section. *(Amended by Ord. 192, 6/11/07)*

## **Section 750 – Golf Carts**

**750.01 Intent.** It shall be the intent of this section to regulate the use and operation of golf carts within the city.

**750.02 Adoption by Reference of MN Statute.** Except as herein specifically addressed or modified, the provision of MN Statute Section 169.045, as amended, are herewith incorporated by reference.

**750.03 Compatibility with other Regulations.** Where the conditions of this section are comparable with conditions imposed by any other law, ordinance, statute, resolution, or regulation, the most restrictive shall apply.

**750.04 Definitions.** For purposed of this Section, terms defined in this Section shall have the meaning ascribed to them below:

**Golf Cart.** A small motorized vehicle, with electric or gas power, designed to carry two golfers and their golf clubs around a golf course between shots.

**750.05 Authorization to Use Golf Carts on Designated Roadways.** All City streets, alleys, and County roads within the City, as permitted by Carver County, shall be designated golf cart routes. No United States or State of MN road shall be a designated roadway for golf carts; however the operator, under permit, may cross any street or highway intersecting a designated roadway.

**750.06 Permit Required.** Every person who operated a golf cart shall first obtain a permit from the City.

**Subd. 1 Information Required.** The permit application shall include the following information:

- A. Name of Owner/Operator;
- B. Address of Owner/Operator;
- C. Date of Birth of Operator;
- D. Copy of current driver's license or written explanation for not having a current license, including a certificate signed by a physician that the applicant is able to safely operate a motorized golf cart on designated roadways if the applicant does not have a current driver's license;
- E. Telephone Number;
- F. Golf Cart Make, Model, Year and Serial Number;
- G. Proof of Insurance

**Subd. 2 Fee.** A fee shall be established by Ordinance of the City Council.

**Subd. 3 Renewals.** Permits shall be renewed triennially. All permits shall expire on the 1<sup>st</sup> day of April not more than three years following their issuance.

**Subd. 4 City Officials.** Authorized city staff may operate city owned motorized golf carts without obtaining a permit within the city on city streets, sidewalks, trails, rights-of-way, and public property when conducting city business.

**750.07 Insurance.** Owners and operators of golf carts shall carry liability insurance coverage pursuant to MN Statute 65B.48, Subdivision 5.

**750.08 Conditions of Operation.** Operation of golf carts on permitted streets within the City shall be subject to the following conditions:

- A. From sunrise to sunset between April 1 to November 1, unless during periods of inclement weather or when visibility is impaired by weather, smoke, fog, or other conditions, or at any time when there is insufficient light to clearly see persons or vehicles on the roadway at a distance of 500 feet.
- B. With a slow-moving emblem and a rear-view mirror installed on the golf cart
- C. With proper insurance that complies with insurance for a motorcycle pursuant to Section 750.07 above and M.S. § 169.045, as amended
- D. The operator shall have a valid permit, pursuant to Section 750.06 above, be at least 18 years of age and not had their drivers license revoked as a result of criminal proceedings
- E. The operator shall be subject to all traffic ordinances, laws and statutes
- F. The number of occupants shall not exceed the design occupant load
- G. No operation shall be permitted on private property, without the consent of the owner, or on any city sidewalk, trail or park.
- H. No operation shall be permitted at any time with an alcohol level of 0.08 percent or higher, or under the influence of a controlled substance.

**750.09 Revocation or Denial of Permit.** A permit may be revoked at any time or denied if it is shown that the permittee cannot safely operate the golf cart, cannot provide all of the information required for a permit pursuant to Section 750.06 above, had their drivers license revoked as a result of criminal proceedings, or for violation of any of the Conditions of Operation, as stated in Section 750.08 above.

**750.10 Penalty for Operation without a Permit.** Any person operating a golf cart on a public roadway without a permit may be issued a citation by a law enforcement official and is subject to any and all associated penalties.

**750.11 Penalty.** Any person who violates any provision of this Section is guilty of a misdemeanor.

**CHAPTER 6. NUISANCES****Section 600 – Nuisances****600.01 Public Nuisances Prohibition.**

**Subd 1.** A person must not act, or fail to act, in a manner that is or causes a public nuisance. For purposes of this section, a person that does any of the following is guilty of maintaining a public nuisance:

- A. Maintains or permits a condition which unreasonably annoys, injures, or endangers the safety, health, morals, comfort or repose of any considerable number of members of the public; or
- B. Interferes with, obstructs, or renders dangerous for passage, any public highway or right-of-way, or waters used by the public; or
- C. Does any other act or omission declared by law or this ordinance to be a public nuisance.

**600.02 Public Nuisances Affecting Health.**

**Subd. 1** The following are hereby declared to be nuisances affecting health:

- A. The exposed accumulation of decayed or unwholesome food or vegetable matter;
- B. All diseased animals running at large;
- C. All ponds or pools of stagnant water;
- D. Carcasses of animals not buried or destroyed within twenty-four (24) hours after death;
- E. Accumulation of junk, trash, rubbish, manure, refuse, or other debris;
- F. Privy vaults and garbage cans which are not rodent-free or fly-tight, or which are so maintained as to constitute a health hazard or to emit foul and disagreeable odors;
- G. The pollution of any public well or cistern, stream or lake, canal or body of water by sewage, industrial waste, or other substances;
- H. All noxious weeds and other rank growths of vegetation upon public or private property and all other weed or grass growing to a height of six (6) inches or more;
- I. Dead trees, fallen trees, or tree limbs which are a fire hazard or are otherwise detrimental to the neighborhood;
- J. Dense smoke, noxious fumes, gas, soot, or cinders in unreasonable quantities;
- K. All public exposure of people having a contagious disease; and
- L. Any offensive trade or business as defined by statute not operating under local license.

**600.03 Public Nuisances Affecting Morals And Decency.**

**Subd. 1** The following are hereby declared to be nuisances affecting public morals and decency:

- A. All gambling devices, slot machines, and punch boards, except otherwise authorized and permitted by federal, state, or local law;
- B. Betting, bookmaking, and all apparatus used in those occupations;
- C. All houses kept for the purpose of prostitution or promiscuous sexual intercourse, gambling houses, houses of ill fame, and bawdy houses;
- D. All places where intoxicating or 3.2 malt liquor is manufactured or disposed of in violation of law or where, in violation of law, people are permitted to resort, for the purpose of drinking

intoxicating or 3.2 malt liquor, or where intoxicating or 3.2 malt liquor is kept for sale or other disposition in violation of law, and all liquor and other property used for maintaining that place; and

- E. Any vehicle used for the unlawful transportation of intoxicating or 3.2 malt liquor, or for promiscuous sexual intercourse, or any other immoral or illegal purpose.

#### **600.04 Public Nuisances Affecting Peace And Safety.**

**Subd. 1** The following are declared to be nuisances affecting public peace and safety:

- A. All snow and ice that is not removed from public sidewalks within twenty-four (24) hours after the snow or other precipitation causing the condition has ceased to fall;
- B. All trees, hedges, billboards, or other obstructions which prevent people from having a clear view of all traffic approaching an intersection;
- C. All wires and limbs of trees that are so close to the surface of a sidewalk or street as to constitute a danger to pedestrians or vehicles;
- D. Any person participating in any party or other gathering that causes the unreasonable disturbing of the peace, quiet, or repose of another person;
- E. All unnecessary and annoying vibrations;
- F. Obstructions and excavations affecting the ordinary public use of streets, alleys, sidewalks, or public grounds, except under conditions as are permitted by this ordinance or other applicable law;
- G. Radio aerials or television antennae erected or maintained in a dangerous manner;
- H. Any use of property abutting on a public street or sidewalk or any use of a public street or sidewalk that causes large crowds or people to gather, obstructing traffic and the free use of the street or sidewalk;
- I. All hanging signs, awnings, and other similar structures over streets and sidewalks, so situated as to endanger public safety, or not constructed and maintained as provided by ordinance;
- J. The allowing of rainwater, ice, or snow to fall from any building or structure upon any street or sidewalk or to follow across any sidewalk;
- K. Any barbed wire fence located less than six (6) feet above the ground and within three (3) feet of a public sidewalk or way;
- L. All dangerous, unguarded machinery in any public place, or so situated or operated on private property as to attract the public;
- M. Wastewater cast upon or permitted to flow upon streets or other public properties;
- N. Accumulations in the open of discarded or disused machinery, household appliances, automobile bodies or other materials in a manner conducive to the harboring of rats, mice, snakes, or vermin, or the rank growth of vegetation among the items so accumulated, or in a manner creating fire, health, or other safety hazards from such accumulation;
- O. Any well, hole, or similar excavation that is left uncovered or in such other condition as to constitute a hazard to any child or other person coming on the premises where it is located;
- P. Obstruction to the free flow of water in a natural waterway or a public street drain, gutter, or ditch with trash or other materials;
- Q. The placing or throwing on any street, sidewalk, or other public property of any glass, tacks, nails, bottles, or other substances that may injure any person or animal or damage any pneumatic tire when passing over such substance;
- R. The depositing of garbage or refuse on a public right-of-way or on adjacent private property;

- S. Reflected glare or light from private exterior lighting exceeding 0.5 footcandles as measured on the property line of the property where the lighting is located when abutting any residential parcel, and one (1) footcandle when abutting any commercial or industrial parcel;
- T. Any storage container placed on a property outside of any enclosed building for more than fourteen (14) consecutive days. Storage containers include but are not limited to portable on demand storage (PODS), intermodal cargo containers, or similar types of equipment intended for temporary or long-term storage but not including lawful accessory buildings; and
- U. All other conditions or things that are likely to cause injury to the person or property of another.

#### **610.01 Abatement Procedure.**

**Subd. 1 Procedure.** Whenever the peace officer or other designated official determines that a public nuisance is being maintained or exists on the premises in the city, the official shall notify in writing the owner of record or occupant of the premises of such fact and order that the nuisance be terminated or abated. The notice of violation shall specify the steps to be taken to abate the nuisance and the time within which the nuisance is to be abated. If the notice of violation is not complied with within the time specified, the official shall report that fact forthwith to the City Council. Thereafter, the City Council may, after notice to the owner or occupant and an opportunity to be heard, determine that the condition identified in the notice of violation is a nuisance and further order that if the nuisance is not abated within the time prescribed by the City Council, the city may seek injunctive relief by serving a copy of the City Council order and notice of motion for summary enforcement or obtain an administrative search and seizure warrant and abate the nuisance.

**Subd. 2 Notice.** Written notice of the violation; notice of the time, date, place, and subject of any hearing before the City Council; notice of the City Council order; and notice of motion for summary enforcement hearing shall be served by a peace officer or designated official on the owner of record or occupant of the premises either in person or by certified or registered mail. If the premise is not occupied, the owner of record is unknown, or if the owner of record or occupant refuses to accept notice, notice of the violation shall be served by positing it on the premises.

**Subd. 3 Emergency Procedure; Summary Enforcement.** In cases of emergency, where delay in abatement required to complete the procedure and notice requirements as set forth in subdivisions (1) and (2) of this section will permit a continuing nuisance to unreasonably endanger public health, safety, or welfare, the City Council may order summary enforcement and abate the nuisance. To proceed with summary enforcement, the peace officer or other designated official shall determine that a public nuisance exists or is being maintained on premises in the city and that delay in abatement will unreasonably endanger public health, safety, or welfare. The officer or designated official shall notify in writing the occupant or owner of the premises of the nature of the nuisance, whether public health, safety, or welfare will be unreasonably endangered by delay in abatement required to complete the procedure set forth in subdivision (one) of this section and may order that the nuisance be immediately terminated or abated. If the nuisance is not immediately terminated or abated, the City Council may order summary enforcement and abate the nuisance.

**Subd. 4 Immediate Abatement.** Nothing in this section shall prevent the city, without notice or other process, from immediately abating any condition that poses an imminent and serious hazard to human life or safety, or from immediately abating any of the conditions described in sections

600.02(E), (H) and 600.04(A), (D), (E), (H), (J), (M), and (P) if the city determines, in its discretion, that the public interest would be served by immediate abatement.

**Subd. 5 Unlawful Parties or Gatherings.** When law enforcement determines that a gathering is creating a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises where the disturbance is occurring, to disburse immediately. No person shall refuse to leave after being ordered to do so by law enforcement. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

**Subd. 6 Judicial Remedy.** Nothing in this section shall prevent the city from seeking a judicial remedy when no other adequate administrative remedy exists.

### **610.02 Recovery of Cost.**

**Subd. 1 Personal Liability.** The owner of the premises on which a nuisance has been abated by the city, or a person who has caused a public nuisance on property not owned by that person, shall be personally liable for the cost to the city of the abatement, including administrative costs. As soon as the work has been completed and the cost determined, the city clerk or other city official shall prepare a bill for the cost and mail it to the owner. Thereupon the amount shall be immediately due and payable at the office of the city clerk.

**Subd. 2 Assessment.** After notice and hearing as provided in Minn. Stat. § 429.061, as it may be amended from time to time, if the nuisance is a public health or safety hazard on private property, the accumulation of snow and ice on public sidewalks, the growth of weeds on private property or outside the traveled portion of streets, or unsound or insect-infected trees, the city clerk shall, on or before September 1 next following abatement of the nuisance, list the total unpaid charges along with all other such charges as well as other charges for current services to be assessed under Minn. Stat. § 429.101 against each separate lot or parcel to which the charges are attributable. The City Council may then spread the charges against the property under that statute and any other pertinent statutes for certification to the county auditor and collection along with current taxes the following year or in annual installments, not exceeding ten (10), as the City Council may determine in each case.

**610.03 Administrative Offense and Penalty.** In addition to abatement procedures outlined in this Section 610, violations of the nuisance ordinance are designated as an administrative offense and subject to an administrative penalty as established in the Fee Schedule by Ordinance of the City Council.

**Subd. 1 Notice.** Any officer of the Carver County Sheriff's Department, or any other person employed by the city, and having authority to enforce a code provision designated as an administrative offense, shall, upon determining that there has been a violation, notify the violator pursuant to Section 610.01-610.05 above of the violation. In addition to this notice, the violator shall be provided:

- A. A statement that failure to take remedial action by the specified deadline will result in an administrative penalty for violation of the nuisance ordinance; and

- B. A statement that additional violations of the same or substantially similar offense within a 12 month period of the abatement deadline stated above will result in an automatic administrative fine, which shall be increased for each subsequent offense

**Subd. 2 Payment.** Once such notice is given, the alleged violator must, within 10 days after issuance of the notice or passing of the specified deadline for abating the nuisance ordinance violation, pay the amount set forth established in the Fee Schedule by Ordinance of the City Council, or may request a hearing in writing, pursuant to Section 610.02 above. The penalty may be paid in person or by mail, and payment shall be deemed to be an admission of the violation.

**Subd. 3 Failure to Pay.** In the event a party charged with an administrative offense fails to pay the penalty, a misdemeanor or petty misdemeanor charge may be brought against the alleged violation in accordance with applicable statutes, or any unpaid fines may be charged against the real estate as a special assessment. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the city for the same violation.

**Subd. 4 Disposition of Penalties.** All penalties collected pursuant to this chapter shall be paid to the City Clerk's Office and may be deposited in the city's general fund.

**Subd. 5 Subsequent Offenses.** In the event a party is charged with a subsequent administrative offense within a 12-month period of paying an administrative penalty for the same or substantially similar offense, the subsequent administrative penalty shall be increased by 25% above the previous administrative penalty except when otherwise provided by ordinance.

*(Amended by Ord. 242, 05-13-13)*

## **Section 620 – Guns & Explosives**

**620.01 Guns.** It shall be unlawful for any person to shoot or discharge any gun, air gun, pistol, revolver or other firearm or bow and arrow within the corporate limits of the City.

Nothing in this Code shall be construed to prohibit any firing of a gun, pistol or firearms when done in the lawful defense of person or property or family, or the necessary enforcement of the law.

**620.02 Explosives.** It shall be unlawful for any person to keep, store, or harbor any explosive substances such as dynamite, blasting caps, nitroglycerin, black powder or any other substance designed as an explosive, in Minnesota Statutes § 299F.72, without a permit as required by Minnesota Statutes § 299F.74 and explained in Minnesota Statutes § 299F.73.

## **Section 630 – Building Alarm Systems**

**630.01 Citation.** This Section shall be known, cited and referred to as the “Alarm Users Section.”

**630.02 Purpose and Scope.** The purpose of this Section shall be to protect the public safety services which serve the City from misuse and to provide for the maximum possible service to alarm users. This Section shall provide regulation for the use of burglary, robbery, fire, and medical alarms and shall establish a system of administration and an alarm users fee.



**630.03 Definitions.** For the purposes of this Section, certain terms and words shall be defined as follows:

**Subd. 1 Public Safety Personnel.** “Public Safety Personnel” shall mean all personnel employed by any law enforcement agency, and any firefighting personnel and any ambulance personnel.

**Subd. 2 Alarm User.** “Alarm User” shall mean any person in control of any building, structure, facility or tract of land wherein or whereon an alarm system is used or maintained within the City.

**Subd. 3 Public Safety Communications Center.** “Public Safety Communications Center” shall mean the central facility used to receive emergency requests for public safety services and general information from the public to be dispatched to public safety personnel.

**Subd. 4 Alarm System.** “Alarm System” shall mean any equipment or device which emits an audible, visual, or electronic signal upon the detection of a potential burglary, robbery, fire, medical emergency, trespass, or property intrusion. The term alarm system shall not include anti-theft or tampering alarms installed in any motor vehicle.

**Subd. 5 Sheriff.** “Sheriff” shall mean the Carver County Sheriff or his or her designee.

**Subd. 6 Person.** “Person” shall mean any human being, any corporation, partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, or any other legal entity.

**Subd. 7 False Alarm.** “False Alarm” shall mean an alarm signal eliciting a response by public safety personnel when a situation requiring a response shall not exist, and which is caused by the activation of the alarm system through mechanical failure, alarm malfunction, improper installation or the inadvertence of the owner or lessee of the alarm system or of his or her employees or agents. False alarms shall not include alarms caused by climatic conditions such as tornadoes, thunderstorms, utility line mishaps, violent conditions of nature or any other conditions which are clearly beyond the control of the alarm manufacturer, installer or alarm user.

#### **630.04 Compliance.**

**Subd. 1 Compliance.** No person shall locate, construct, alter, repair, install, use, or maintain any alarm system within the City except in full compliance with this Section and the standards adopted in this Section.

**Subd. 2 Audible Alarms.** All audible alarms shall meet the following requirements:

- A. Every person maintaining an alarm system with an audible alarm signal shall post a notice containing the name and telephone number of a person to be notified to render repairs or service to the alarm system during any hour of the day or night upon activation of the alarm system. The notice shall be posted at the main entrance to the premises or near the alarm in such a position as to be legible from the ground level adjacent to the building.
- B. Alarm systems with audible alarm signals that sound like police or fire sirens shall be prohibited.

- C. All alarm systems with audible alarm signals, except for fire alarms, shall have an automatic shut-off which shall silence the audible alarm signal within a period not to exceed fifteen (15) minutes.

**Subd. 3 Registration.** All persons using or maintaining any alarm system within the City shall register the alarm system with the sheriff, utilizing registration forms to be furnished by the sheriff, no later than the 30<sup>th</sup> day after the installation of the alarm system. Alarms installed prior to the adoption of this Code shall be registered within sixty (60) days of the effective date of this Code.

Any alteration or modification of any previously registered alarm system shall be registered with the sheriff, utilizing registration forms to be furnished by the sheriff, within thirty (30) days of the commencement of the alteration or modification.

**Subd. 4 Multiple Function Alarm Systems.** Alarm systems that have more than one alarm signal function (burglary, fire, etc.), shall report specifically which of the functions has been violated, when reporting to the Public Safety Communication Center for the purpose of dispatching public safety personnel to the site of the alarm system.

**Subd. 5 Communication Center.** No alarm system shall connect directly to the Public Safety Communications Center except financial institutions, and/or public buildings. All other alarms shall report to the Public Safety Communications Center in some other manner. No automatic telephone dialing device shall be allowed to dial direct or be programmed so that it dials directly into the Public Safety Communications Center.

#### **630.05 False Alarm Fees.**

**Subd. 1 False Alarm Fee Imposed.** A false alarm fee shall be hereby imposed upon any alarm user from whose alarm system emanates more than three (3) false alarms within any twelve (12) consecutive month period. The fees payable under this Section shall be as set in the fee schedule as adopted from time to time by the Council.

#### **Subd. 2 Exemptions.**

- A. Public Buildings. All Federal, State, County and/or Municipal buildings and all public schools shall be exempt from the false alarm fee.
- B. New Alarm Systems. All newly installed alarm systems shall be hereby granted a thirty (30) day probationary period, commencing on the date of first operational use thereof, during which period false alarms shall not be counted for the purpose of computing the amount of any fee imposed by this Section.
- C. Alterations to Existing Alarm Systems. All alarm systems which are altered by the addition to any new alarm feature shall be hereby granted a fifteen (15) day probationary period, commencing on the date of the first operational use of the new feature, during which period false alarms shall not be counted for the purpose of computing the amount of any fee imposed by this Section.

**Subd. 3 Payment of Alarm User Fees.** Subsequent to any false alarm, the sheriff shall notify the affected alarm user in writing of the date of the false alarm, the apparent reason therefore, and the false alarm fee imposed pursuant to this Section. It shall be the duty of each alarm user to pay all

fees imposed by this Section to the sheriff within thirty (30) days of the date of mailing of the sheriff's fee statement specifying the amount of the fees. For the purpose of mailing the sheriff's fee statement under this Section, the statement shall be mailed to the affected alarm user at his or her or its address shown on the registration form required by Subsection 630.04 of this Section.

One-half of all false alarm fees collected by the sheriff shall be remitted to the City to defray its administrative and prosecution costs incurred in connection with the enforcement of this Section. The other half of the false alarm fees shall be retained by the sheriff to defray his or her administrative costs incurred in enforcing this Section.

### **630.06 Enforcement.**

**Subd. 1 User to Respond.** If in the judgment of public safety personnel at the scene of an alarm, it is determined that the alarm user should appear at the location of any alarm for the purpose of admitting public safety personnel to the subject premises to investigate any alarm system signal, or for the purposes of deactivating any alarm system signal, or for the purpose of identifying third parties found on the subject premises during the investigation of any alarm system signal, the alarm user shall appear immediately if so requested by the sheriff.

**Subd. 2 Remedial Action by User.** If an alarm user has had more than three (3) false alarms in a twelve (12) month period, the alarm user, upon the written request of the sheriff, shall be required to submit in written form a description of any steps being taken to remedy any problems with false alarms emanating from the alarm user's location.

**Subd. 3 Administrative Rules/Regulations.** The sheriff shall promulgate the rules/regulations as shall be necessary for the implementation and/or administration of this Section.

### **630.07 Violations and Penalties.**

**Subd. 1 Misdemeanor.** Any person who fails to comply with the provisions of this Section, shall be guilty of a misdemeanor, in addition to being subject to the false alarm fees imposed by this Section. A separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

**Subd. 2 Injunctive Relief.** In the event of a violation or a threat of violation of this Section, the City may institute appropriate action or proceeding, including requesting injunctive relief to prevent, restrain, correct, or abate the violation or threatened violation.

**Subd. 3 Civil Action.** If a person fails to comply with the provisions of this Section, the City may recover costs, damages, or false alarm fees in a civil action in any court of competent jurisdiction.

**Subd. 4 Governmental Services Lien.** In addition to the remedies specified in Subd. 1 and Subd. 2 above, but in lieu of the remedy specified in Subd. 3 above, the City may certify any unpaid false alarm fees to the County Auditor or County Finance Director as a governmental services lien for collection with the real property taxes imposed on the real property upon which the alarm system is or was located.

## **Section 640 – Curfew**

**640.01 Curfew Imposed.** The City shall enforce the provisions of the Carver County ordinance.

Ordinance No. 25  
Carver County

JUVENILE CURFEW ORDINANCE

The County Board of Carver County ordains:

Subd. 1. Purposes and Findings.

(a) The Board of Commissioners of Carver County finds that there has been an increase in juvenile violence and crime by juveniles in recent years.

(b) Juveniles are particularly susceptible by their lack of maturity and experience to participate in unlawful activities and to be victims of older perpetrators of crime.

(c) Because of the foregoing, special and extenuating circumstances presently exist within this County that require special regulation of juveniles within the County in order to protect them and other persons during the nighttime hours, to aid in crime prevention, to promote parental supervision and authority over minors and to decrease juvenile crime rates; and

(d) In accordance with prevailing community standards, this Ordinance serves to regulate the conduct of minors in public places during nighttime hours, to be effectively and consistently enforced for the protection of juveniles from each other and from other persons, in public places during nighttime hours, for the enforcement of parental control of, authority over, and responsibility for their children, for the protection of the general public from nighttime mischief by juveniles, for the reduction in the incidents of juvenile criminal activities, for the furtherance of family responsibility and for the public good, safety and welfare; and

(e) It is the intent of the County Board to review and evaluate the need and effect of nighttime curfew for juveniles set forth in this Ordinance on the incidents of juvenile criminal activity and protection of juveniles against criminal activity.

Subd. 2. Authority

This Ordinance is enacted pursuant to Minn. Stat. § 145A.05, Subd. 7a (1994).

Subd. 3. Definitions.

(a) “Authorized adult” means any person who is at least eighteen (18) years of age and authorized by a parent or guardian to have custody and control of a juvenile.

(b) “County Board” means the Board of Commissioners of Carver County.

(c) “Emergency” means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or

automobile accident or any situation requiring immediate action to prevent serious bodily injury or loss of life.

(d) “Juvenile” means a person under the age of eighteen (18) years. The term does not include persons under 18 who are married or have been legally emancipated.

(e) “Parent” means any person having legal custody of a juvenile (i) as natural, adoptive parent, or step-parent; (ii) as a legal guardian; or (iii) as a person to whom legal custody has been given by order of the court.

(f) “Public Place” means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, roadways, parks, public recreation, entertainment or civic facilities, schools, and the common areas of hospitals, apartment houses, office buildings, transport facilities, and shops.

(g) “Serious bodily injury” means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

#### Subd. 4. Prohibited Acts.

(a) It is unlawful for a juvenile under the age of twelve (12) to be present in any public place within Carver County:

(1) any time between 9:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(2) any time between 10:00 p.m. on any Friday or Saturday and 5:00 a.m. the following day.

(b) It is unlawful for any juvenile age twelve (12) to fourteen (14) years to be present in any public place within Carver County:

(1) any time between 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(2) any time between 11:00 p.m. on any Friday or Saturday and 5:00 a.m. on the following day.

(c) It is unlawful for any juvenile age fifteen (15) to seventeen (17) years to be in any public place within Carver County:

(1) any time between 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday and 5:00 a.m. of the following day.

(2) any time between 12:01 a.m. and 5:00 a.m. on any Saturday or Sunday.

(d) It is unlawful for a parent or authorized adult of a juvenile to knowingly, or through negligent supervision, to permit such juvenile to be in any public place within the County during the hours prohibited by Paragraphs (a), (b), and (c) of this Subdivision under circumstances not constituting an exception to this Ordinance. The term “knowingly” includes knowledge which a parent or authorized adult shall reasonably be expected to have concerning the whereabouts of a juvenile under such person’s care.

(e) It is unlawful for any person operating or in charge of any place of amusement or refreshment which is open to the public to knowingly permit any juvenile to be in such place during the hours prohibited by Paragraphs (a), (b), and (c) of this Subdivision under circumstances not constituting an exception to this Ordinance. The term “person operating” shall mean any individual, firm, association, partnership or corporation operating, managing or conducting any such establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

#### Subd. 5. Exceptions.

(1) The following constitute valid exceptions to the operation of the curfew:

- (a) if a juvenile is accompanied by his or her parent or an authorized adult;
- (b) if a juvenile is involved in, or attempting to remedy, alleviate, or respond to an emergency;
- (c) if the juvenile is engaged in a lawful employment activity, or is going to or returning home from his or her place of employment;
- (d) if the juvenile is attending an official school, religious, or other social or recreational activity supervised by adults and sponsored by a city or the county, a civic organization, or another similar entity that takes responsibility for the juvenile;
- (e) if the juvenile is going to or returning home from, without any detour or stop, the official school, religious, or other recreational activity supervised by adults and sponsored by a city or the County, a civic organization, or another similar entity that takes responsibility for the juvenile;
- (f) if the juvenile is on an errand as directed by his or her parent, without any detour or stop;
- (g) if the juvenile is engaged in interstate travel;
- (h) if the juvenile is on the public right-of-way, boulevard, or sidewalk abutting the juvenile’s residence or abutting the neighboring property, structure, or residence;
- (i) if the juvenile is exercising First Amendment rights protected by the United States Constitution (or those similar rights protected by Article I of the Constitution of the State of Minnesota), such as free exercise of religion, freedom of speech, and the right of assembly; or
- (j) if the juvenile is homeless or uses a public or semi-public place as his or her usual place of abode.

(2) It is an affirmative defense to prosecution under Subd. 4(e) that:

(a) the owner, operator or employee of an establishment promptly notified the police department or sheriff's department that a juvenile was present on the premises of the establishment during curfew hours.

(b) the owner, operator or employee reasonably and in good faith relied upon a juvenile's representations of proof of age. Proof of age may be established pursuant to Minn. Stat. § 340A.503, Subd. 6, or other verifiable means, including, but not limited to, school identification cards and birth certificates.

#### Subd. 6 Enforcement.

Before taking any enforcement action under this section, a police officer or sheriff's deputy shall ask the apparent offender's age and reason for being in a public place. The officer/deputy shall not issue a citation or make an arrest under this section unless the officer/deputy reasonably believes that an offense has occurred and that no exception set forth in Subdivision 5 is applicable.

#### Subd. 7 Penalties.

(a) Violation of Subdivision 4(a), (b), and (c) will be prosecuted pursuant to Minn. Stat. § 260.195 and will be subject to penalties therein.

(b) Violation of Subdivision 4(d) or (e) is a misdemeanor.

#### Subd. 8. Severability.

If any court of competent jurisdiction adjudges any provisions of this Ordinance to be invalid, such judgement shall not affect any other provisions of this Ordinance not specifically included in said judgment.

#### Subd. 9. Effective Date.

The effective date of this Ordinance is February 1, 1996.

### Section 650 – Open Burning

**650.01 Purpose.** The purpose of this Section shall be to establish permitted categories of open burn events for residences and businesses within the incorporated areas of the City and provide for burning defined as a "Recreational Fire" as prescribed in this Section.

**650.02 Definitions.** For the purposes of this Section, the terms in this Section have the meaning given them.

**Subd. 1 Local Designated Authority.** "Local Designated Authority" shall mean a representative of the city, or the fire chief, fire marshal, or fire warden, who has been trained and certified by the Department of Natural Resources (DNR).

**Subd. 2 Open Burning.** “Open Burning” shall mean the burning of any matter if the resultant combustion products are emitted directly into the atmosphere without passing through a stack, duct or chimney, except a Recreational Fire as defined in this Section.

**Subd. 3 Recreational Fire.** “Recreational Fire” shall mean a fire set with approved starter fuel, that is no larger than three feet in diameter by two feet in height, using dry, clean wood; producing little detectable smoke, odor or soot beyond the property line; for recreational, ceremonial, food preparation or social purposes; extinguished completely before quitting the occasion; and respecting weather conditions, neighbors, burning bans, and air quality so that nuisance, health or safety hazards shall not be created. Mobile cooking devices such as manufactured hibachis, charcoal grills, wood smokers and propane or natural gas devices shall not be defined as recreational fires, but shall be allowed under this Section. *(Amended by Ord. 253, 7-28-14)*

**Subd. 4 Starter Fuels.** “Starter Fuels” shall mean dry, untreated, unpainted kindling, branches, or cardboard, or charcoal fire starter. Paraffin candles and alcohols shall be permitted as starter fuels and as aids to ignition only.

**Subd. 5 Wood.** “Wood” shall mean dry, clean fuel only such as twigs, branches, limbs, “presto logs,” charcoal, cordwood or untreated dimensional lumber. “Wood” shall not include wood that is green, with leaves or needles, rotten, wet, oil soaked, or treated with paint, glue or preservatives, nor, leaves and needles. Clean pallets may be used for recreational fires when cut into three foot lengths.

**650.03 Prohibited Materials.** No person shall conduct, cause or permit the open burning of any material, except as provided by definition in Subsection 650.02. This prohibition shall include but not be limited to the following:

- A. No person shall conduct, cause or permit open burning of oils, petro fuels, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, treated, painted or glued wood, composite shingles, tar paper, insulation, composition board, sheetrock, wiring, paint or paint fillers.
- B. No person shall conduct, cause or permit open burning of hazardous waste or salvage operations, or open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment or building material generated from demolition of commercial or institutional structures. No person shall conduct, cause or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving or consumption of food.
- C. No person shall conduct, cause, or permit the open burning of wetlands, grass lands, pastures, crop residue, or road right-of-ways except as provided in Subsection 650.05 of this Section.

**650.04 Allowed Burning.** Recreational fires contained in grills, hibachis, and similar devices as defined in Subsection 650.02, Subd. 3 shall be allowed.

**Subd. 1 Minimum Requirements for Recreational Fires.**

- A. Recreational fires must be at least 25 feet from all buildings, structures, and combustible materials. Combustible materials are things such as wood, paper, and plastics.



- B. Conditions which could cause a fire to spread within 25 feet of a structure shall be eliminated prior to ignition.
- C. Recreational fires must be constantly attended until the fire burns out completely or is extinguished.
- D. A minimum of one portable fire extinguisher complying with Minnesota State Fire Code or other approved on-site fire extinguishing equipment, such as dirt, sand, or garden hose shall be readily available at all times until the fire is extinguished.
- E. The only materials permitted in a recreational fire are wood from trees, small branches, brush, or charcoal. Treated lumber materials, construction debris, garbage, plastic materials, leaves, grass clippings, or waste materials are not allowed to be burned in recreational fires.
- F. Recreational fires must be immediately extinguished if they pose a fire safety risk, if they are not in compliance with the above, or when directed to do so by a law enforcement officer, firefighter, fire warden, or DNR officer. *(Amended by Ord. 253, 7-28-14)*

**650.05 Burning Ban or Air Quality Alert.** No recreational fire or open burn shall be permitted when the city, county, DNR, or local designated authority has officially declared a burning ban due to potential hazardous fire conditions or when the MPCA has declared an Air Quality Alert. Information regarding burning bans shall be obtained from the local fire department, DNR, or the MPCA before starting a permitted fire. *(Amended by Ord. 134, 4-24-2000)*

**650.06 Penalty.** Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished by a fine and/or imprisonment.

## Section 660 – Noise

**660.01 Noise Prohibited.** No person shall make or cause to be made any distinctly and loudly audible noise that unreasonably annoys, disturbs, injures, or endangers the comfort, repose, health, peace, safety, or welfare of any person or precludes their enjoyment of property or affects their property's value. This general prohibition shall not be limited by the specific restriction of the following Sections.

Prima Facie evidence of a violation of this Section shall be given if the noise is plainly audible at the property line of the structure or building in which it is located, in the hallway or apartment adjacent, or at a distance of 50 feet if the source is located outside a structure or building.

**660.02 Horns, Audible Signaling Devices, Etc.** No person shall sound any audible signaling device on any vehicle except as a warning of danger pursuant to Minnesota Statutes § 169.68.

**660.03 Exhaust.** No person shall discharge the exhaust or permit the discharge of the exhaust of any steam engine, stationary internal combustion engine, motor boat, motor vehicle, or snowmobile except through a muffler or other device that effectively prevents loud or explosive noises therefrom and complies with all applicable State laws and regulations.

**660.04 Defective Vehicles or Loads.** No person shall use any vehicle so out of repair or so loaded as to create loud and unnecessary grating, grinding, rattling, or other noise.

**660.05 Radios, Phonographs, Paging Systems, Etc.** No person shall use or operate or permit the use or operation of any radio receiving set, musical instrument, phonograph, paging system, machine, or

other device for the production or reproduction of sound in a distinct and loudly audible manner as to disturb the peace, quiet and comfort of any person nearby.

**660.06 Motor Vehicles.** No person shall operate a motor vehicle within the City in violation of the motor vehicle noise limits of the Minnesota Pollution Control Agency, or in violation of any Section of this Code relating to motor vehicles.

**660.07 Participation in Noisy Parties or Gatherings.** No person shall participate in any party or other gathering of people giving rise to unreasonable noise, disturbing the peace, quiet, or repose of another person. When a police officer determines that a gathering is creating such a noise disturbance, the officer may order all persons present, other than the owner or tenant of the premises however, the disturbance is occurring, to disperse immediately. No person shall refuse to leave after being ordered by the Sheriff to do so. Every owner or tenant of such premises who has knowledge of the disturbance shall make every reasonable effort to see that the disturbance is stopped.

**660.08 Loudspeakers, Amplifiers for Advertising, Etc.** No person shall operate or permit the use or operation of any loudspeaker, sound amplifier, or other device for the production or reproduction of sound on a street or other public place for the purpose of commercial advertising or attracting the attention of the public to any commercial establishment or vehicle.

**660.09 Animals.** No person shall keep any animal that disturbs the comfort or repose of any person in the vicinity by its frequent or continued noise as regulated by Section 500 of this Code.

**660.10 Pile Drivers, Hammers, Etc.** The operation between the hours of 10:00 p.m. and 7:00 a.m. on M-F and 10:00 p.m. and 9:00 a.m. on weekends and holidays, of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist, bulldozer, or other appliance, the use of which is attended by loud or unusual noise, shall be prohibited.

**660.11 Waiver of These Requirements.** A waiver of these requirements can be obtained from the City Administrator/City Clerk. The person wishing to receive exception to these rules to conduct necessary business, may make a written application to the City stating when, why and for how long the noise producing activity shall be conducted. If the request is denied by the City Administrator/Clerk, the applicant may appeal the decision to the City Council by appearing before the City Council during a regular Council meeting.

**660.12 Enforcement.** Each and every violation of this Section shall be a misdemeanor. In addition to this any party making a complaint may also enforce the ordinance, State and Federal noise rules and regulations, by injunction, action for abatement, or other appropriate civil remedy.

## **Section 670 – Tree Regulations**

**670.01 Private vs. Public Tree Ownership.** All trees within the public right of way shall be maintained by the City, and the City shall have the right to trim or remove any tree within the right of way regardless of who was responsible for the planting of the tree. All trees upon private property shall be the responsibility of the property owner.

**670.02 Public Property – Tree Planting Permit.** A permit shall be required to plant any tree upon a public boulevard or right-of-way. Any tree planted in the right of way without a valid permit shall be

subject to removal by the City at the planter's expense. The permit application shall be submitted to the City Administrator at least five (5) business days before the planting. The permit shall be approved by the City Administrator. The granting of a permit shall not alter the City's authority to maintain the tree as it deems necessary pursuant to Section 640.01.

**Subd. 1 Permit Contents.**

- A. Type of tree to be planted.
- B. Size of tree to be planted.
- C. Map showing right-of-way boundary and tree location.

**Subd. 2 Permit Fee.** The permit fee shall be as set from time to time in the fee schedule adopted by the Council.

**670.03 Declaration of Policy Diseased Trees – Private Property.** The Council has determined that the health of the Elm and Oak trees within the municipal limits are threatened by fatal diseases known as Dutch Elm Disease and Oak Wilt, respectively. It has further been determined that the loss of Elm and Oak trees growing upon private and public property would substantially depreciate the value of property within the City and impair the safety, good order, general welfare and convenience of the public. It shall be declared to be the intention of the Council to control and prevent the spread of these diseases.

**670.04 Appointment of a Tree Inspector.** The Council shall designate a tree inspector(s), certified by the Minnesota Commissioner of Agriculture, who shall administer the Dutch Elm Disease and/or Oak Wilt control programs for the City in accordance with this tree disease Section.

**670.05 State Code Adopted.** The City shall hereby adopt Minnesota Statutes § 18.023 to § 18.024 relating to shade tree disease control, as if set out in full.

**670.06 Nuisances Declared.** The following shall be declared to be public nuisances whenever and wherever they may be found within the City:

**Subd. 1 Diseased Elm Trees.** Any standing or living tree or part thereof infected to any degree with the Dutch Elm Disease fungus, *Ceratocystis ulmi* (Busiman) Moreau, or which harbors any of the Elm bark beetles, *Scolytus multistriatus* (Eichh) or *Hyplurgopinus rufipes* (Marsch). And also, any dead Elm tree or part thereof with bark intact including logs, branches, stumps, or firewood which has not been disposed of properly.

**Subd. 2 Diseased Red Oak Trees.** Any living or standing tree or part thereof in the Red Oak group (Red Oak, Pin Oak, Scarlet Oak, Black Oak) infected to any degree with the Oak Wilt fungus, *Ceratocystis fagacearum* (Bretz) Hunt.

**Subd. 3 Diseased White Oak Trees.** Also, any living or standing tree in the White Oak group (White Oak, Bur Oak, Bi-color Oak) that poses a threat of transmission of the Oak Wilt fungus to other trees of the same species through interconnected root systems.

**670.07 Inspection and Investigation.**

**Subd. 1 Annual Inspection.** The tree inspector shall inspect all premises and places within the City as often as practical to determine whether any disease affects trees within the City limits.

**Subd. 2 Entry upon Private Premises.** The tree inspector so designated by the Council may enter upon private premises at any reasonable time for the purpose of carrying out the duties assigned to him or her under this Code. Before making any inspection on private property within the City, the tree inspector shall give notice of the inspection to all affected residents and property owners either through an oral or written notice, or by publishing the notice in a local newspaper.

**Subd. 3 Diagnosis.** The tree inspector shall, upon finding indications of Dutch Elm Disease or Oak Wilt, take such steps for diagnosis as may be appropriate, including analysis of twig samples from actively wilting branches by the Minnesota Department of Agriculture Shade Tree Disease Laboratory, or other laboratories capable of performing such services approved by the Minnesota Commissioner of Agriculture. Whenever possible, diagnosis shall be based upon accepted field symptoms.

**670.08 Interference Prohibited.** It shall be unlawful for any person to prevent, delay or interfere with the City tree inspector or his or her agents while they are engaged in the performance of duties imposed by this Code.

**670.09 Procedure for Abatement and Removal – Private Property.**

**Subd. 1 General Procedure.** Whenever it is found with reasonable certainty that a tree has Dutch Elm Disease or Oak Wilt, the tree inspector shall proceed as follows: If the tree inspector finds that there is potential for infection of other Oak or Elm trees, he or she shall notify the owner of the property on which the nuisance is found, by certified mail, addressed to the owner at his or her last known address. The tree inspector shall specify on the notice a reasonable date before which the nuisance shall be abated. The tree inspector shall immediately report the action to the Council and, after the expiration of the time limited by the notice, the tree inspector may proceed to abate the nuisance as provided in this Section. The cost of the abatement, plus an administrative fee as set from time to time in fee schedule adopted by the Council, shall be assessed against the owner of the property involved, or against the property itself, the amount to be certified to the County Auditor shall be done in accordance with State law.

**Subd. 2 High Risk Elm Trees.** High risk Elm trees shall be defined as those trees that are dead, barren, or have extensive wilt (30 percent or more of the tree is wilted). Such trees shall be identified and marked. These high risk trees shall be removed with 20 days of notification of the property owner.

**Subd. 3 Low Risk Elm Trees.** Low risk Elm trees shall be defined as those trees that show early stages of infection in June or subsequently during the growing season with those symptoms not progressing beyond the 30 percent wilting point. Every reasonable effort shall be made to have low risk trees removed within 20 days of notification of the property owner, but in no case shall it be later than April 1 of the year following the appearance of symptoms.

**Subd. 4 Oak Trees.**

- A. All Oak trees within the City diagnosed as having Oak Wilt should be isolated from neighboring healthy Oak trees of the same species by chemical or mechanical disruption of common root systems to prevent root graft transmission of the Oak Wilt fungus.
- B. To control overland spread of Oak Wilt, the pruning of Oaks shall be avoided during the most susceptible period of infection, from April 15 to July 1. If wounding is unavoidable during this period, as in the aftermath of a storm or when the tree interferes with utility lines, a tree wound dressing shall be applied immediately.
- C. To prevent the Oak Wilt fungus from producing spores and to prevent overland spread of this fungus, any disease material of the Red Oak group wilting in July and August of one year shall be declared hazardous the following spring, from April 15 to July 1.
- D. Any hazardous Oak wood to be used as fuel wood or to be salvaged for other purposes shall be debarked or else completely covered by heavy plastic (4 mil. or greater) from April 15 until July 1 of the year following the appearance of symptoms. After this time there is no danger of spore production, and the wood does not need to be covered.
- E. Any branch greater than 2" in diameter of the Red Oak group determined to be hazardous and not salvaged shall be disposed of by burning, chipping, or removal to an authorized dump site proper to April 15 of the year following the appearance of symptoms. Dead standing Red Oaks that have advanced beyond the potential for spore production need not be removed except where they constitute a hazard to life and/or property. The City tree inspector shall advise accordingly.
- F. Stumps of trees of the Red Oak group removed due to Oak Wilt shall be completely covered, removed, or debarked to the ground line to eliminate all possibilities of spore formation and overland disease spread.
- G. White Oaks: Trees of the White Oak group (i.e. White Oak, Bur Oak, Bi-color oak) diagnosed as having Oak Wilt should be isolated by root graft disruption as previously stated. Diseased material originating from such trees will rarely ever support spore formation, and salvaged material therefore shall not require special treatment to prevent overland spread. Standing trees of this group showing early symptoms of Oak Wilt may be saved by removing affected branches. The City tree inspector shall advise accordingly.

#### **670.10 Root Graft Disruption (Barriers) at Property Boundaries.**

**Subd. 1 Root Graft.** If the tree inspector finds that Dutch Elm Disease or Oak Wilt threatens to cross property boundaries or disease control area boundaries, the tree inspector may require root graft disruption to prevent the spread of disease in this manner. If plowing or trenching is not possible due to terrain, location, or buried utilities, the tree inspector may require chemical root graft disruption. These barriers shall be placed in accordance with current technology and plans as may be designated by the Commissioner of Agriculture, State of Minnesota.

**Subd. 2 Cost.** The charge, or any portion thereof, for any necessary root graft barriers may be assessed against the property on which the root barriers are placed.

**Subd. 3 Community Control.** Because Oak Wilt is a community problem and because Oak Wilt control may benefit an entire neighborhood, the tree inspector shall recommend and encourage neighborhood participation and cooperation, including cost sharing, in root graft disruption and other control efforts, especially where Oak Wilt is in danger of spreading across property boundaries.

**670.11 Transporting Elm and Oak Wood Prohibited.** It shall be unlawful for any person to transport within the City any bark intact Elm wood, or wood from the Red Oak group that shall be determined to be hazardous, without having obtained a permit from the City tree inspector. The City tree inspector shall grant the permits only when such permission does not interfere with the provisions of this Code.

### **Section 680 – Loitering and Disorderly Conduct**

**680.01 Loitering Prohibited.** No person whether in a vehicle, on a bike, skateboard or similar device, or on foot shall loiter or stroll in, about or upon any of the following without lawful business:

- A. Street
- B. Alley
- C. Public Way
- D. Public Place
- E. Public Gathering/Assembly
- F. Store
- G. Shop
- H. Business
- I. Parking Lot
- J. Private Property

No person shall conduct himself/herself in a lewd, wanton or lascivious manner in speech or behavior. Nor shall any person loiter so as to obstruct any public place or private business establishment so as to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians. *(Amended by Ord. 146, 2-25-2002)*

**680.02 Disorderly conduct Prohibited.** The performance of any of the following acts without authority of law by any person or persons is hereby declared to be disorderly conduct:

- A. Willfully disturbing any assembly or meeting or the peace and quiet of any family or neighborhood.
- B. Engaging in offensive, obscene, abusive, boisterous, or noisy conduct or in offensive, obscene, or abusive language tending reasonably to arouse alarm, anger, or resentment of others.  
*(Amended by Ord. 245, 7-22-2013)*
- C. Congregating with others on a public street or highway or other public place and obstructing access to or from any building or place, or obstructing free passage of others and refusing to move or make way when ordered to do so by any law enforcement officer.  
*(Amended by Ord. 146, 2-25-2002)*

### **Section 690 – Sexual Offenders and Sexual Predators**

**690.01 Purpose and Intent.** The City Council of the City of Norwood Young America finds that sexual offenders and sexual predators present an extreme threat to the health, safety, and welfare of the citizens of the City. It is the intent of this Section to serve the City's compelling interest to promote, protect and improve the health, safety and welfare of the citizens of the City by creating areas around locations where children regularly congregate in concentrated numbers wherein certain Designated Offenders are prohibited from loitering or prohibited from establishing temporary or permanent residency.

**690.02 Definitions**

1. “Designated offender” means any person who has been convicted of a designated sexual offense, regardless of whether adjudication has been withheld, in which the victim of the offense was less than sixteen (16) years of age, or has been categorized as a Level III sex offender under Minnesota Statute, section 244.052 or successor statute.
2. “Designated sexual offense” means a conviction, commitment under Minnesota Statute, section 253B, or admission of guilt under oath without adjudication involving any of the following offenses under Minnesota Statutes: 609.342; 609.343; 609.344; 609.345; 609.352; 609.365; 617.246; 617.247; 617.293; successor statutes; or a similar offense from another jurisdiction.
3. “Permanent resident” means a place where the person abides, lodges, or resides for fourteen (14) or more consecutive days.
4. “Temporary residence” means a place where the person abides, lodges, or resides for a period of fourteen (14) or more days in the aggregate during any calendar year and which is not the person’s permanent address, or a place where the person routinely abides, lodges, or resides for a period of four or more consecutive or nonconsecutive days in any month and which is not the person’s permanent residence.
5. “Loitering” means standing or sitting idly, whether or not the person is in a vehicle or remaining in or around an area.
6. “Park or Playground” means one of the following:
  - a. Any land, including improvements to the land that is administered, operated or managed for the use of the general public as a recreational area.
  - b. Recreational areas include, but are not limited to, conservation areas, jogging trails, hiking trails, biking trails, recreational centers, water parks, swimming pools, soccer fields or baseball fields.
7. “Places where children regularly congregate” includes public parks, private and public schools, licensed day care facilities, public libraries, places of worship which provide regular educational programming, amusement parks and centers, recreation centers, youth athletic fields, public or commercial and semi-private swimming pools, and specialized schools for children, including but not limited to gymnastic and dance academies.

**690.03 Designated offender residence and activity prohibited; penalties; exceptions**

1. Prohibited location of residence. It is unlawful for any designated offender to establish a permanent residence or temporary residence within 1,000 feet of any school, licensed day care center, park or playground, bus stop, or any place where children regularly congregate.
2. Prohibited activity. It is unlawful for any designated offender to knowingly loiter at a place where children regularly congregate or at school bus stops. Designated offenders shall not, on each October 30<sup>th</sup> and 31<sup>st</sup> (or any other date set by the City for trick-or-treaters) distribute candy

or other items to children, leave an exterior porch light on or otherwise invite trick-or-treaters to solicit their residence.

3. Measurement of distance. For purposes of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent residence or temporary residence to the nearest outer property line of the prohibited area or property. The City Clerk shall maintain an official map showing prohibited locations of residence as defined by this Ordinance. The Clerk shall update the map at least annually to reflect any changes in the location of such prohibited areas.
4. Penalties. Any person violating any provision of this Section shall be guilty of a misdemeanor as defined by state law and shall be subject to the penalties thereof. Each day a person maintains a residence in violation of this Section constitutes a separate violation.
5. Exceptions. A designated offender residing within a prohibited location of residence does not commit a violation of this Section if any of the following apply:
  - a. The person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota, Statutes 243.166 and 243.167 or successor statutes, prior to the effective date of this section.
  - b. The person was a minor when he/she committed the offense and was not convicted as an adult.
  - c. The person is a minor.
  - d. The location became a prohibited location after the person established the permanent residence or temporary residence and reported and registered the residence pursuant to Minnesota Statutes, sections 243.166 and 243.167.

#### **690.04 Property Rental Prohibited; Penalties**

1. It is unlawful to let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used as a permanent residence or temporary residence by any person prohibited from establishing such permanent residence or temporary residence pursuant to Section 690, if such place, structure, or part thereof, is located within a prohibited area and not subject to an exception set forth in Section 690.03, subdivision 5 above.
2. A property owner who violates this Section shall be guilty of a misdemeanor as defined by state law and shall be subject to the penalties thereof.



**CHAPTER 5. ANIMALS****Section 500 – General Provisions**

**500.01 Purpose.** It is the purpose of this ordinance to protect and promote public health, safety and the general welfare of humans and animals. To regulate the care and keeping of animals within the city. To reduce or eliminate the encroachment on private property, public right of ways, and public property of unrestrained, unregistered, unvaccinated, prohibited, or dangerous animals and the risks posed to humans and other animals caused by the improper care, control, and keeping of animals.

**500.02 Definitions.** The following definitions shall be used in the application and interpretation of the provisions of this chapter:

**Animal.** “Animal” shall mean any non-human mammal, reptile, amphibian, fish, or bird.

**Animal Control Officer.** “Animal Control Officer” shall mean an individual or employee of a business retained by the City for purposes of enforcing provisions of this Chapter.

**Animal, Domestic.** “Animal, Domestic” shall mean animals kept within the home as pets, such as fish, dogs, cats, household bird, and similar animals.

**Animal, Farm.** “Animal, Farm” shall mean those animals commonly associated with a farm or performing work in an agricultural setting. Unless otherwise defined, such animals shall include members of the equestrian family (horses, ponies, mules), bovine family (cows, bulls), sheep, poultry (chickens, turkeys), fowl (ducks, geese), swine (including Vietnamese pot-bellied pigs), goats, bees, and other animals associated with a farm, ranch, or stable. Backyard Chickens as defined in this Chapter are exempt from this definition. (*Adopted 6/9/14; Ord. 250*)

**Animal, Non-Domestic.** “Animal, Non-domestic” shall mean any animal which is of a species not usually domesticated and of a species which, due to size, wild nature, or other characteristics is commonly considered to be inherently dangerous to the health, safety and welfare of people and would ordinarily be confined in a zoo or found in the wild. The term includes, but is not limited to:

- A. Animals and birds, the keeping of which is licensed by the state or federal government, such as wolves, raptors, and pheasants.
- B. Eagles, birds, such as falcons and pigeons, ocelots, jaguars, cougars, weasels, wild ferrets, deer, and bison.
- C. Crossbreeds of wild animals and domesticated animals such as the cross between dogs and coyotes and dogs and wolves.
- D. Any large cat of the family Felidae, such as lions, tigers, jaguars, leopards, cougars, and ocelots.
- E. Any member of the family Canidae such as wolves, coyotes, dingoes, and jackals, except domesticated dogs.
- F. Any poisonous snake such as a rattlesnake, coral snake, water moccasin, puff adder, or cobra.
- G. Any snake or reptile by its size, vicious nature, or other characteristic is dangerous to human beings such as alligators and crocodiles.

- H. Any skunk, raccoon, or fox whether captured in the wild, domestically raised, de-scented or not de-scented, vaccinated against rabies or not vaccinated against rabies.
- I. Any bear, ape, gorilla, chimpanzee, monkey, or badger.
- J. Any other animal or reptile, which is commonly considered wild.

**At Large.** “At large” shall mean an unattended animal on public property, or an unattended animal on private property without the consent of the property owner.

**Backyard Chicken.** “Backyard Chicken” shall mean a female chicken that serves as a source of eggs or meat. (*Adopted 6/9/14; Ord. 250*)

**City.** “City” shall mean the City of Norwood Young America.

**City Pound.** “City Pound” shall mean the designated pound for the City of Norwood Young America.

**Coop.** “Coop” shall mean the structure for the keeping or housing of backyard chickens as permitted by this Chapter. (*Adopted 6/9/14; Ord. 250*)

**Dangerous Dog.** “Dangerous dog” shall mean any dog that has committed any of the acts set forth below:

- A. Without provocation, inflicted substantial bodily harm on a human being on public or private property;
- B. Killed a domestic animal without provocation while off the owner’s property, or;
- C. been found to be potentially dangerous, and after the owner has notice that the dog is potentially dangerous, the dog aggressively bites, attacks, or endangers the safety of humans or domestic animals.

**Dog.** “Dog” shall mean any canine animal, male or female, whole or neutered.

**Law Enforcement Officer.** “Law Enforcement Officer” shall mean an individual or employee retained, by the City, for purposes, in part, of enforcing the provisions of this Chapter; or a member of the County law enforcement agency.

**Licensed Commercial Kennel.** “Licensed Commercial Kennel” shall mean a place where more than three (3) dogs over six (6) months of age are kept, and where the business of selling, boarding, breeding, showing, treating or grooming of dogs shall be conducted with license from the City.

**Nuisance.** “Nuisance” shall mean any animal that unreasonably annoys or disturbs the peace of other members of the public due to excessive, continuous or untimely barking, whining or crying.

**Owner.** “Owner” shall mean any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in or having custody or control of an animal.

**Potentially Dangerous.** “Potentially Dangerous” shall mean any dog that has committed any of the acts set forth below:

- A. When unprovoked, bites a human or domestic animal;
- B. When unprovoked, chases or approaches a person upon the streets, sidewalks or any other public property in an apparent attitude of attack; or
- C. Has a known propensity, tendency, or disposition to attack unprovoked, causing injury or otherwise threatening the safety of humans or domestic animals.

**Proper Enclosure.** “Proper Enclosure” shall mean securely confined indoors or in a securely enclosed and locked pen or structure suitable to prevent the animal from escaping and providing protection from the elements for the animal. A Proper Enclosure does not include a porch, patio, or any part of a house, garage or other structure that would allow the animal to exit of its volition, or any house or structure in which windows are open or in which door or window screens are the only obstacles that prevent the dog from exiting.

**Regular Business Day.** “Regular Business Day” shall mean a day in which the City Pound shall be open to the public for four (4) consecutive hours.

**Restrained.** “Restrained” shall mean on a leash of not more than six (6) feet in length or a leash which can be retracted to a length of six (6) feet or less, and in the custody of a person of sufficient age to adequately control the animal; in a vehicle; or confined to the owner’s property by an enclosure or fencing.

**Rooster.** “Rooster” shall mean a male chicken. (*Adopted 6/9/14; Ord. 250*)

**Run.** “Run” shall mean an area attached to a coop where backyard chickens can roam unsupervised. (*Adopted 6/9/14; Ord. 250*)

**Substantial Bodily Harm.** "Substantial bodily harm" shall mean bodily injury which involves a temporary but substantial disfigurement, or which causes a temporary but substantial loss or impairment of the function of any bodily member or organ, or which causes a fracture of any bodily member.

**500.03 Enforcement.** The provisions of this Chapter shall be enforced by the Animal Control Officer or the City’s Law Enforcement contractor. No person shall, in any manner, interfere with or hinder an Animal Control Officer or the City’s law enforcement contractor in the discharge of their duties.

**500.04 Interference with Animal Control Officer.** It shall be unlawful for any person to molest or in any way interfere with any peace officer, animal control officer, or any officer of the City, while engaged in performing work under the provisions of this Section.

**500.05 Exemptions.** The following provisions of this Chapter shall not apply in the following circumstances:

- A. Unless specified herein, the provisions of this Chapter shall not apply to animals used or confined at hospitals, clinics, or businesses operated by licensed veterinarians.
- B. Regulations relating to dangerous animals and potentially dangerous animals shall not apply to dogs under the control of a law enforcement officer.

## Section 510 – Dog and Cat Licenses and Regulations

**510.01 License Required.** No person shall keep any dog or cat over six (6) months of age within the City unless a license therefore has been secured from the City Administrator. The City Administrator shall keep a record of all licenses issued and shall issue a metal tag for each license.

**510.02 Rabies Certificate Prerequisite to Issuance.** No license or metal tag shall be issued until the owner of the dog or cat has provided proof that the animal to be licensed has been vaccinated against rabies and the vaccination shall be current.

**510.03 Limit of Dogs and Cats on Any One Premise.** No person shall keep more than three (3) dogs, and more than three (3) cats, over six (6) months of age on any one premise except at a licensed commercial kennel.

**510.04 Affixing Tags.** The owner shall cause the license tag to be affixed by a permanent metal fastening to the collar of the dog or cat so licensed, in such a manner that the tag may be easily seen by the officers of the City. The owner shall see that the tag is constantly worn by such dog or cat, and any dog or cat found within the City without tag shall be deemed to be unlicensed.

**510.05 Duplicate Tags.** In case any dog or cat tag is lost the Clerk may issue a duplicate. A fee for each such duplicate tag may be established by the City Council in the fee schedule.

**510.06 Annual License Fee.** The fee for each license issued under this Section shall be as set from time to time by the Council in the fee schedule. Licenses shall expire on the 31<sup>st</sup> day of December next following their issuance. The full license fee shall be paid for each dog or cat regardless of the date of issue.

**510.07 Penalties and Fines.** Any person who shall not have obtained a license for any dog or cat as required by this Section shall be liable to a fine as set in the fee schedule from time to time adopted by the Council, together with the cost of the license fee.

## **Section 520 – Animal Prohibitions and Regulations**

**520.01 Obligation to Prevent Nuisances.** It shall be the obligation and responsibility of the owner of any animal in the City, whether permanently or temporarily therein, to prevent the animal from committing any act, which constitutes a nuisance or is dangerous to the health, safety and welfare of a person.

**520.02 Animals Running at Large Prohibited.** It shall be unlawful for any person to permit any animal to run at large within the City. An animal shall be considered running at large if found off of the owner's premises and not controlled by a leash, cage, or other similar restraint.

### **520.03 Cleaning up Litter.**

- A. The owner of an animal shall be responsible for cleaning up any feces of the animal and disposing of such feces in a sanitary manner.
- B. The owner of an animal shall not permit such animal to be on public property or the private property of another without having in the owners' immediate possession, a device for the removal of feces and a proper receptacle for the feces.

- C. The owner of an animal shall remove feces left by such animal on public property or the private property of another and dispose of such feces in a sanitary manner.

**520.04 Barking Dogs.** No person shall allow an animal to unreasonably annoy or disturb the peace of other members of the public due to excessive, continuous or untimely barking, whining or crying. Barking, crying, whining, or similar noise shall be considered a nuisance if it is audible off of the owner's premises for a continual period of more than five minutes with interruptions of less than one minute duration.

**520.05 Dangerous Dogs.** The provisions of Minnesota Statutes Sections 347.50 through and including 347.56 are hereby adopted as the potentially dangerous and dangerous dog regulations for the City of Norwood Young America. Every provision contained in the foregoing Minnesota Statutes is hereby adopted and made a part of this chapter by reference as if fully set forth herein. Where a conflict exists between the provisions of the City Code and the provisions of Minnesota Statutes 347.50 through and including 347.56, the latter provisions shall apply.

- A. Process: A City Animal Control Officer, other law enforcement official, or county attorney shall be responsible for determining whether a dog is a potentially dangerous or dangerous dog.
- B. Notice: Upon determination by the Animal Control Officer, other law enforcement official, or county attorney that a dog is a potentially dangerous or dangerous dog, the City or a representative of the City shall provide the owner with notice of the determination by personally serving the owner or a person of suitable age at the residence of such owner. The notice shall describe the dog deemed to be a potentially dangerous or dangerous dog; shall identify the officer making the determination; and shall specify the facts relied upon by the officer in making the potentially dangerous or dangerous dog determination. If the officer determines that the dog is a potentially dangerous or a dangerous dog, the notice shall also inform the owner of the owner's rights to appeal the determination.
- C. Appeal: An Owner may appeal a determination that a dog is a potentially dangerous or dangerous dog by filing a written notice for a hearing to the City Administrator within ten (10) days of the owner's receipt of the notice. If an owner files a timely appeal, a hearing shall be held within thirty (30) days after the City's receipt of the appeal. The City Administrator shall assign a hearing examiner to hear the appeal. The hearing examiner may be a City employee, provided the employee has not been involved in determining if the dog was potentially dangerous or dangerous. During the hearing the Minnesota Rules of Evidence do not need to be strictly followed and the records of the Animal Control Officer or Law Enforcement Officer shall be considered without further foundation. After considering all of the evidence submitted, the hearing examiner shall make written findings of the fact and shall determine whether the dog is a potentially dangerous or a dangerous dog. The findings and conclusions shall be made within ten (10) working days after the hearing and shall be thereafter personally served upon the owner or a person of suitable age at the residence of such owner. The decision of the hearing examiner shall be the final decision of the City. If an appeal is not filed within ten (10) working days, the owner of a dangerous dog must comply with the requirements set forth in this section and Minnesota Statutes Sections 347.50 through and including 347.56.
- D. Dangerous Dog Restrictions:
1. Registration Required. No person may own a dangerous dog in the City of Norwood Young America unless the dog is registered as provided in this section. The Animal

Control Officer shall issue a certificate of registration to the owner of the dangerous dog if the owner presents the following information:

- a) Proper Enclosure. A Proper Enclosure exists for the dangerous dog and there is a posting on the premises with a clearly visible warning sign, including a warning symbol to inform children, that there is a dangerous dog on the property.
  - b) Bond/Insurance. A surety bond issued by a surety company authorizing to conduct business in the State of Minnesota in a form acceptable to the Animal Control Officer in the sum of at least \$50,000.00, payable to any person injured by the dangerous dog, or a policy of liability insurance issued by an insurance company authorized to conduct business in the State of Minnesota in the amount of at least \$50,000.00, insuring the owner for any personal injuries inflicted by the dangerous dog.
  - c) Annual Fee. The owner has paid an annual fee as set forth in the City Fee Schedule, if any, in addition to any regular dog licensing fees, to obtain a certificate of registration for a dangerous dog under this section.
  - d) Microchip. The owner has had a microchip identification implanted in the dangerous dog.
2. Annual Renewal. The owner of a dangerous dog must renew the registration of the dog annually until the dog is deceased. If the dog is removed from the City of Norwood Young America, it must be registered as a dangerous dog in its new jurisdiction.
  3. Warning Symbol. If a certificate of registration is issued to the owner of a dangerous dog, the owner must post a warning symbol to inform children that there is a dangerous dog on the property. The design of the warning symbol must have been approved by the Minnesota Commissioner of Public Safety.
  4. Tag. The dangerous dog must have a standardized, easily identifiable tag identifying the dog as dangerous and containing the Uniform Dangerous Dog symbol, affixed to the dog's collar at all times.
  5. Sterilization. The City or District Court may require a dangerous dog to be sterilized at the owner's expense.
  6. Death/Transfer from City. The owner of any dangerous dog must notify the City, in writing, of the death of the dog; its transfer to a residence outside of the City of Norwood Young America or its transfer within the City of Norwood Young America within thirty (30) days of the death or transfer.
  7. Notice to Landlord. The owner of a dangerous dog who rents property from another where the dog will reside must disclose to the property owner, prior to entering into the lease agreement and at the time of any lease renewal that the person owns a dangerous dog that will reside at the property.
  8. Sale. The owner of a dangerous dog must notify the purchaser that the dog has been identified as a dangerous dog. The seller must also notify the City, in writing, of the sale and provide the City with the new owner's name, address and telephone number.
  9. Photograph. The owner or custodian of any dangerous dog shall make the dog available to be photographed for identification by the City at a time and place specified.
  10. Muzzling. If the dog is outside the Proper Enclosure, the dog must be muzzled and restrained by substantial chain or leash and be under the physical restraint of a responsible person. The muzzle must be made in a manner that will prevent the dog from biting any person or animal but that will not cause injury to the dog or interfere with its vision or respiration.

11. Custody Pending Determination. The City may retain custody of any dog declared dangerous until the dog is duly and properly registered as required herein.

### **Section 530 – Impoundment; Quarantine**

#### **530.01 Poundkeeper and Animal Control Officer**

- A. Appointment. A pound keeper and an animal control officer shall be appointed by the City Council. The positions may be combined and one person appointed at the discretion of the Council.
- B. Duties. It shall be the duty of the animal control officer to capture all animals found running at large in violation of this Chapter and turn them over to the pound keeper who shall be responsible for the safe keeping of all impounded animals, including the providing of food, water, and shelter for each animal.
- C. Poundkeeper to Render Monthly Statement; Duty to Pay Moneys Received. It shall be the duty of the poundkeeper to render to the City Council a monthly statement, under oath, of all fees and monies received by him or her, exclusive of his or her fees and expenses, for penalties and shall, at the same time pay over to the City Administrator all monies so received by him or her for impounding any such animals.

**530.02 Seizure and Removal of Animals.** Subject to the provisions of this section, animals found in violation of this Chapter may be seized by a Law-Enforcement Officer, impounded in a designated animal shelter, and confined therein in a humane manner for a period of not less than five (5) business days or until claimed by the animal's owner, whichever occurs first.

- A. Law-Enforcement Officer shall not enter the private dwelling of an individual for purposes of seizing animals or otherwise enforcing the provisions of this Chapter without first obtaining a search warrant. However, a Law-Enforcement Officer is empowered to enter upon a property adjacent to a private dwelling for purposes of enforcing the provisions of this Chapter.
- B. Before seizing an animal on private property, the Animal Control Officer shall make a reasonable attempt, taking into consideration the time of day and nature of the violation, to notify the owner that the animal is being seized because it was observed by the Law-Enforcement Officer to be in violation of the provisions of this Chapter.
- C. When an animal is seized from the private property of its owner and the Law-Enforcement Officer has been unable to notify the owner of the reason for seizing the animal, the Law-Enforcement Officer shall leave a written notice affixed to the dwelling unit, in a conspicuous manner, which includes the following information:
  - 1. A description of the animal seized.
  - 2. Purpose for seizure of the animal.
  - 3. The time, place and circumstances under which the animal was seized.
  - 4. The location, address, telephone number, and contact person where the animal will be impounded.
  - 5. A statement indicating that the person claiming the animal will be required to pay for the fees and costs associated with impoundment of the animal.
  - 6. A statement indicating that failure to claim the animal within five (5) business days will result in the disposition of the animal.

- D. Immediately upon impounding animals, reasonable efforts shall be made to notify the owner and inform the owner of the animal's confinement and the procedures for release of the animal to the owner.
- E. An animal which is not redeemed within five (5) business days after impoundment may be disposed of in any manner provided by law. Any animal which is not claimed by the owner or sold shall be euthanized and disposed of in a sanitary manner.
- F. Animals taken into custody pursuant to the provisions of Minn. Stat. 343.22 or 343.29 shall be disposed of pursuant to the provisions of Minn. Stat. 343.235.

**530.03 Notice of Impoundment.** Upon impounding any animal, the City shall post notice in at least two (2) or more conspicuous places within the City. If the owner of the animal is known, written notice shall be provided to the owner. The notice shall state where the animal is being held and that if not reclaimed within five regular business days it may be sold, destroyed, or otherwise humane disposed of.

**530.04 Redemption.** Any animal impounded for running at large, being unlicensed, or creating a nuisance may be redeemed from the pound by the owner within five regular business days. Any dog impounded as a dangerous or potentially dangerous dog shall be held by the City pursuant to Subsection 520.05- Dangerous Dogs, of this Chapter.

**530.05 Impoundment Fees.** Animals may generally be reclaimed by payment to the City of an impounding fee plus all charges incurred as a result of the impoundment. In addition, if the animal is not properly licensed, the license fee shall also be paid before the animal is released. The impounding fee shall be as set from time to time by the Council in the fee schedule. Dogs impounded as being dangerous or potentially dangerous may be redeemed by the same process plus satisfaction of all requirements of Subsection 520.05-Dangerous Dogs, of this Chapter.

**530.06 Illegal Release.** No unauthorized person shall break into the pound or release any animal legally impounded.

**530.07 Authority to Sell or Dispose of Animals.** The pound keeper shall have the authority to sell or dispose of any impounded animal not redeemed within the required holding period from the date notice of impoundment is given as provided by Subsections 530.02 and 530.04.

**530.08 Biting Animals To Be Quarantined.** Whenever an animal has bitten a person, or whenever the Law-Enforcement Officer picks up a known or suspected rabid animal, such animal shall be confined for a minimum of ten (10) days as follows:

- A. Upon proof of a current rabies vaccination, the owner of the animal may, with the consent of the City, quarantine the animal at the owner's residence provided that such animal shall not be permitted to come in contact with other animals or persons and, provided further that the animal shall be muzzled and on a leash not to exceed four (4) feet, and in control of a competent person when taken from the place of confinement for sanitation purposes.
- B. If no proof of a current rabies vaccination is provided, or if the City does not consent to confinement of the animal to the owner's residence, the animal shall be quarantined at the animal shelter or a licensed veterinary clinic at the expense of the owner.
- C. A quarantined animal shall not be removed from the place of confinement without the written permission of the City.



- D. A quarantined animal shall be confined in an enclosure constructed of materials suitable to prevent the animal from escaping. All openings to the enclosure shall be locked at all times and the animal shall not be removed from the enclosure unless the animal is muzzled on a leash not exceeding four (4) feet in length and in control of a competent person.

**530.09 Summary Destruction.** Whenever a Law-Enforcement Officer has reasonable cause to believe that a particular animal represents a clear and immediate danger to the Law-Enforcement Officer, the Law-Enforcement Officer, after making reasonable attempts to impound such animal, may summarily destroy the animal.

### **Section 540 – Non-Domestic Animals**

**540.01 Prohibited Animals.** No person shall keep, maintain or harbor within the City any non-domestic animals, as defined in Section 500.02, Subd. 5 of this Chapter.

**540.02 Exceptions; Permit Required.**

- A. Any persons desiring to keep animals prohibited under this Subsection shall obtain a temporary permit from the City Council. The permit shall be issued for a period not to exceed thirty days and shall specify under what conditions the animal(s) shall be kept. Permits shall be issued only if animal shall be brought into City for entertainment, exhibition, show or promotional purposes only, and only at the discretion of the Council which may consult with a veterinarian at the applicant's expense as to the risks posed by the animal(s) sought to be allowed by the permit.
- B. Non-poisonous snakes, birds kept indoors, hamsters, mice, rabbits, gerbils, white rats, guinea pigs, chinchillas, turtles or lizards, and similar small animals capable of being maintained continuously in cages shall also be exempt and shall not require a permit.
- C. Persons keeping animals for a public zoo as volunteers, docents or otherwise, any bona fide research institution or veterinary hospital, shall be exempt from the permit requirement, provided protective devices adequate to prevent the animals from escaping or injuring the public shall be provided.
- D. Handicapped persons keeping monkeys trained as household helpers shall be exempt.

**540.03 Selling Prohibited.** No person shall offer for sale, within City limits, any exotic animal covered by this Subsection.

**540.04 Impoundment of Non-Domestic Animals.** Any non-domestic animal kept in violation of this Section may be impounded by the City, and after being kept for five days or more without being reclaimed by the owner, may be sold or destroyed. Any person reclaiming the animal shall pay the costs of impoundment and keeping of the animal.

**540.05 Existing Non-Domestic Animals.** Any person keeping any non-domestic animal at the time of adoption of this Code shall remove the animal from the City within 90 days following adoption of this Section.

### **Section 550 – Farm Animals**

**550.01 Keeping of Farm Animals.** Farm animals may be kept in the Transition/Agricultural District of the City, as provided for in Chapter 12-Zoning of the Norwood Young America City Code. An

exception may be made to this subsection for those animals brought into the City as part of an operating zoo, veterinarian clinic, scientific research laboratory, or a licensed show or exhibition.

**550.02 Beekeeping Prohibited.** No person shall keep any bees in the City on any property.

**550.03 Keeping of Backyard Chickens.**

- A. Purpose. It is recognized that the ability to cultivate one's own food is a sustainable activity that can also be a rewarding past time. It is further recognized that the keeping of backyard chickens, if left unregulated, may interfere with the residential character of certain neighborhoods. Therefore, it is the purpose and intent of this Section to permit but strictly limit the keeping of backyard chickens for egg and meat sources in a clean and sanitary manner that is not a nuisance to or detrimental to the public health, safety, and welfare of the community.
- B. Keeping of Backyard Chickens Allowed. A person may keep up to four (4) backyard chickens on a residential property that is not in the Transitional/Agricultural District of the City as provided for in Chapter 12-Zoning of the Norwood Young America City Code, provided:
  - 1. The parcel where the backyard chickens are kept is within a Residential District as provided for in Chapter 12 (Zoning) of the Norwood Young America City Code;
  - 2. The keeper of the backyard chickens resides in a detached dwelling at the parcel at which the backyard chickens are kept;
  - 3. The subject parcel is a minimum of 10,000 square feet; and,
  - 4. The owner of the subject parcel obtains a backyard chicken permit from the City, issued in compliance with this Chapter.
- C. Permit Required: A permit is required for the keeping of backyard chickens.
  - 1. Those desiring to keep backyard chickens shall file a written application with the City Administrator on a form provided by the City and pay an application fee. Fees to be charged for the permit to keep backyard chickens shall be set by City Council on the fee schedule.
  - 2. The application shall include:
    - a. The breed and number of chickens to be maintained on the premises;
    - b. A site plan of the property showing the location and size of the proposed coop and run, setbacks from the coop to property lines and surrounding buildings (including houses on adjacent lots), and the location, style, and height of fencing proposed to contain the backyard chickens in a run; and,
    - c. Written statements that the Applicant will at all times keep the backyard chickens in accordance with all of the conditions prescribed by the City Administrator, or modifications thereof, and that failure to obey such conditions will constitute a violation of the provisions of this Chapter and will be grounds for cancellation of the permit;
    - d. Such other and further information as may be required by the City Administrator; and
    - e. The required fee.
  - 3. The City Administrator and/or designee shall process the application.
  - 4. All initial permits will expire on December 31<sup>st</sup> of the following year after their issuance unless sooner revoked. Renewal permits shall expire on December 31<sup>st</sup> of the second year following their issuance unless sooner revoked.

5. The City, upon written notice, may revoke a permit for failure to comply with provisions of this Section or any of the permit's conditions.
6. The City may inspect the premises for which a permit has been granted in order to ensure compliance with this Section. If the City is not able to obtain the Occupant's consent to enter the property, it may seek an administrative search warrant or revoke the permit.

D. General Standards and Limitations for the Keeping of Backyard Chickens.

1. The keeping of roosters as a backyard chicken is prohibited.
2. Backyard chickens shall not be raised or kept for the purpose of fighting.
3. Backyard chickens shall not be kept in a dwelling, garage, or accessory structure other than those meeting the requirements of an enclosed coop.
4. All backyard chickens must have access to an enclosed coop meeting the following minimum standards:
  - a. The enclosed coop may not occupy a front or side yard.
  - b. The enclosed coop must have a minimum size of four (4) square feet per animal and shall not exceed a maximum of forty (40) square feet in total area.
  - c. The enclosed coop shall be setback a minimum of twenty-five (25) feet from any principal structure on the subject parcel and any property line. The enclosed coop shall not exceed ten (10) feet in height.
  - d. The enclosed coop shall have a roof type and pitch that is similar to the principal structure on the lot.
  - e. The enclosed coop shall be similar in color to the principal structure on the lot.
  - f. The enclosed coop shall employ exterior building materials that are similar in type and quality to those employed on the principal structure.
  - g. The enclosed coop shall be constructed of permanent residential dwelling building materials. Coop components that are not designed or intended for use as permanent residential dwelling building materials, including but not limited to, garage doors, tires, pallets, employment of interior residential structural components on the exterior (drywall, particle board, plywood), sheet metal, fiberglass panels, plastics, corrosive metal, household items (appliances, fixtures, furniture), canvas, flimsy materials, tarps, non-permanent items (cages, portable kennels), wire panels, and the like are prohibited.
  - h. The floor of the enclosed coop shall be comprised of impervious surface such as vinyl, tile, concrete, or treated wood.
  - i. The enclosed coop must be built to protect the backyard chickens from extreme heat or cold.
  - j. The enclosed coop shall be at all times maintained in a good condition.
  - k. The enclosed coop shall meet all applicable building, electrical, HVAC, plumbing, and fire code requirements.
5. All backyard chickens shall have access to a run meeting the following minimum standards:
  - a. The run shall be a fully-enclosed and covered area attached to a coop where backyard chickens can roam unsupervised.
  - b. The run shall adhere to setbacks required for enclosed coops to which they are attached.
  - c. The enclosed run shall be well drained so there is no accumulation of moisture.

- d. Run components shall feature fencing materials approved for use in the R-1 Single Family Low Density Residential District as provided for in Chapter 12-Zoning of the Norwood Young America City Code
  - e. Run components not designed or intended for use as fence material, including, but not limited to, garage doors, tires, pallets, sheet metal, ribbed steel, metal siding, corrosive metal, solid (i.e. more than ninety percent (90%) opaque) metal, galvanized ribbed steel, household items (appliances, fixtures, furniture), makeshift or flimsy materials (plastic, paper, twine, rope, tin, webbing), farm animal fencing (barbed wire, chicken wire, high tensile, electric wire, woven wire, or other livestock fencing), canvas, tarps, non-exterior grade residential construction materials, and the like are prohibited.
  - f. Landscaping shall be employed on the perimeter of the run to shield views of the run from adjacent properties.
  - g. The run shall be at all times maintained in a good condition.
6. The following minimum sanitation standards shall be observed at all times:
- a. Slaughtering of backyard chickens on the property is prohibited.
  - b. Leg banding of all backyard chickens is required. The band must identify the owner, the owner's address, and the owner's telephone number.
  - c. The owner shall keep a written record from a Doctor of Veterinary Medicine licensed to practice in the State of Minnesota. The written record shall certify the health of each backyard chicken before obtaining the chicken and annually thereafter.
  - d. All premises on which backyard chickens are kept or maintained shall be kept clean from filth, garbage, and any substances which attract rodents. The coop and its surrounding area must be cleaned frequently enough to control odor. Manure shall not be allowed to accumulate in a way that causes an unsanitary condition or causes odors detectible on another property. Failure to comply with these conditions may result in the City Administrator and/or Enforcement Officer removing backyard chickens from the premises or revoking the backyard chicken permit.
  - e. All grain and food stored for backyard chickens permit shall be kept indoors in a rodent proof container.
  - f. Backyard chickens shall not be kept in such a manner as to constitute a Nuisance as provided for under Chapter Six of the Norwood Young America City Code.
  - g. Persons no longer intending to keep backyard chickens on the subject property shall notify the City in writing and remove the enclosed coop and run.
  - h. The enclosed coop and run shall be removed from the property upon permit expiration and/or permit revocation. (*Adopted 6/9/14; Ord. 250*)

### **Section 560 – Violation and Penalty**

**560.01 Penalty.** Violation of any provision of this Chapter shall be a misdemeanor.

**CHAPTER 4. ALCOHOLIC BEVERAGES****Section 400 – General**

**400.01 State Statutes Adopted.** The provisions of Minn. Stat. Chapter 340A regarding definitions, licensing, restrictions, and conditions of the sale of alcoholic beverages are hereby adopted by reference and made a part of this Chapter as if set out here in full.

**400.02 Definitions.** For the purpose of this Chapter, the following terms shall have the definitions provided:

**Subd. 1 Alcoholic Beverage.** “Alcoholic Beverage” shall mean any beverage containing more than one-half of one percent of alcohol by volume.

**Subd. 2 Club.** “Club” shall mean an incorporated organization organized under the laws of this State for civic, fraternal, social or business purposes or for intellectual improvement, or for the promotion of sports, or a congressionally chartered veteran’s organization, which has more than 50 members, has owned or rented a building or space in a building for more than one year that is suitable and adequate for the accommodation of its members, and is directed by a board of directors, executive committee, or other similar body chosen by the members at a meeting held for that purpose.

**Subd. 3 Intoxicating Liquor.** “Intoxicating Liquor”, or “Liquor” shall mean and include ethyl alcohol, distilled, fermented, spirituous, vinous, and malt beverages containing more than 3.2 percent of alcohol by weight.

**Subd. 4 Malt Liquor.** “Malt Liquor” shall mean any beer, ale, or other beverage made from malt fermentation, and containing not less than one-half of one percent alcohol by volume.

**Subd. 5 3.2 Malt Liquor.** “3.2 Malt Liquor” shall mean any malt liquor containing not less than one-half of one percent alcohol by volume nor more than 3.2 percent alcohol by weight. 3.2 Malt liquor may commonly be referred to as beer.

**Subd. 6 On-sale.** “On-sale” shall mean the sale of alcohol beverages for consumption on the licensed premises only.

**Subd. 7 Off-sale.** “Off-sale” shall mean the sale of alcoholic beverages in original packages or containers in retail stores for the consumption off the licensed premises only.

**Subd. 8 Package.** “Package” or “Original Package” shall mean any sealed or corked container of alcoholic beverages.

**Subd. 9 Person.** “Person” shall include persons, corporations, partnerships and other unincorporated associations.

**Subd. 10 Sale, Sell.** “Sale” or “Sell” shall mean and include all barter, and all manners or means of furnishing intoxicating liquor or liquors as above described in violation or evasion of law.

**Subd. 11 Wine.** “Wine” shall mean the product made from normal alcoholic fermentation of grapes, including still wine, sparkling and carbonated wine, wine made from condensed grape mush, wine made from other agricultural products than sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry and sake, in each instance containing not less than one-half of one percent nor more than 24 percent alcohol by volume for nonindustrial use. Wine shall not include distilled spirits as defined in Minn. Stat. § 340A.101, Subd. 9.

**400.03 License Non-Transferable.** No license issued under this Chapter shall be transferable either as to licensee or premises without the approval of the City Council, and in the case of “off-sale” licenses, also the Liquor Control Commissioner.

**400.04 General Conditions of License.** All licenses granted under this Chapter shall be granted subject to all other Code provisions or ordinances of the City applicable thereto, the laws of the State, all regulations of the liquor control commissioner applicable thereto, all conditions of this Chapter and also to the following conditions:

- A. Every licensee shall be responsible for the conduct of his or her place of business, his or her employees, and the conditions of sobriety and order within the licensed premises.
- B. No “on-sale” dealer shall sell alcoholic beverages for removal from the premises.
- C. No dealer licensed for “off-sale” only shall permit the consumption of any alcoholic beverage on such licensed premises.
- D. No alcoholic beverages shall be sold to any person under the age of twenty-one (21) years. No license shall be granted to any person under the age of twenty-one (21) years and no person under the age of twenty-one (21) years shall be employed in any rooms constituting the place in which alcoholic beverages are sold, except as permitted under Minnesota Statutes Chapter 340A.
- E. A license shall be issued only to a person who is a citizen or legal alien of the United States and who shall be of good moral character and repute.
- F. A license shall not be issued to any person convicted of any violation of any law of the United States or the State of Minnesota or of any local ordinance with regard to the manufacturer, sale, distribution or possession for sale or distribution of alcoholic beverages, nor to any person whose license under these regulations shall be revoked for any willful violation of any such laws or regulations.
- G. The licensee shall maintain and provide evidence of liability insurance in at least the minimum amounts required by Minnesota Statutes Chapter 340A.
- H. All premises where any license under this Chapter shall be granted shall be open to inspection by any police or health officer or other properly designated officer or employee of the City at any time during which the place is licensed shall be open to the public for business.
- I. Every licensee shall be responsible for any violation of Section 400.07 and 400.08 at his or her place of business. (*Amended by Ord. 200, 12/10/2007*)

**400.05 License to be Posted.** All licensed premises shall have the license posted in a conspicuous place therein at all times.

**400.06 Suspension and Revocation.** Any license granted under this Chapter may be suspended or revoked by the City Council with notice to the grantee and a hearing shall first be held by the City Council and the suspension or revocation then made for cause. Any violation of any provision or condition of this Chapter or the State liquor licensing law, or any falsification of any statement in the application shall be grounds for suspension or revocation. Any license shall be revoked upon the

conviction of the licensee of a felony. A license may be immediately suspended upon notice that the licensee's liability insurance has lapsed. No portion of the license fee paid into the City treasury shall be returned upon suspension or revocation.

**400.07 Vacating Premises.** It shall be unlawful for any person, other than the licensee or his or her employees in the performance of their duties, to remain on any premise licensed for any type of on-sale, including wine licenses, under this Chapter 30 minutes after closing hours. There shall be no consumption of any alcoholic beverage on such a licensed premise 30 minutes after closing hours. Customers shall vacate the licensed premises within 30 minutes after closing hours and shall not return earlier than the time of the next lawful sale. The requirements of this Subsection shall not apply to any restaurant or bowling center open after 2:30 a.m. provided no alcoholic beverage is served or consumed 30 minutes after closing hours. *(Amended by Ord. 212, 6/22/2009)*

**400.08 Nudity.** In order to prevent harm stemming from the physical immediacy and combination of alcohol, nudity, and sex, and to prevent any subliminal endorsement of sexual harassment or activities likely to lead to the possibility of various criminal conduct such as prostitution, sexual assault, and disorderly conduct, it shall be unlawful for any licensee to permit or allow any person from being upon a licensed premise when such person does not have his or her buttocks, anus, breasts, and genitals covered with a non-transparent material. It shall also be unlawful for any person to appear in a licensed establishment with such stated anatomical areas uncovered or covered only by a transparent material.

**400.09 Mandatory License Training Seminars.** As a condition to obtaining or renewing a License, each Licensee shall attend license-training seminars as required by the City. At least one representative of each Licensee must attend all mandatory license training seminars conducted by the City in conjunction with the Sheriff's Department. The representative need not be the same person each time, but must hold a position of responsibility in either the ownership or management of the licensee. Failure to attend such training seminars without reasonable justification shall result in the imposition of penalties as set forth in Section 450.01. *(Amended by Ord. 178, 5/22/2006)*

## Section 410 – Intoxicating Liquor

**410.01 License Required.** No person shall, directly or indirectly, upon any pretense or by any device, manufacture, import, sell, exchange, barter, dispose of or keep for sale, any intoxicating liquor, without first having obtained a license provided in this Section. Licenses shall be of four kinds: "on-sale", "off-sale", "wine", and "temporary on-sale." In addition, holders of on-sale licenses may be eligible for Sunday sales licenses pursuant to this Chapter. An optional 2:00 am Liquor Permit may be obtained by any on-sale intoxicating liquor, beer or wine licensee upon the approval from the Liquor Control Commissioner and payment of all fees as established by the City Council and required by the State of Minnesota. *(Amended by Ord. 178, 5/22/2006)*

**410.02 Application for License.** Every person desiring a license under this Section shall file a verified application for the license in writing with the City Administrator in the form prescribed by the Liquor Commissioner and with such additional information as the Council may require.

**410.03 Fees.** All applications for licenses shall be accompanied by a receipt from the City Administrator for the required annual fee and any investigation fee for the respective license as set in the fee schedule adopted from time to time by the Council. All such fees shall be paid into the general

fund of the City. Upon rejection of any application for a license, the treasurer shall refund the amount paid and the bond of the applicant shall be returned to him or her.

#### **410.04 Granting of Licenses.**

**Subd. 1 Investigation of Application.** The City Council shall cause an investigation to be made of all the representations set forth in the application. For the purpose of “on-sale” licenses, the investigation shall be conducted in compliance with Minn. Stat. § 340A.412, subd. 2.

**Subd. 2 Hearing.** Opportunity shall be given at a regular or special meeting of the Council to any person to be heard for or against the granting of any license.

**Subd. 3 Council Action.** After such investigation, the City Council shall grant or refuse the license in its discretion, provide that no “off-sale”, “wine” or “temporary” license shall become effective until it has the approval of the Liquor Control Commissioner.

#### **410.05 Hours of Operation.**

**Subd. 1 On-sale Hours.** Intoxicating liquor shall not be sold by any “on-sale” licensee upon the premises described in the license granted under this Section except in compliance with the hours and days established in Minnesota State Statute 340A.504. (*Amended by Ord. 212, 6/22/2008*)

##### **Subd. 2 Off-sale Hours.**

A. Intoxicating liquor may be sold by any “off-sale” licensee during the following hours:

1. Monday through Saturday from 8:00 a.m. to 10:00 p.m.;
2. Sunday between the hours of 11:00 a.m. and 6:00 p.m.
3. On Christmas Eve, December 24, from 8:00 a.m. to 8:00 p.m. If Christmas Eve falls on a Sunday, off-sale hours shall be subject to paragraph 2 above.

B. Intoxicating liquor may not be sold by any “off-sale” licensee at the following times:

Thanksgiving Day; and Christmas Day, December 25.

(*Amended by Ord. 289, 6/12/2017*)

**410.06 Sunday Sales.** Any regular on-sale intoxicating liquor license holder may apply for a Sunday on-sale intoxicating liquor license by submitting to the City Administrator an application form provided by the City.

**Subd. 1 Hours.** The sale of liquor on Sunday may in compliance with the hours and days established in Minnesota State Statute 340A.504. (*Amended by Ord. 212, 6/22/2008*)

**Subd. 2 Renewal.** Any Sunday license issued under this Subsection shall be valid for a period of one year and shall be renewable each year at the same time as the holder applies for the renewal of his or her regular on-sale liquor license.



**Subd. 3 Eligible Business.** No Sunday license shall be issued to any person under this Chapter unless the person's business establishment offers to its patrons grilled, baked, or cooked meals during reasonable Sunday business hours. Only restaurants, hotels, bowling centers, and clubs shall be eligible for a Sunday sales license.

**410.07 Temporary Intoxicating Liquor License.** A club or charitable, religious, or other non-profit organization, in existence for at least three years, or a political committee registered under Minn. Stat. 10A.14, shall qualify for a temporary on-sale intoxicating liquor license in connection with a social event sponsored by the organization.

**Subd. 1 Conditions.** A temporary license may be granted only if the applicant complies with the following conditions:

- A. An application for a temporary license shall state the exact dates and place of proposed temporary sale. The license shall not be valid for more than 4 consecutive days.
- B. No applicant shall qualify for a temporary license for more than a total of 12 days in any twelve month period.
- C. Only one Temporary License may be issued to any one organization identified in this Section, or for any one location, within a 30-day period.
- D. The City Council may, but at no time shall it be under any obligation whatsoever to, grant a temporary liquor license on premises owned or controlled by the City. Any such license may be conditioned, qualified, or restricted as the City Council sees fit. If the premises to be licensed are owned or under the control of the City, the applicant shall file with the City, prior to issuance of the license, a certificate of liability insurance coverage in the sum determined by resolution of the City Council, naming the City as an insured during the license period.

**410.08 Wine License.** Any restaurant having facilities to seat at least twenty-five (25) guests, and any bed and breakfast establishment that qualifies under Minn. Stat. 340A.404, subd. 5(c) and not exempt from licensing requirements under Minn. Stat. 340A.4011, shall be eligible to apply for a wine license. A wine license shall authorize the licensee to sell wine of up to fourteen (14) percent alcohol by volume for consumption with the sale of food, or in the case of an eligible bed and breakfast establishment, for the consumption of registered guests of the facility. A wine license shall allow the sale of wine on any day of the week during the hours sales would be permitted for the on-sale of intoxicating liquor. The holder of a wine license who also holds a valid beer or 3.2 malt liquor license under Section 420, shall be allowed to sell beer or malt liquor with an alcohol content in excess of 3.2 percent by volume without obtaining an on-sale intoxicating liquor license.

## **Section 420 – Beer or 3.2 Malt Liquor**

**420.01 License Required.** It shall be unlawful to sell beer or malt liquors at retail except when licensed as provided in this Section, except that no additional license shall be required if the person already holds a valid license issued under this Chapter for the sale of intoxicating liquor.

- A. "On-sale" Licenses shall permit the licensee for the sale of the beer or 3.2 malt liquors to sell such for the consumption on the premises. "On-sale" licenses shall be granted only to drugstores, restaurants, hotels, clubs and establishments for the sale of beer or 3.2 malt beverages with incidental sale of tobacco and soft drinks.

- B. "Off-sale" License shall be granted to permit the sale at retail of beer or 3.2 malt liquors in original packages for consumption off the licensed premises only. Off sale license shall be issued only to exclusive liquor stores or 3.2 malt liquor and beer stores.
- C. Application for License. All applications for any license to sell beer or 3.2 malt liquors shall be made on forms to be supplied by the City Administrator, setting forth the name of the person asking for the license, his or her age, representations as to his or her character, with such reference as may be required, his or her citizenship, the location where the business shall be carried on, whether the application is for "on-sale" or "off-sale", the business in connection with which the proposed license shall operate, whether applicant is owner and operator of the business, the time the applicant has been in that business at that place, and such other information as the Council may require from time-to-time. It shall be unlawful to make any false statement in an application.

**420.02 Fees.** All applications for license shall be accompanied by a receipt from the City Administrator for the required fee for the respective license as set in the fee schedule adopted from time to time by the Council. All such fees shall be paid into the general fund of the City. Upon rejection of any application for a license, the Administrator shall refund the amount paid.

**420.03 Hours of Operation.** No beer or 3.2 malt liquor shall be sold under this Section on Sunday except in compliance with the hours and days established in Minnesota State Statute 340.504.  
(Amended by Ord. 212, 6/22/2008)

**420.04 Temporary On-sale License.** A club or charitable, religious, or non-profit organization may be issued a temporary on-sale license for the temporary sale of beer or 3.2 malt liquor in conjunction with a social activity sponsored by the organization. An application for a temporary license shall be submitted at least three days prior to the next regularly scheduled Council meeting at which the application shall be reviewed and either approved or denied by the Council. A temporary license may be granted only if the applicant complies with the following conditions:

- A. An application for a temporary license shall state the exact dates and place of proposed temporary sale. The license shall not be valid for more than 4 consecutive days.
- B. No applicant shall qualify for a temporary license for more than a total of 12 days in any twelve month period.
- C. Only one Temporary License may be issued to any one organization identified in this Section, or for any one location, within a 30-day period.

### **Section 430 – Liquor Display and Consumption**

**430.01 Permit Required.** It shall be unlawful for any club, or business establishment directly or indirectly, or upon any pretense or by any device to allow the consumption or display of intoxicating liquor, or the serving of any liquid for the purpose of mixing with intoxicating liquor without first securing a permit from the Liquor Control Commissioner and paying the annual fee as set by the Council.

**430.02 Application for Permit.** Every private club or public place desiring to allow the consumption or display of intoxicating liquor shall on or before July 1 of each year pay to the City Administrator the annual permit fee and shall be issued a written receipt therefore. If a portion of the year has elapsed when payment is made, a pro rata fee shall be paid; but no such pro rata fee shall be accepted from any

private club or public place which has violated Subsection 430.01. In computing the fee, an unexpired fraction of a month shall be counted as one month. The written receipt shall be posted in some conspicuous place upon the premises alongside the permit issued by the Liquor Control Commissioner and shall be kept posted at all times.

**430.03 State Statutes Incorporated by Reference.** The regulatory provision of Minnesota Statutes § 340A.414 shall be hereby incorporated and made a part of this Section as completely as if set out here in full.

**430.04 Exception.** This Section shall not apply to any premises licensed for the sale of intoxicating liquor.

### **Section 440 – Outdoor Sales**

**440.01 Licensed Required.** Unless specifically permitted on the face of the license, no sale of alcoholic beverages shall be allowed outside of the fixed, permanent structure the licensee occupies, existing at the time of the issuance of the license. The licensee shall not allow consumption of on-sale alcoholic beverages purchased from the licensee outside of the fixed, permanent structure.

**440.02 Special License Requirements.** The licensee of an on-sale license issued under this Chapter, with the approval of the Council and with appropriate endorsement on the license, may allow the sale and consumption outside of the interior of the fixed, permanent structure occupied by the licensee. The following requirements shall be met before outside sales shall be permitted.

**Subd. 1 Floor Surface.** Outdoor sales shall only occur in an area with a finished floor surface which does not exceed 1,200 square feet and which shall be constructed of poured cement, asphalt, or treated wood decking.

**Subd. 2 Enclosed Area.** The area for outside sales shall be enclosed by an oblique eight (8) foot tall fence with continuous sides and which shall not allow for any object greater than three (3) inches in diameter to pass through any opening in the fence. The fence shall not have more than three (3) inches of clearance above the ground.

**Subd. 3 Access.** Access of ingress to the outside serving area shall only be permitted through a doorway directly to the interior of the building occupied by the licensee. The number of egress points from the outside serving area shall be determined by the Fire Inspector or Code Official, based on the occupancy of the serving area. At least one point of egress shall be made from the outside serving area directly outside. Any points of egress from the outside serving area to the outside shall be by doors that do not allow ingress into the serving area from the outside.

*(Amended by Ord. 191, 4/23/2007)*

**Subd. 4 Set Back and Zoning.** The outside serving area shall be constructed in conformance with all applicable set-back and zoning regulations.

**Subd. 5 Live Music.** No live music shall be played in the outside serving area.

**Subd. 6 Noise Level.** At no time shall the noise level measured at twenty-five (25) feet from any exterior point of the perimeter of the outside serving area exceed 85 decibels.

**Subd. 7 Plan Approval.** Prior to the commencement of construction of the improvements constituting the outside serving area, sketch plans shall be submitted to the City for review and approval by the City Building Inspector.

### **Section 450 – Penalty and Violation**

**450.01 Penalty.** Any person and/or licensee violating any provision of this Chapter shall be guilty of a misdemeanor and shall also be subject to civil penalties as provided by law.

*(Amended by Ord. 200, 12/10/2007)*

**CHAPTER 3. LICENSING****Section 300 – Cigarettes**

**300.01 Purpose.** Because the city recognizes that many persons under the age of 18 years purchase or otherwise obtain, possess, and use tobacco, tobacco products, and tobacco related devices, and such sales, possession, and use are violations of State laws; and because studies, which the city hereby accepts and adopts, have shown that most smokers begin smoking before they have reached the age of 18 years and that those persons who reach the age of 18 years without having started smoking are significantly less likely to begin smoking; and because smoking has been shown to be the cause of several serious health problems which subsequently place a financial burden on all levels of government; this Section shall be intended to regulate the sale, possession, and use of tobacco, tobacco products, and tobacco related devices for the purpose of enforcing and furthering existing laws, to protect minors against the serious effects associated with the illegal use of tobacco, tobacco products, and tobacco related devices, and to further the official public policy of the State of Minnesota in regard to preventing young people from starting to smoke as stated in Minn. Stat. § 144.391.

**300.02 Definitions and Interpretations.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and neuter, and vice-versa. The term “shall” means mandatory and the term “may” means permissive. The following terms shall have the definitions given to them:

**Compliance Checks.** “Compliance Checks” shall mean the system the city uses to investigate and ensure that those authorized to sell tobacco, tobacco products, and tobacco related devices are following and complying with the requirements of this Section. The term shall also apply to any purchase or attempted purchase of tobacco, tobacco products, or tobacco related devices for training, education, or research purposes as authorized by State law. Compliance checks may involve the use of minors as authorized by this Section.

**Individually Packaged.** “Individually Packaged” shall mean the practice of selling any tobacco or tobacco product wrapped individually for sale. Individually wrapped tobacco and tobacco products shall include, but not be limited to, single cigarette packs, single bags or cans of loose tobacco in any form, and single cans or other packaging of snuff or chewing tobacco. Cartons or other packaging containing more than a single pack or other container as described in this subdivision shall not be considered individually packaged.

**Loosies.** “Loosies” shall mean the common term used to refer to a single or individually packaged cigarette.

**Minor.** “Minor” shall mean any natural person who has not yet reached the age of eighteen (18) years.

**Moveable Place of Business.** “Moveable Place of Business” shall refer to any form of business operated out of a truck, van, automobile, or other type of vehicle or transportable shelter and not a fixed address store front or other permanent type of structure authorized for sales transactions.

**Retail Establishment.** “Retail Establishment” shall mean any place of business where tobacco, tobacco products, or tobacco related devices are available for sale to the general public. Retail establishments shall include, but not be limited to, grocery stores, convenience stores, and restaurants.

**Sale.** A “sale” shall mean any transfer of goods for money, trade, barter, or other consideration.

**Self-Service Merchandising.** “Self-Service Merchandising” shall mean open displays of tobacco, tobacco products, or tobacco related devices in any way where any person shall have access to the product without the assistance or intervention of an employee of the premise maintaining the self-service merchandising. Self-Service merchandising shall not include vending machines.

**Tobacco Related Devices.** “Tobacco related devices” shall mean any tobacco product as well as a pipe, rolling papers, or other device used in a manner which enables the chewing, sniffing, or smoking of tobacco or tobacco products.

**Tobacco or Tobacco Products.** “Tobacco” or “Tobacco Products” shall mean any substance or item containing tobacco leaf, including but not limited to, cigarettes; cigars; pipe tobacco; snuff; fine cut or other chewing tobacco; cheroots; stogies; perique; granulated, plug cut, crimp cut, ready-rubbed, and other smoking tobacco; snuff flowers; cavendish; shorts; plug and twist tobaccos; dipping tobaccos; refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco leaf prepared in such manner as to be suitable for chewing, sniffing, or smoking.

**Vending Machine.** “Vending Machine” shall mean any mechanical, electric or electronic, or other type of device which dispenses tobacco, tobacco products, or tobacco related devices upon the insertion of money, tokens, or other form of payment directly into the machine by the person seeking to purchase the tobacco, tobacco product, or tobacco related device.

**300.03 License.** No person shall sell or offer to sell any tobacco, tobacco product, or tobacco related device without first having obtained a license to do so from the city.

**Subd. 1 Application.** An application for a license to sell tobacco, tobacco products, or tobacco related devices shall be made on a form provided by the city. The application shall contain the full name of the applicant, the applicant’s residential and business address and telephone numbers, the name of the business for which the license is sought, and any additional information the city deems necessary. Upon receipt of a completed application, the City Administrator shall forward the application to the council for action at its next regularly scheduled council meeting. If the Administrator shall determine that an application is incomplete, he or she shall return the application to the applicant with notice of the information necessary to make the application complete.

**Subd. 2 Action.** The council may either approve or deny the license, or it may delay action for such reasonable period of time as necessary to complete any investigation of the application or the applicant it deems necessary. If the council shall approve the license, the Administrator shall issue the license to the applicant. If the council denies the license, notice of the denial shall be given to the applicant along with notice of the applicant’s right to appeal the council’s decision.

**Subd. 3 Term.** All licenses issued under this Section shall be valid for the calendar year, or portion thereof, in which the license is issued.

**Subd. 4 Revocation or Suspension.** Any license issued under this Section may be revoked or suspended as provided in the Violations and Penalties subsection of this Section.

**Subd. 5 Transfers.** All licenses issued under this Section shall be valid only on the premises for which the license was issued and only for the person to whom the license was issued. No transfer of any license to another location or person shall be valid without the prior approval of the council.

**Subd. 6 Moveable Place of Business.** No license shall be issued to a moveable place of business. Only fixed location businesses shall be eligible to be licensed under this Section.

**Subd. 7 Display.** All licenses shall be posted and displayed in plain view of the general public on the licensed premise.

**Subd. 8 Renewals.** The renewal of a license issued under this Section shall be handled in the same manner as the original application. The request for a renewal shall be made before the expiration of the current license. The issuance of a license issued under this Section shall be considered a privilege and not an absolute right of the applicant and shall not entitle the holder to an automatic renewal of the license.

**300.04 Fees.** No license shall be issued under this Section until the appropriate license fee shall be paid in full. The fee for a license under this Section shall be as set from time to time by the Council in the fee schedule.

**300.05 Basis for Denial of License.** The following shall be grounds for denying the issuance or renewal of a license under this Section; however, except as may otherwise be provided by law, the existence of any particular ground for denial does not mean that the city must deny the license. If a license is mistakenly issued or renewed to a person, it shall be revoked upon the discovery that the person was ineligible for the license under this Section:

- A. The applicant is under the age of 18 years.
- B. The applicant has been convicted within the past five years of any violation of a Federal, State, or local law, ordinance provision, or other regulation relating to tobacco or tobacco products, or tobacco related devices.
- C. The applicant has had a license to sell tobacco, tobacco products, or tobacco related devices revoked within the preceding twelve months of the date of application.
- D. The applicant fails to provide any information required on the application, or provides false or misleading information.
- E. The applicant is prohibited by Federal, State, or other local law, ordinance, or other regulation, from holding such a license.

**300.06 Prohibited Sales.** It shall be a violation of this Section for any person to sell or offer to sell any tobacco, tobacco product, or tobacco related device:

- A. To any person under the age of eighteen (18) years.
- B. By means of loosies as defined in Subsection 300.02 of this Code.
- C. Containing opium, morphine, jimson weed, bella donna, strychnos, cocaine, marijuana, or other type of deleterious, hallucinogenic, or toxic or controlled substance except nicotine and not naturally found in tobacco or tobacco products.
- D. By any other means, or to any other person, prohibited by Federal, State, or other local law, ordinance provision, or other regulation.

**300.07 Responsibility.** All licensees under this Section shall be responsible for the actions of their employees in regard to the sale of tobacco, tobacco products, or tobacco related devices on the licensed premises, and the sale of such an item by an employee shall be considered a sale by the license holder. Nothing in this section shall be construed as prohibiting the City from also subjecting the clerk to whatever penalties are appropriate under this Section, State law, or other applicable law or regulation.

**300.08 Compliance Checks and Inspections.** All licensed premises shall be open to inspection by the city's designated law enforcement agent or other authorized city official during regular business hours. Other persons may also conduct compliance checks for training, educational, or research purposes as authorized by State law. Minors used for the purpose of compliance checks shall not be guilty of unlawful possession of tobacco, tobacco products, or tobacco related devices when such items are obtained as a part of the compliance check. No minor used in compliance checks shall attempt to use a false identification misrepresenting the minor's age, and all minors lawfully engaged in a compliance check shall answer all questions about the minors age asked by the license or his or her employee and shall produce any identification for which he or she is asked.

**300.09 Other Illegal Acts.** Unless otherwise provided, the following acts shall be a violation of this Section.

**Subd. 1 Illegal Possession.** It shall be a violation of this Section for any minor to have in his or her possession any tobacco, tobacco products, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check, or who have only temporary possession during a legal sales transaction.

**Subd. 2 Illegal Use.** It shall be a violation of this Section for any minor to smoke, chew, sniff, or otherwise use any tobacco, tobacco products, or tobacco related device.

**Subd. 3 Illegal Procurement.** It shall be a violation of this Section for any minor to purchase or attempt to purchase or otherwise obtain any tobacco, tobacco products, or tobacco related device, and it shall be a violation of this Section for any person to purchase or otherwise obtain such items on behalf of a minor. It shall also be violation of this Section for any person to sell or otherwise provide any tobacco, tobacco products, or tobacco related device to any minor, and it shall further be a violation for any person to coerce or attempt to coerce a minor to illegally purchase or otherwise obtain or use any tobacco, tobacco products, or tobacco related device. This subdivision shall not apply to minors lawfully involved in a compliance check on behalf of the city.

**Subd. 4 Use of False Identification.** It shall be a violation of this Section for any minor to attempt to disguise his or her true age by the use of a false form of identification, whether the identification is that of another person or one on which the age of the person has been modified or tampered with to represent an age older than the actual age of the person.

**300.10 Violations and Penalties.** Upon discovery of a suspected violation, the violator shall be issued a citation by the city's designated law enforcement agent and given notice of his or her right to be heard on the accusation. Each violation, and every day in which a violation occurs or continues, shall constitute a separate offense. Any person found to be in violation of this Section shall be guilty of a misdemeanor and shall be subject to the maximum penalty authorized by State law for a misdemeanor. In addition to any fine or other penalty, whether administrative, civil, or criminal, violation of this Section by a licensee under this Section shall be grounds for the suspension or revocation of the license. Before any license is suspended or revoked under this Section, the licensee shall be given notice of the accused violation and shall be given the right to request a hearing on the matter and to appeal the findings of the hearing on suspension or revocation.

**300.11 Exceptions and Defenses.** Nothing in this Section shall prevent the providing of tobacco, tobacco products, or tobacco related devices to a minor as part of a lawfully recognized religious, spiritual, or cultural ceremony. It shall be an affirmative defense to the violation of this Section for a person to have reasonably relied on proof of age as described by State law.

### **Section 310 – Peddlers, Solicitors, and Transient Merchants**

**310.01 Definitions and Interpretation.** Except as may otherwise be provided or clearly implied by context, all terms shall be given their commonly accepted definitions. The singular shall include the plural and the plural shall include the singular. The masculine shall include the feminine and the neuter, and vice-versa. The term "shall" means mandatory and the term "may" is permissive. The following terms shall have the definitions given to them:

**Peddler.** The term "peddler" shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of offering for sale, displaying or exposing for sale, selling or attempting to sell, and delivering immediately upon sale, the goods, wares, products, merchandise, or other personal property, that the person is carrying or otherwise transporting. The term peddler shall mean the same as the term hawker.



**Person.** The term “person” shall mean any natural individual, group, organization, corporation, partnership, or association. As applied to groups, organizations, corporations, partnerships, and associations, the term shall include each member, officer, partner, associate, agent, or employee.

**Regular Business Day.** Any day during which the City Hall is normally open for the purpose of conducting public business. Holidays defined by State law shall not be counted as regular business days.

**Solicitor.** The term “solicitor” shall mean a person who goes from house-to-house, door-to-door, business-to-business, street-to-street, or any other type of place-to-place, for the purpose of obtaining or attempting to obtain orders for goods, wares, products, merchandise, other personal property, or services, of which he or she may be carrying or transporting samples, or that may be described in a catalog or by other means, and for which delivery or performance shall occur at a later time. The absence of samples or catalogs shall not remove a person from the scope of this provision if the actual purpose of the person’s activity is to obtain or attempt to obtain orders as discussed above. The term solicitor shall mean the same as the term canvasser.

**Transient Merchant.** The term “transient merchant” shall mean a person who temporarily sets up business out of a vehicle, trailer, boxcar, tent, other portable shelter, or empty store front for the purpose of exposing or displaying for sale, selling, or attempting to sell, and delivering, goods, wares, products, merchandise, or other personal property, and who does not remain or intend to remain in any one location for more than one hundred twenty (120) consecutive days.

**310.02 Exceptions to Definitions.** For the purpose of the requirements of this Section, the terms “peddler,” “solicitor,” and “transient merchant” shall not apply to any person selling or attempting to sell at wholesale any goods, wares, products, merchandise, or other personal property, to a retailer of the item(s) being sold by the wholesaler. The terms also shall not apply to any person who makes initial contacts with other people for the purpose of establishing or trying to establish a regular customer delivery route for the delivery of perishable food and dairy products such as baked goods and milk, not shall they apply to any person making deliveries of perishable food and dairy products to the customers on his or her established regular delivery route. In addition, persons conducting the type of sales commonly known as garage sales, rummage sales, or estate sales, as well as those persons participating in an organized multi-person bazaar or flea market, shall be exempt from the definitions of peddlers, solicitors, and transient merchants, as shall be anyone conducting an auction as a properly licensed auctioneer, or any officer of the court conducting a court ordered sale. Exemption from the definitions for the scope of this Section shall not excuse any person from complying with any other applicable statutory provision or local Section.

### **310.03 Licensing.**

**Subd. 1 County License Required.** No person shall conduct business as a peddler, solicitor, or transient merchant within the City limits without first having obtained the appropriate license from the County as required by Minnesota Statutes Chapter 329 as amended.

**Subd. 2 City License Required.** Except as otherwise provided for by this Section, no person shall conduct business as either a peddler or a transient merchant without first having obtained a license from the City.<sup>1</sup>

**Subd. 3 Application.** Application for a City license to conduct business as a peddler or transient merchant shall be made at least three (3) regular business days prior to the closest regularly scheduled council meeting before the applicant desires to begin conducting business. Application for a license shall be made on a form approved by the City Council and available from the offices of the City Administrator. All applications shall be signed by the applicant. All applications shall include the following information:

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<sup>1</sup> Court decisions prohibit licensing of Solicitors. See 310.08.

- A. Applicant's full legal name.
- B. All other names under which the applicant conducts business or to which applicant officially answers.
- C. A physical description of the applicant (hair color, eye color, height, weight, distinguishing marks and features, etc.).
- D. Full address of applicant's permanent residence.
- E. Telephone number of applicant's permanent residence.
- F. Full legal name of any and all business operation(s) owned, managed, or operated by applicant, or for which the applicant is an employee or agent.
- G. Full address of applicant's regular place of business (if any).
- H. Any and all business related telephone number(s) of the applicant.
- I. The type of business for which the applicant is applying for a license.
- J. Whether the applicant is applying for an annual or daily license.
- K. The dates during which the applicant intends to conduct business, and if the applicant is applying for a daily license, the number of days he or she will be conducting business in the City.
- L. Any and all address(s) and telephone number(s) where the applicant can be reached while conducting business within the City, including the location where a transient merchant intends to set up business.
- M. A statement as to whether or not the applicant has been convicted within the last five years of any felony, gross misdemeanor, or misdemeanor for violations of any state or federal statute or any local Section, other than traffic offenses.
- N. A list of the three (3) most recent locations where the applicant has conducted business as a peddler, solicitor, or transient merchant.
- O. Proof of any required county license.
- P. Written permission of the property owner or the property owner's agent for any property to be used by a transient merchant.
- Q. A general description of the items to be sold or services to be provided.
- R. If the license is on behalf of a group of people, the names or adequate identifying description of all parties intended to be authorized by the group license.
- S. All additional information deemed necessary by the City Council.

**Subd. 4 Fee.** All applications for a license under this Section shall be accompanied by the fee established in the City's fee schedule as adopted from time to time by the Council.

**Subd. 5 Procedure.** Upon receipt of the completed application and payment of the license fee, the City Administrator shall forward the application to the Council prior to the next regularly scheduled council meeting. An application shall be determined to be complete only if all required information is provided. The City Administrator, within two regular business days of receipt, shall determine if the application is complete. If the Administrator determines that the application is incomplete, the Administrator shall inform the applicant of the required necessary information which is missing. The Council shall review the application and order any investigation, including background checks, necessary to verify the information provided with the application. The Council shall, at the meeting following receipt of the application, vote whether or not to issue the license. If the Council approves the application, the Administrator shall be instructed to issue a license to the applicant. If the Council rejects the application, the applicant shall be notified in writing of the Council's decision, the reason for the denial, and of his or her right to appeal the denial by petitioning the Minnesota Court of Appeals for a Writ of Certiorari.

**Subd. 6 Duration.** An annual license granted under this Section shall be valid for one calendar year from the date of issue. All other licenses granted under this Section shall be valid only during the time period indicated on the license.

**310.04 License Exemptions.** No license shall be required for 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. No license shall be

required of any person going from house-to-house, door-to-door, business-to-business, street-to-street, or other type of place-to-place when such activity is for the purpose of exercising that person's State or Federal Constitutional rights (i.e., freedom of speech, press, religion etc.). Except that this exemption may be lost if the person's exercise of Constitutional rights is merely incidental to a commercial activity. Professional fundraisers working on behalf of an otherwise exempt person or group shall not be exempt from the licensing requirements of this Section.<sup>2</sup>

**310.05 Ineligibility for License.** The following shall be grounds for denying a license under this Section:

- A. The failure of the applicant to obtain and show proof of having obtained any required County license.
- B. The failure of the applicant to truthfully provide any of the 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.
- C. 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 Section, which adversely reflects on the person's ability to conduct the business for which the license is being sought in an honest and legal manner or that will not adversely affect the health, safety, and welfare of the residents of the City. Such violations shall include but not be limited to: burglary, theft, larceny, swindling, fraud, unlawful business practices, and any form of actual or threatened physical harm against another person.
- D. The revocation within the past five years of any license issued to the applicant for the purpose of conducting business as a peddler, solicitor, or transient merchant.
- E. The applicant is determined to have a bad business reputation. Evidence of a bad business reputation shall include, but not be limited to, the existence of more than 3 complaint(s) against the applicant with the Better Business Bureau, the Attorney General's Office, or other similar business or consumer rights office or agency, within the preceding twelve (12) months, or 6 such complaints filed against the applicant within the preceding five (5) years.

**310.06 Suspension and Revocation.** Any license issued under this Section may be suspended or revoked at the discretion of the City Council for violation of any of the following:

- A. Fraud, misrepresentation, or incorrect statements on the application form.
- B. Fraud, misrepresentation, or false statements made during the course of the licensed activity.
- C. Conviction of any offense for which granting a license could have been denied under Subsection 310.05 of this Code.
- D. Violation of any provision of this Section.

The suspension or revocation of any license issued for the purpose of authorizing multiple persons to conduct business as peddlers or transient merchants on behalf of the licensee, shall serve as a suspension or revocation of each such authorized person's authority to conduct business as a peddler or transient merchant on behalf of the licensee whose license is suspended or revoked.

**Subd. 1 Notice.** Prior to revoking or suspending any license issued under this Section, the City shall provide the license holder with written notice of the alleged violation(s) and inform the licensee of his or her right to a hearing on the alleged violation. Notice shall be delivered in person or by mail to the permanent residential address listed on the license application, or if no residential address is listed, to the business address provided on the license application.

**Subd. 2 Public Hearing.** Upon receiving the notice provided in Subdivision 1, the licensee shall have the right to request a public hearing. If no request for a hearing is received by the City Administrator within ten (10) regular business days following the service of the notice, the City may proceed with the suspension or

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<sup>2</sup> Court decisions prohibit licensing these types of activities.

revocation. For the purpose of mailed notices, service shall be considered complete as of the date the notice is placed in the mail. If a public hearing is requested within the stated timeframe, a hearing shall be scheduled within twenty (20) days from the date of the request. Within three (3) regular business days of the hearing, the City Council shall notify the licensee of its decision.

**Subd. 3 Emergency.** If in the discretion of the City Council, imminent harm to the health or safety of the public may occur because of the actions of a peddler or transient merchant licensed under this Section, the Council may immediately suspend the person's license and provide notice of the right to hold a subsequent public hearing as prescribed in Subdivision 2 of this Section.

**Subd. 4 Appeals.** Any person whose license is suspended or revoked under this Section shall have the right to appeal that decision in court.

**310.07 Transferability.** No license issued under this Section shall be transferred to any person other than the person to whom the license was issued.

**310.08 Registration.** All solicitors, and any person exempt from the licensing requirements of this Section under Subsection 310.04, shall be required to register with the City. Registration shall be made on the same form required for a license application, but no fee shall be required. Immediately upon completion of the registration form, the City Administrator shall issue to the registrant a Certificate of Registration as proof of the registration. Certificates of Registration shall be non-transferable.

**310.09 Prohibited Activities.** No peddler, solicitor, or transient merchant shall conduct business in any of the following manners:

- A. Calling attention to his or her business or items to be sold by means of blowing any horn or whistle, ringing any bell, crying out, or by any other noise, so as to be unreasonably audible within an enclosed structure.
- B. Obstructing the free flow of either vehicular or pedestrian traffic on any street, alley, sidewalk, or other public right-of-way.
- C. Conducting business in such a way as to create a threat to the health, safety, and welfare of any individual or the general public.
- D. Conducting business before seven o'clock in the morning (7:00 a.m.), or after nine o'clock at night (9:00 p.m.).
- E. Failing to provide proof of license or registration, and identification, when requested; or using the license or registration of another person.
- F. Making 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 solely based on the City having issued a license or certificate of registration to that person.
- G. Remaining on the property of another when requested to leave, or to otherwise conduct business in a manner a reasonable person would find obscene, threatening, intimidating, or abusive.

**310.10 Exclusion by Placard.** No peddler, solicitor, or transient merchant, unless invited to do so by the property owner or tenant, shall enter the property of another for the purpose of conducting business as a peddler, solicitor, or transient merchant when the property is marked with a sign or placard at least three and three-quarter (3-3/4) inches long and three and three-quarter (3-3/4) inches wide with print of at least 48 point in size stating "No Peddlers, Solicitors, or Transient Merchants," or "Peddlers, Solicitors, and Transient Merchants Prohibited," or other comparable statement. No person other than the property owner or tenant shall remove, deface, or otherwise tamper with any sign or placard under this Section.

**310.11 Violations and Penalties.** Any person who violates any provision of this Section shall be guilty of a misdemeanor and upon conviction of any violation shall be subject to a fine not to exceed seven hundred dollars (\$700) or a jail sentence not to exceed ninety (90) days, or both, plus the cost of prosecution. Each day a violation exists shall constitute a separate violation for the purposes of this Section.

### **Section 320 – Garbage, Refuse and Recyclables**

**320.01 Declaration of Public Policies and Purpose.** The City Council finds that it shall be in the best interest of the public to encourage, and in certain instances, compel, the use of methods of disposing of waste which help preserve and benefit our environment; and the benefits to be derived from the enactment of this Section shall be in the best interest of the public.

**320.02 Definitions.** As used in this Section the following words and phrases shall have the meanings ascribed to them:

**Approved Landfill Site or Disposal Depot.** “Approved Landfill Site or Disposal Depot” shall mean a site for the disposal of waste approved by the County, and operated in accordance with the rules and regulations of the Minnesota Pollution Control Agency (MPCA).

**Collection.** “Collection” shall mean the aggregation of mixed municipal solid waste from the place at which it is generated and shall include all activities up to the time the waste is delivered to a waste facility.

**Collector.** “Collector” shall mean any person or company collecting or hauling the waste, garbage, or rubbish of another for hire.

**Commercial Establishment.** “Commercial Establishment” shall mean any premise where a commercial, industrial or agricultural enterprise of any kind is carried on, and shall include clubs, churches and schools.

**Commingled (e.g., dumpster-type) Residential Collection.** “Commingled Residential Collection” shall mean collections from any building consisting of more than one dwelling unit wherein each unit has an individual kitchen and wherein the mixed municipal solid waste of each unit is mixed with the waste of other units prior to the collection efforts of licensed haulers.

**Construction Debris.** “Construction Debris” shall mean waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of building and roads.

**Generator.** “Generator” shall mean any person or company who produces or causes the production of mixed municipal solid waste.

**Garbage.** “Garbage” shall mean putrescible animal, vegetable or organic refuse resulting from the handling, preparation, cooking and consumption of food.

**Individual (e.g., curbside) Residential Collection.** “Individual (e.g., curbside) Residential Collection” shall mean collection from any building consisting of one or more dwelling units wherein each unit has an individual kitchen and wherein the mixed municipal solid waste of each unit is separately collected by licensed haulers.

**Mixed Municipal Solid Waste.** “Mixed Municipal Solid Waste” shall mean garbage, refuse, and other solid waste from residential, commercial, industrial and community activities which is generated and collected in aggregate, but excluding auto hulks or large auto parts, street sweepings, ash, construction debris, mining waste, sludges, household hazardous waste, tree and agricultural wastes, tires, lead acid batteries, used oil, yard waste, and other materials collected, processed, and disposed of as separate waste streams.

**Multiple Dwelling.** “Multiple Dwelling” shall mean any building used for residential purposes consisting of more than two (2) dwelling units with individual kitchen facilities for each.

**Recyclable.** “Recyclable” shall mean materials which can be separated from the mixed municipal solid waste stream for collection and preparation from reuse in their original form, or for other uses in manufacturing processes that do not cause the destruction of the recyclable materials in a manner that precludes further use.

**Recycling Center or Recycling Depot.** “Recycling Center or Recycling Depot” shall mean a site, either publicly or privately owned and operated, equipped to receive, handle, store and process recyclable materials.

**Residential Dwelling.** “Residential Dwelling” shall mean any single building consisting of two (2) or less dwelling units with individual kitchen facilities for each.

**Rubbish.** “Rubbish” shall mean nonputrescible solid waste of all kinds, combustible or noncombustible, consisting of tin cans, glass, paper, cardboard, yard clippings, wood, ashes, street sweepings and all other inorganic refuse.

**Special Pick-up.** “Special Pick-up” shall mean any collection of materials other than garbage, recyclables or yard waste, including white goods (e.g., large appliances), furniture, oversized materials, construction debris, and other materials collected, processed, and disposed of as separate waste streams.

**Targeted Recyclables.** “Targeted Recyclables” shall mean metal containers, glass containers, newsprint, or other materials described as follows:

- A. Aluminum Recyclables. “Aluminum Recyclables” shall mean clean aluminum foil and all disposable containers fabricated primarily of aluminum and commonly used for soda, beer, or other beverages.
- B. Bi-metal Recyclables. “Bi-metal Recyclables” shall mean cans containing or using two metals. More specifically, “tin” cans manufactured of steel and tin and which have all paper removed therefrom and both ends flattened. Bi-metal recyclables may be commingled with aluminum.
- C. Glass Recyclables. “Glass Recyclables” shall mean all glass bottles and jars which shall be rinsed clean. Glass recyclables shall be considered to be three colors: clear, green, brown; and, each color shall be placed in a separate bag or box according to color and placed in the recycling container.
- D. Paper Recyclables. “Paper Recyclables” shall mean paper of the type commonly referred to as newsprint. Bundled and tied, or placed in large brown paper grocery bags. Expressly excluded from paper recyclables; however, shall be all magazines with glossy paper or similarly constructed periodicals and paper products.
- E. Waste. “Waste” shall be all encompassing and shall include all discarded matter or materials.
- F. Yard Waste. “Yard Waste” shall mean organic materials consisting of grass clippings, leaves and other forms of organic garden waste, but excluding bushes, fibrous brush, woody materials, or other materials that are not readily compostible within a calendar year.

**320.03 Compliance with Section Required.** Every person occupying a residential dwelling, multiple dwelling, motel, store, restaurant, mobile home park, or commercial establishment, or combination thereof shall dispose of waste as provided in this Section.

**320.04 Certain Accumulations Declared a Nuisance; Abatement.** Any accumulation of garbage and other putrescible matter not stored in containers which comply with this Section or which has remained on the premises for more than one (1) week, or which is offensive by reason of appearance, odor or sanitation, or which creates a fire hazard, shall be hereby declared to be a nuisance and shall be abated as provided by Minnesota Statutes and

this Code. The cost of abatement may be assessed against the property where the nuisance was found as provided in said Sections.

### **320.05 Standards for Containers.**

**Subd. 1 Generally; Notice of Defective Container.** It shall be the duty of each person owning or maintaining containers for waste to maintain them in a sanitary condition. The containers shall be located in such a manner as to prevent them from being overturned and shall be kept free from any substance which shall attract or breed flies, mosquitoes, other insects or rodents. No waste container for a residential dwelling unit shall have ragged or sharp edges, or any defects liable to impede or injure the person collecting the contents thereof. Containers not complying with the requirements of this Section shall be promptly replaced by the person owning or maintaining upon notice by the City. Whenever a container is in poor repair the collector shall tag the container with a notice of defects and the requirements to repair or replace the container. A copy of the notice shall be given to the City, and if, upon the next collection date, the container has not been repaired or replaced, the collector shall notify the City and discontinue collection from the premises. The City shall then enforce the provisions of the penal section of this Code against the person owning or maintaining the defective container.

**Subd. 2 Garbage.** Garbage containers shall be easily handled and contain waste in such a manner as to not leak or spill its contents.

**Subd. 3 Recyclables.** Recyclable containers shall be of a kind suitable for collection purposes, and shall be of such size and weight that they can be handled by one (1) person.

**320.06 Container Requirements for Multiple Dwellings.** Multiple dwellings having more than two (2) family units shall either be equipped with waste containers and pickup service as provided in this Section or be equipped with a commercial incinerator complying with the requirements of the MPCA. Waste containers provided as an alternative to or in addition to the incinerator shall be at least one (1) cubic yard in capacity, shall be conveniently located in relationship to the residence units for which they are provided, shall be watertight, insectproof, rodentproof, and fireproof, and provided with a lid with the exception of recyclable containers. The person or company owning or operating the multiple residence shall provide for pickup from the containers. Waste discard shall not be permitted to accumulate at or near the enclosure except in the container.

**320.07 Reservation of Right to Alter Method Waste Collection.** No collector licensed pursuant to this Section shall acquire a vested right in the license issued, and the City may, upon a finding that the public necessity requires, establish other means of waste collection.

### **320.08 Duty of Collectors Generally.**

- A. It shall be the duty of each licensed waste collector to pick up all waste of the licensee's customers which has been deposited for collection in the manner provided in this Section.
- B. All waste, waste bags, wrappings, cans and disposable containers deposited for pickup as provided in this Section shall be picked up by the licensed collector so that no items shall be left adjacent to the street or alley. After pickup, reusable waste cans and containers shall be returned by the collector to the same place where deposited or situated for pickup.
- C. Each licensee shall be responsible for his or her own billings, however, the licensee shall submit with his or her application for a license or renewal, a copy of the rates to be charged so that the city may verify compliance with State law.

**320.09 Preparation of Waste for Collection; Prohibited Substances.** Except as otherwise provided in this Section, all waste accumulated on any property shall be drained of all liquids, shall be wrapped or bagged and placed and kept in containers. No explosive or highly inflammable materials shall be prepared and placed in

containers for collection. The explosive and highly inflammable materials shall only be disposed of as directed by the fire marshal of the City at the expense of the owner or possessor thereof.

### **320.10 Frequency of Disposal.**

**Subd. 1 Residential and Multiple Dwellings.** Waste shall be disposed of at least once each week from residential dwellings and multiple dwellings.

**Subd. 2 Commercial Establishments.** Waste at any commercial establishment shall be disposed of at least once each week and at more frequent intervals if deemed necessary to protect the public health, and by order of the City.

**320.11 Place Containers for Collection.** In those areas where the premises are served by an alley, on the day of collection the waste containers shall be deposited for pickup adjacent to the alley from which the pickup is to be made. In those areas where the premises are not served by an alley, on the day of collection the waste or containers shall be deposited for pickup in a place on the premises, at a place either adjacent to the curbside or the building in accordance with the agreement between generator and collector.

**320.12 Disposal of Waste to Be at Approved Sites Only.** No person or company shall dispose of waste anywhere within the City except at an approved landfill site or disposal depot, recycling center or depot as defined in Section 320.01.

**320.13 Owners Permitted to Dispose of Garbage.** Nothing in this Section shall be construed so as to prohibit the owner or occupant from disposing of waste by delivering same to an approved landfill site, disposal depot, recycling center or depot.

**320.14 Collection Vehicles.** A licensed collector shall comply with the following requirements. Failure to observe these provisions may be grounds for the suspension or revocation of a license:

- A. The licensee shall operate in a manner consistent with the application materials submitted to the City and shall provide notice to the City within ten (10) days of any change in the information.
- B. No collection of mixed municipal solid waste or recyclable material shall be made except between the hours of 6:00 a.m. and 4:30 p.m., Monday through Friday. Operations during these hours may also be conducted on Saturday, to accommodate recognized national holidays or a special pick-up. No collection of yard waste shall be made except between the hours of 6:00 a.m. and 4:30 p.m., Monday through Saturday. Customers shall be reasonably notified by the licensee of the specific day and hours for the collection of their yard waste, mixed municipal solid waste and/or recyclables and the licensee shall collect the materials within those time periods.
- C. Each licensed collector shall only use vehicles and equipment so constructed that the contents shall not leak or spill. The vehicles and equipment shall be kept clean and as free from offensive odors as possible, and shall not stand in any street, alley, or public place longer than is reasonably necessary to collect mixed municipal solid waste, yard waste, and/or recyclables. The licensee shall also ensure that the collection site shall be left tidy and free of litter.
- D. Each licensed collector shall provide its customers with an opportunity to recycle through the weekly curbside collection of targeted recyclables. The curbside collection of targeted recyclables shall be on the same day as the collection of the customer's mixed municipal solid waste, but may occur at a different time within that day. The targeted recyclables collection shall be from a location at or near the customer's mixed municipal solid waste collection site, or such other location mutually agreeable to the hauler and the customer. The licensee may specify how a customer is to place and prepare their targeted recyclables for collection. Upon collection the licensee shall also be deemed the owner of the recyclables and upon collection, the licensee may market or sell them. Nothing in this Section shall be construed to



prevent a licensee from offering curbside collection for other recyclable material or other “special” pickups, in addition to the targeted recyclables.

**320.15 License Required.**

- A. No person shall collect or haul mixed municipal solid waste or recyclables collected in the City without first securing a license from the City. No more than two concurrent licenses shall be issued in any calendar year.
- B. The license shall be valid for three years and shall expire on December 31 of the third year unless revoked sooner. Each license shall be renewable.
- C. An applicant for a license shall make application to the City Administrator through forms and procedures prescribed by the City Administrator.
- D. The annual license fee shall be as established by resolution of the City Council from time-to-time and shall be payable in full in certified funds at the time of application.
- E. The City Administrator shall issued a license only after receipt, review, and approval by the Council of all required forms and fees.
- F. The license requirements of this Section shall not apply to persons who haul garbage, refuse, or recyclables from their own residents or business properties, provided that the following conditions shall be met:
  - 1. Garbage shall be hauled in containers equipped with tight fitting covers and which shall also be watertight on all sides and the bottom;
  - 2. Waste and recyclables shall be hauled in a manner that prevents leakage or any possibility of a loss of cargo;
  - 3. Garbage and waste, except recyclables, shall only be dumped or unloaded at designated sanitary landfills or other facilities authorized by Carver County;
  - 4. Recyclables shall only be dumped or unloaded at a recycling facility, an organized recycling drive, or through licensed collectors;
  - 5. Yard waste shall be privately composted or shall only be dumped or unloaded at a composting facility authorized by Carver County, or through a licensed collector.

**320.16 Contents of Application.** Each application for license required by this Section shall include:

- A. The name, address, telephone number, Social Security number and Minnesota Tax Identification number of the owner or owners of the business;
- B. A description of the types and makes of motor vehicles and equipment used;
- C. The extent and source of public liability and property damage insurance carried on the motor vehicles and equipment used;
- D. A schedule of the charges to be made to customers and the time period that the charges shall remain effective;
- E. The place of disposal of waste collected; and
- F. Such other information as may be required.

**320.17 Insurance Requirements.**

- A. The minimum limits of coverage for insurance required by this Section shall be:
  - 1. Each person injured, at least \$250,000.00.
  - 2. Each accident, at least \$500,000.00.
  - 3. Property damage, at least \$100,000.00.

- B. The insurance shall be kept in force during the term of the license and shall provide for notification to the City prior to termination or cancellation. The license shall provide evidence of effective insurance coverage to the City within five (5) days of a written request for certification of coverage.
- C. Any license issued pursuant to this Section shall automatically be revoked upon notice of termination or cancellation of the insurance and shall remain revoked until and unless other insurance shall be provided as required in this Section.

**320.18 Suspension or Revocation of License.** Upon the recommendation of the City Administrator or on its own motion, the City Council may suspend or revoke the license of any person whose conduct shall be found to be in violation of the provisions of this Chapter. Suspension or revocation may also be based on other health, safety, or welfare concerns arising out of the performance of the licensee, its employees and agents, and/or its vehicles and equipment. Revocation or suspension of a license by the Council shall be preceded by a public hearing conducted in accordance with Minnesota Statutes, Sections 14.57 to 14.70. The City Council may appoint a hearing examiner or may conduct a hearing itself. The hearing notice shall be given at least ten (10) days prior to the hearing, include notice of the time and place of the hearing, and shall state the nature of the charges against the licensee.

**320.19 Unlawful Collection.** It shall be a misdemeanor for any person or business to scavenge, collect, or otherwise remove mixed municipal solid waste, recyclables, or yard waste that has been placed at the curb or in recycling containers, without a license from the City and an account relationship with the owner, lessee, or occupant of the premises.

**320.20 Additional Recyclables.** Additional recyclable materials may be designated as targeted recyclables by resolution of the City Council after the effective date of the enactment of this Code. The designation process shall be as follows:

- A. Each licensed collection shall be given 120 days written notice of proposed additions to the list of targeted recyclables. The notice shall specifically describe the material(s) proposed for addition and also describe how the addition might affect the duties and obligations of a licensee.
- B. Each licensed collector shall also be given written notice at least ten (10) days in advance of the time and date of the City Council meeting that shall consider the proposed addition to the list of the targeted recyclables.
- C. Notice shall be deemed given by regular mail, to the address provided on the most recent license application or renewal form.

## **Section 330 – Telecommunications**

**330.01 Definitions.** The terms defined in this Section have the meanings given them.

**Company.** “Company” shall mean a natural or corporate person, business association, political subdivision, public or private agency of any kind, its successors and assigns, who or which seeks or is required to construct, install, operate, repair, maintain, remove or relocate facilities in the city.

**Director.** “Director” shall mean the director of public works or his or her designated representative.

**Facilities.** “Facilities” shall mean telecommunications equipment of any kind, including but not limited to audio, video, paging, facsimile or similar service, not governed by Minnesota Statutes, chapter 238, including all trunks, lines, circuits, physical connections, switching equipment, wireless communication equipment of all kinds, and any necessary appurtenances owned, leased or operated by a company on, over, in, under, across, or along public ground.

**Public Ground.** “Public Ground” shall mean highways, roads, streets, alleys, public ways, utility easements and public grounds in the city.

**330.02 Permit Required.** A company may not construct, install, repair, remove, or relocate facilities, or any part thereof, in, on, over, under, or along public ground without first obtaining a permit from the city.

**Subd. 1 Application.** Application for a permit is made to the director.

**Subd. 2 Issuance.** If the director determines that the applicant has satisfied the requirements of this Section the director may issue a permit to the company. An applicant may contest a permit denial or the conditions of approval by written notice to the Administrator requesting a city council review within fourteen (14) days of the director’s action. The Council shall hear any contest of the director’s actions under this Section within forty-five (45) days of the City Administrator’s receipt of the contest notice. Nothing in this Section precludes the city from requiring a franchise agreement with the applicant, as allowed by law, in addition to the issuance of a permit set forth herein.

**Subd. 3 Permit Fee.** The application shall be accompanied by the permit fee set by the city council by resolution.

**330.03 Security for Completion of Work.** Prior to commencement of work, the company shall deposit with the city security in the form of certified check, letter of credit or construction bond, in a sufficient amount as determined by the director for the completion of the work. The securities shall be held until the work is completed plus a period of one (1) month thereafter to guarantee that restoration work has been satisfactorily completed. Upon application of the company, providing such information as the director may require, if two or more work projects are to be constructed during a calendar year, the director may accept, in lieu of separate security for each project, a single security for multiple projects in such form and amount as determined, in the discretion of the director, to be sufficient to assure completion of all projects which may be in progress at any one time during that calendar year and to guaranty that restoration work will be satisfactorily completed. The security will then be returned to the company with interest if required by law and then interest at the applicable statutory rate.

**330.04 Inspection of Work.** When the work is completed the company shall request an inspection by the director. The director shall determine if the work has been satisfactorily completed and provide the company with a written report of the inspection and approval.

**330.05 Restoration.** Upon completion of the work, the company shall restore the general area of the work, including paving and its foundations, to the same condition that existed prior to commencement of the work and must exercise reasonable care to maintain the same condition for two years thereafter. The work shall be completed as promptly as weather permits. If the company does not promptly perform and complete the work, remove all dirt, rubbish, equipment and material, and restore the public ground to the same condition, the city may put it in the same condition at the expense of the company. The company shall, upon demand, pay to the city the direct and indirect cost of the work done for or performed by the city, including but not limited to the city’s administrative costs. To recover its costs, the city shall first draw on the security posted by the company and then recover the balance of the costs incurred from the company directly by written demand. This remedy shall be in addition to any other remedies available to the city.

**330.06 Company Initiated Relocation.** The company shall give the city written notice prior to a company initiated relocation of facilities. A company initiated relocation shall be at the company’s expense and shall first be approved by the city, such approval not to be unreasonably withheld.

**330.07 City Required Relocation.** The company shall promptly and at its own expense, with due regard for seasonal working conditions, permanently relocate its facilities whenever the city requires such relocation.

**330.08 Relocation Where Public Ground Vacated.** The vacation of public ground shall not deprive the company of the right to operate and maintain its facilities in the city. If the vacation proceedings are initiated by the company, the company shall pay the relocation costs. If the vacation proceedings are initiated by the city or other persons, the company shall pay the relocation costs unless otherwise agreed to by the city, company and other persons.

**330.09 Company Default.**

**Subd. 1 Notice.** If the company is in default in the performance of the work authorized by the permit, including but not limited to restoration requirements, for more than 30 days after receiving written notice from the city of the default, the city may terminate the rights of the company under the permit. The notice of default shall be in writing and specify the provisions of the permit under which the default is claimed and state the grounds of the claim. The notice shall be served on the company by personally delivering it to an officer thereof at its principal place of business in Minnesota or by certified mail to that address.

**Subd. 2 City Action on Default.** If the company is in default in the performance of the work authorized by the permit, the city may, after the above notice to the company and failure of the company to cure the default, take such action as may be reasonably necessary to abate the condition caused by the default. The company shall reimburse the city for the city's reasonable costs, including costs of collection and attorney fees incurred as a result of the company default. The security posted under this Section shall be applied by the city first toward payment for such reimbursement.

**330.10 Indemnification.**

**Subd. 1 Scope.** The company shall indemnify, keep and hold the city, its elected officials, officers, employees, and agents free and harmless from any and all claims and actions on account of injury or death of persons or damage to property occasioned by the construction, installation, maintenance, repair, removal, relocation or operation of the facilities affecting public ground, unless such injury or damage is the result of the negligence of the city, its elected officials, employees, officers, or agents. The city shall notify the company of claims or actions and provide a reasonable opportunity for the company to accept and undertake the defense.

**Subd. 2 Claim Defense.** If a claim or action is brought against the city under the circumstances where indemnification applies, the company, at its sole expense, shall defend the city if written notice of the claim or action is given to the company within a period wherein the company is not prejudiced in the defense of such claim or action by lack of such notice. If the company undertakes the defense, the company shall have complete control of such claim or action, but it may not settle without the consent of the city, which shall not be unreasonably withheld. This section shall not, as to third parties, a waiver of any defense or immunity otherwise available to the city. In defending any action on behalf of the city, the company is entitled to assert every defense or immunity that the city could assert in its own behalf.

**330.11 Other Conditions of Use.**

**Subd. 1 Use of Public Ground.** Facilities shall be located, constructed, installed, maintained or relocated so as not to endanger or unnecessarily interfere with the usual and customary traffic, travel, and use of public ground. The facilities shall be subject to additional conditions of the permit as established by the director including but not limited to (i) the right of inspection by the city at reasonable times and places; (ii) the obligation to relocate the facilities pursuant to Section 3, Subdivision 3 and 4; and (iii) compliance with all applicable regulations imposed by the Minnesota Public Utilities Commission and other state and federal law, including prompt compliance with the requirements of the Gopher State One Call program, Minnesota Statutes Chapter 216D.

**Subd. 2 Location.** The facilities shall be placed in a location agreed to by the city. The company shall give the city forty-five (45) days advanced written notice of the company's proposed location of facilities within the public ground. No later than 45 days after the city's receipt of the company's written notice the city shall notify the company in writing of the city's acceptance or rejection of the proposed location. If the city rejects the company's proposed location, the city shall propose alternative locations. The city shall not waive or forfeit its right to reject the location of facilities by failure to respond within the 45 days.

**Subd. 3 Emergency Work.** A company may open and disturb the surface of public ground without a permit where an emergency exists requiring the immediate repair of its facilities. In such event the company shall request a permit not later than the second working day thereafter and comply with the applicable conditions of the permit. In no event, may the company undertake such an activity which will result in the closing of a street or alley without prior notification to the city.

**Subd. 4 Street Improvements, Paving, or Resurfacing.** The city shall give the company written notice of plans for street improvements where permanent paving or resurfacing is involved. The notice shall contain (i) the nature and character of the improvements; (ii) the streets upon which the improvements are to be made; (iii) the extent of the improvements, the time when the city will start the work; and , (iv) if more than one street is involved, the sequence in which the work is to proceed.

**Subd. 5 Company Protection of Facilities.** The company shall take reasonable measures to prevent the facilities from causing damage to persons or property. The company shall take reasonable measures to protect its facilities from damage that could be inflicted on the facilities by persons, property, or the elements. The company shall take specific protective measures when the city performs work near the facilities.

**Subd. 6 Prior Service Connections.** In cases where the city is undertaking the paving or resurfacing of streets and the facilities are located under such street, the company may be required to install service connections prior to the paving or resurfacing, if it is apparent that service will be required during the five year period following the paving or resurfacing.

**Subd. 7 Effective Date and Applicability to Existing Facilities.** Companies with facilities in, on, over, under, or along public ground on the effective date of this Code shall take prompt action to comply with this Section and the permits authorized by this Section. A company, however, shall not be required to reapply for a permit obtained from the city prior to the effective date of this Code. A company shall not be required to pay the difference between the permit fee of a previously obtained permit and the equivalent newly obtained permit under this Section. All other provisions of this Section shall apply to existing facilities.

**Subd. 8 Acceptance of Requirements.** By receiving a permit pursuant to this Section, the company shall accept and agrees to comply with all of the requirements of this Section.

**Subd. 9 Public Ground Other Than Right-of-Way.** Nothing in this Section shall be intended to grant to the company authority beyond that given by Minnesota Statutes Section 222.37 for use of the public right-of-ways for construction and operation of facilities. If the city allows the company to use its non-right-of-way public ground, the terms of this Section apply to the extent they are consistent with the contract, statutory and common law rights the city owns in such property.

**330.12 Regulations; Permit Schedules.** The director shall be authorized and directed to prepare suitable regulations and schedules for the administration of permits issued under this Section.

## Section 340 – Adult Entertainment Uses/Sexually Oriented Business

**340.01 License Required.** All establishments, including any business operating at the time this Ordinance becomes effective, operating or intending to operate Adult Entertainment Uses/Sexually Oriented Businesses, shall apply for and obtain a license from the City of Norwood Young America. A person is in violation of the City code if he or she operates an Adult Oriented Business without a valid license, issued by the City. *(Amended by Ord.153, 7-28-03)*

**340.02 Application.** An application for a license must be made on a form provided by the City and shall include:

- A. If the applicant is an individual, the name, residence, phone number, and birth date of the applicant. If the applicant is a partnership, the name, residence, phone number, and birth date of each general and limited partner. If the applicant is a corporation, the names, residences, phone numbers, and birth dates of all persons holding more than five percent of the issued and outstanding stock of the corporation.
- B. The name, address, phone number, and birth date of the operator and manager of the adult establishment, if different from the owner's.
- C. The address and legal description of the premises where the adult establishment is to be located.
- D. A statement detailing any gross misdemeanor or felony convictions relating to sex offenses, obscenity, or the operation of an adult establishment or business by the applicant, operator, or manager. In the case of a corporation, a statement detailing any felony convictions by the owners of more than five percent of the issued and outstanding stock of the corporation.
- E. Whether or not the applicant, operator or manager has ever applied for or held a license to operate a similar type of business in another community. In the case of a corporation, whether or not those owners of more than five percent of the issued and outstanding stock have ever applied for or held a license to operate a similar type of business in another community.
- F. The activities and types of business to be conducted.
- G. The hours of operation.
- H. The provisions made to restrict access by minors.
- I. A building plan of the premises detailing all internal operations and activities. *(Amended by Ord.153, 7-28-03)*

**340.03 License Fee.** The license fee provisions for adult establishments are:

- A. The annual license fee shall be set by resolution.
- B. An application for a license must be accompanied by payment of the required license fee. Upon rejection of an application, the license fee shall be refunded. *(Amended by Ord.153, 7-28-03)*

**340.04 License Expiration.** The license shall be valid for a year beginning on January 1<sup>st</sup> and ending December 31<sup>st</sup>. If the application is made during the license year, a license may be issued for the remainder of the license year for a monthly pro-rata fee. The unexpired fraction of a month shall be counted as a complete month. *(Amended by Ord.153, 7-28-03)*

**340.05 Refund of License Fee.** The City Council may refund a pro-rata share of the license fee within thirty days from the occurrence of one of the events specified in this Section provided that the event occurs more than thirty days before the expiration of the license. A licensee must submit an application for a refund.

- A. Destruction or damage of the license premises by fire or other catastrophe.
- B. The licensee's illness if such illness renders the licensee unable to continue operating the licensed establishment.
- C. The licensee's death.
- D. A change in the legal status making it unlawful for the licensed business to continue. *(Amended by Ord.153, 7/28/03)*

**340.06 False Information.** An application must contain a provision in bold print indicating that withholding

information or providing false or misleading information will be grounds for denial or revocation of a license. Changes in the information provided on the application or provided during the investigation must be brought to the attention of the City by the applicant or licensee. If such a change takes place during the investigation, it must be reported to the City in writing. Failure by an applicant or licensee to report such a change may result in a denial or revocation of a license. *(Amended by Ord.153, 7/28/03)*

#### **340.07 Investigation Fee.**

- A. At the time an initial application is filed, the applicant shall pay in full an investigation fee. The fee shall be established by resolution. The investigation fee shall not be refunded.
- B. The licensee shall pay an additional investigation fee at any time that an additional investigation is required because of change in the ownership or control of a business or enlargement, alteration, or extension of previously licensed premises. The fee shall be established by resolution. *(Amended by Ord.153, 7/28/03)*

#### **340.08 Granting of License.** The procedures for granting an adult establishment license are:

- A. The City will conduct and complete an investigation within thirty days after the application is received and all license and investigative fees are paid.
- B. If the application is for a renewal, the applicant will be allowed to continue business until the City has determined whether to renew or refuse to renew a license.
- C. If, after the investigation, it appears that the applicant and the place proposed for the business are eligible for a license, the license will be granted by the City Council within thirty days after the investigation is completed. If the City Council fails to act within the thirty days, the application will be deemed approved. *(Amended by Ord.153, 7/28/03)*

**340.09 Licensed Location.** A license will be issued to the applicant only and is not transferable to another holder. Each license will be issued only for the premises described in the application. A license may not be transferred to another premise without the approval of the City Council. If the licensee is a partnership or a corporation, a change in the identity of any partner or holder of more than five percent of the issued and outstanding stock of the corporation will be deemed a transfer of the license. Adult establishments existing at the time of the adoption of this Section must obtain an annual license. *(Amended by Ord.153, 7/28/03)*

#### **340.10 Ineligible Persons and Places.**

- A. A license will not be granted to or held by a person who:
  - 1. Is under 21 years of age;
  - 2. Is overdue or whose spouse is overdue in payments to the city, County, or State of taxes, fees, fines or penalties assessed against them or imposed upon them;
  - 3. Has been convicted or whose spouse has been convicted of a gross misdemeanor or felony or of violating any law of this State or local ordinance relating to sex offenses, obscenity offenses; or adult establishments;
  - 4. Is not the proprietor of the establishment for which the license is issued.
  - 5. Is residing with a person who has been denied a license by the City or any other Minnesota municipal corporation to operate an adult establishment;
  - 6. Is residing with a person whose license to operate an adult establishment has been suspended or revoked within the preceding twelve months; or,
  - 7. Has not paid the license and investigative fees required by this Article.
- B. An adult establishment license will not be granted for:

1. Premises where the applicant or any of its officers, agents or employees has been convicted of violation of this Article;
2. Premises where during the preceding twelve months a license hereunder has been revoked for cause;
3. Any establishment that is not in full compliance with the City Code and all provisions of State and Federal law; or
4. Any premises that are licensed under Chapter 4 of this Code. *(Amended by Ord.153, 7/28/03)*

**340.11 Restrictions.**

- A. A license is subject to the provisions of this Article and of any applicable sections of the City Code and all provisions of State and Federal law.
- B. Licensed premises must have the license posted in a conspicuous place at all times.
- C. A minor may not be permitted on the licensed premises.
- D. Any designated inspection officer of the City has the right to enter, inspect, and search the premises of a licensee during business hours.
- E. The licensee is responsible for the conduct of the licensed place of business and must maintain conditions of order.
- F. Adult goods or materials may not be offered, sold, transferred, conveyed, given or bartered to a minor. Further, such goods may not be displayed in a fashion that allows them to be viewed by a minor whether or not the minor is on the licensed premises. *(Amended by Ord.153, 7/28/03)*

**340.12 Records.** The licensee must keep itemized written records of all transactions involving the sale or rental of all items or merchandise. Such records shall be retained for at least one year after the transaction. At a minimum, the records must include the date of the transaction, the purchase or rental price, and a detailed description of the item or merchandise that is being purchased or rented. These written records must be provided to the City upon request. *(Amended by Ord.153, 7/28/03)*

**340.13 Denial, Suspension, or Revocation of a License.** Suspensions, revocations, and nonrenewals of adult establishment licenses are governed by:

- A. A violation of this Article is a basis for the suspension or revocation of a license. In the event that the City Council proposes to revoke or suspend a license, the licensee must be notified in writing of the basis for the proposed revocation or suspension. The City Council shall hold a hearing for the purpose of determining whether to revoke or suspend the license. The hearing must be held within thirty days of the date of the notice. The City Council shall make its determination within thirty days after the close of the hearing or within sixty days of the date of the notice, whichever is sooner. The City Council must notify the licensee of its decision within that period.
- B. If the City Council determines to suspend or revoke a license, the suspension or revocation shall be effective fifteen days after notification of the decision to the licensee. If, within that fifteen days, the licensee files and serves an action in State or Federal court which challenges the City Council's action, the suspension or revocation shall be stayed until the conclusion of the action.
- C. If the City Council determines not to renew a license, the licensee may continue its business for fifteen days after receiving notice of such non-renewal. If the licensee files and serves an action in State or Federal court within that fifteen days, for the purpose of determining whether the City acted properly, the licensee may continue in business until the conclusion of the action.
- D. If the City Council does not grant a license to an applicant, the applicant may, within fifteen days, commence an action in State or Federal court for the purpose of determining whether the City acted properly. The applicant may not commence doing business unless the action is concluded in its favor. *(Amended by Ord.153, 7/28/03)*

**Section 345- Penalties and Violations**



**345.01 Penalty.** The conducting of any business or activity for which a license or permit shall be required without paying the established fee and securing the license shall be a misdemeanor. *(Amended by Ord.153, 7/28/03)*

### Section 350 – Rental Housing Licensing

#### 350.01 Purpose and Scope.

**Subd. 1 Purpose.** The purpose of this ordinance is to provide minimum standards to safeguard life or limb, health, and public welfare by regulating and controlling the use and occupancy, maintenance and repair of all buildings and structures within the City used for the purpose of rental housing. The purpose of this ordinance is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this ordinance. *(Amended by Ord.161, 9/27/04)*

**Subd. 2 Scope.** The provisions of this ordinance shall apply to all buildings or portions thereof used, or designed or intended to be rented, leased, or let for human habitation. All provisions of this ordinance shall apply to dwellings in existence at the time of adoption of this ordinance. Rest homes, convalescent homes, nursing homes, hotels, and motels, are exempt from the provisions of this ordinance. *(Amended by Ord.293, 8/28/2017)*

**Subd. 3 Application to Existing Buildings.** Additions, alterations or repairs, shall be done in compliance with the Building, Fire, Plumbing and Mechanical Codes. Applicable permits shall apply as required by these Codes. All properties, whether pre-existing as Rental Property at the time of adoption of this ordinance or afterward becoming Rental Property shall comply with all terms of this ordinance. *(Amended by Ord. 222, 8/16/10)*

**350.02 Definitions.** Where terms are not defined, they shall have their ordinary accepted meanings within the context with which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, copyright 1986, shall be considered as providing ordinary accepted meanings. Words in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. *(Amended by Ord.161, 9/27/04)*

**Apartment Building.** A building or portion of a building that contains three or more dwelling units.

**Board of Appeals.** The Board of Appeals shall be a three-member board consisting of a City Council representative, the Fire Chief, and a Planning Commission representative. *(Amended by Ord. 222, 8/16/10)*

**Building Code.** "Building Code" is the Minnesota State Building Code.

**Code Official.** "Code Official" is the official who is charged with the administration and enforcement of this ordinance, or any duly authorized representative.

**Condemn.** "Condemn" shall mean to adjudge unfit for occupancy.

**Direct Family Member.** "Direct Family Member" is a parent, child, sibling, grandparent, grandchild, step-parent, step-child, step-grandparent, or step-grandchild of the property owner. *(Amended by Ord. 222, 8/16/10)*

**Dwelling.** "Dwelling" is a building wholly or partly used or intended to be used for living, sleeping, cooking or eating purposes by human occupants; but not including hotels and motels.

**Dwelling Unit.** “Dwelling Unit” is a room or a group of rooms located within a dwelling forming a single habitable unit with facilities, which are used or intended to be used for living, sleeping, cooking and eating purposes.

**Egress.** “Egress” is an arrangement of exit facilities to assure a safe means of exit from a building.

**Electrical Code.** “Electrical Code” is the National Electrical Code. *(Amended by Ord.293, 8/28/2017)*

**Extermination.** “Extermination” is the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping; or by any other recognized and legal pest elimination method approved by the code official; and to remove all signs of extermination thereafter.

**Fire Code.** “Fire Code” is the Minnesota State Fire Code.

**Health Officer.** “Health Officer” is the legally designated health officer or official of the State, County and/or City.

**Infestation.** “Infestation” is the presence of insects, rodents, or other pests within or around the dwelling on the premises.

**Kitchen.** “Kitchen” is a room or an area equipped for preparing and cooking food.

**Lease, Leased, or Let.** “Lease, Leased, or Let” is to give the use of a dwelling, dwelling unit or rooming unit by an owner or manager to a tenant in return for rent.

**Manager.** “Manager” is a person or firm who has charge, care or control of a building or part thereof, in which dwelling units or rooming units are let.

**Mechanical Code.** “Mechanical Code” is the International Mechanical Code. *(Amended by Ord.293, 8/28/2017)*

**Nuisance.** The following shall be defined as nuisances:

- A. Any public nuisance as defined in Chapter 6 of the City Code.
- B. Any attractive nuisance that may prove detrimental to children whether in a building, on the premises of a building or on an unoccupied lot. This includes any abandoned wells, shafts, basements or excavations; abandoned refrigerators and motor vehicles; any structurally unsound fences or structures; or any lumber, trash, fences, debris or vegetation that may prove a hazard for inquisitive minors.
- C. Whatever is dangerous to human life or is detrimental to health, as determined by the code official or health officer.
- D. Insufficient ventilation or illumination.
- E. Inadequate or unsanitary sewage or plumbing facilities.
- F. Un-cleanliness, as determined by the health officer.
- G. Whatever renders air, food or drink unwholesome or detrimental to the health of human beings, as determined by the health officer. *(Amended by Ord.293, 8/28/2017)*

**Occupancy.** “Occupancy” is the purpose for which a building or portion thereof is utilized or occupied.

**Owner.** “Owner” is a person, firm or corporation who, alone, jointly or severally with others, owns or has an ownership interest in a dwelling, dwelling unit or rooming unit within the city.

**Plumbing Code.** “Plumbing Code” is the International Plumbing Code. *(Amended by Ord.293, 8/28/2017)*

**Premises.** “Premises” are the dwelling and its land and all buildings thereon and areas thereof.

**Refuse.** “Refuse” is all putrescible and non-putrescible waste solids including garbage and rubbish. Refuse is liable to undergo bacterial decomposition when in contact with air and moisture at normal temperatures.

**Rent.** “Rent” is a stated return or payment for the temporary possession of a dwelling, dwelling unit or rooming unit. *(Amended by Ord.293, 8/28/2017)*

**Safety.** “Safety” is the condition of being reasonably free from danger and hazards, which may cause injury or illness.

**Substandard Building.** “Substandard Building” means any rental dwelling or portion thereof that is not safe due to inadequate maintenance, dilapidation, physical damage, unsanitary condition, abandonment or any other reason.

**Substandard Property Condition Citation.** “Substandard Property Condition Citation” shall be issued in the event of a ‘Substandard Building’ and shall, upon posting of the citation, prohibit the occupancy of the building or unit until such time as corrections are made and verified by inspection. *(Amended by Ord.184, 7/10/2006)*

**Tenant.** “Tenant” can be a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

**Variance.** “Variance” is a difference between that which is required or specified and that, which is permitted. *(Amended by Ord.161, 9/27/04)*

### **350.03 Rental Housing License.**

**Subd. 1 License Required.** No person may operate, let, or cause to be let, a rental dwelling unit without first having obtained a rental housing license from the City as hereinafter provided. Further, no owner or manager shall allow the occupancy of a rental dwelling unit by a tenant after the expiration of the rental housing license for the rental dwelling in which the rental dwelling unit is located unless the license has been properly renewed. *(Amended by Ord. 222, 8/16/10)*

- A. **Temporary License.** The code official may issue a temporary rental housing license not exceeding 3 months in duration in order to bring the unit into compliance with this ordinance. *(Amended by Ord.161, 9/27/04)*
- B. **Licensing Period.** The licensing period shall encompass three calendar years. *(Amended by Ord.293, 8/28/2017)*

**Subd. 2 Application contents.** Owners of one or more rental dwelling units who have not yet received a license are responsible for applying to the City for a license. With the application the owner must supply the following information:

- A. Name, address, and telephone number of dwelling owner, owning partners if a partnership, or corporate officers if a corporation;
- B. Name, address, and telephone number of designated resident agent, if applicable;
- C. Legal address of the dwelling;
- D. Number of dwelling units with the dwelling;

- E. At least one emergency telephone number;
- F. The names, telephone numbers and addresses of principal tenants  
(Amended by Ord. 222, 8/16/10)

**Subd. 3 Fees.**

- A. Inspection Fee.** A Rental Housing License-inspection fee shall be established by the City Council.  
(Amended by Ord.161, 9/27/04)
- B. Additional Fees.** The City shall have the right, and just cause, to bill or to assess owner for additional costs associated with:
  - 1. Required additional follow up Rental Inspections, beyond the prescribed number allowed, for a single Rental Inspection cycle.
  - 2. Failure of the responsible party to appear for a scheduled inspection without prior notification of the inspector.
  - 3. After hours, weekend or holiday inspections. (Amended by Ord.184, 7/10/2006)
  - 4. Complaint Inspections (Amended by Ord. 222, 8/16/10)

**Subd. 4 Rental Dwelling Inspections** No license may be issued or renewed unless the City determines, following an inspection conducted pursuant to this section, that rental dwelling unit(s) conform to the provisions of this Section 350. As more specifically provided below, the code official and his or her agents may cause inspections, follow-up inspections, and reinspections on rental dwelling units within the city on a scheduled basis, and on rental dwelling units when reason exists to believe that a violation of an applicable subdivision of this Section 350 exists, has been, or is being committed. (Amended by Ord. 222, 8/16/10)

- A. Consent.** The code official and his or her agents are authorized to contact owners, tenants and/or managers of rental dwellings to schedule inspections of rental dwellings at reasonable times. If the City is unsuccessful in securing consent for an inspection pursuant to this Section 350, the City shall seek permission, from a judicial officer through an administrative warrant, for its enforcement officer or his or her agents to conduct an inspection. Nothing in this Section shall limit or constrain the authority of the judicial officer to condition or limit the scope of the administrative warrant.  
(Amended by Ord. 222, 8/16/10)
- B. Inspections not Required.** Inspection for the issuance or renewal of a license may be waived by the City if the owner of a dwelling unit:
  - 1. Proves that within the previous 12 months the dwelling unit(s) passed an inspection required by the County, State, or Federal regulations that is at least as stringent as the inspection required under this Section 350.
  - 2. Has, within the 12 months preceding the licensing period deadline as defined in Subd. 6 below, applied for and received a rental dwelling license from the city. (Amended by Ord. 222, 8/16/10)

**Subd. 5 Issuance.** The code official shall issue a rental housing license for each dwelling, dwelling unit or rooming unit, when upon inspection finds such unit meets or exceeds the minimum requirements set forth by this ordinance; also a rental housing license shall be issued for each dwelling, dwelling unit or rooming unit, when a variance has been granted by the Board of Appeals, pursuant to Section 350.06 of this Chapter; provided, however, it is found that no condition exists, in a shared or public area of the building or in any other part of the unit, which could endanger the health or safety of the occupants of such unit or of the public. Such license shall show the number of occupants for which the dwelling, dwelling unit or rooming unit is approved for and once issued shall remain valid until it expires or such time as the code official or housing

inspector determines that the dwelling, dwelling unit or rooming unit does not meet the minimum requirements set by this ordinance. *(Amended by Ord.161, 9/27/04)*

**Subd. 6 Licensing period Deadline.** The licensing period deadline shall be January 1 of the Year-One License Period. All properties required to be licensed by this Ordinance shall have applied for licensing with the City Office, shall have paid the required fee or fees, and shall have satisfactorily completed the required Rental Housing Inspection by the deadline date. Failure to comply with this section may result in fines and/or denial of a Rental Housing License for the property in violation. *(Amended by Ord.184, 7/10/2006)*

**Subd. 7 Renewals.** A rental housing license shall expire December 31 of the Year-Three License Period. Re-inspection of all dwellings, dwelling units or rooming units shall be required prior to issuance of a new certificate, pursuant to Subd. 4 above. In order to allow sufficient time to complete the renewal process, applications for licenses shall be made in writing on forms provided by the City and accompanied by the required fee at least sixty (60) days prior to the licensing period deadline. *(Amended by Ord. 222, 8/16/10)*

**Subd. 8 License and Inspection Report Posting.** Every registrant of a rental dwelling shall post the license issued by the City. The license shall be conspicuously posted (in a frame with a glass covering) by the registrant, in a public corridor, hallway, or lobby of the rental dwelling for which they are issued. In addition to posting the license, the owner shall post the inspection report completed for the license renewal or any complaint inspection next to the posting of the rental license for a period of 30-days after receipt of the license.

**Subd. 9 Transfer of Rental Property.** A license is not transferable to another person or to another rental dwelling. Every person holding a license must give notice in writing to the city within 72 hours after having legally transferred or otherwise disposed of the legal control of any rental dwelling. The notice must include the name and address of the person(s) succeeding to the ownership or control of such rental dwelling(s). The person succeeding to the ownership or control of the rental dwelling(s) must obtain a temporary permit or operating license in order to continue operating the rental dwelling(s). An inspection is not required to obtain this temporary permit or license unless the rental dwelling(s) have not been inspected within two years of the transfer of ownership or control. *(Amended by Ord. 222, 8/16/10)*

**Subd. 10 Tenant Register.** A licensee must, as a continuing obligation of its license, maintain a current register of tenants and other persons who have a lawful right to occupancy of dwelling units within an apartment building or dwelling. In its application, the licensee must designate the person or persons who will have possession of the register; and must promptly notify the Code Official of any change of the identity, address, or telephone numbers of such persons. The register must be available for the inspection by the Code Official at all times. *(Amended by Ord.293, 8/28/2017)*

**Subd. 11 Revocation.** A Rental Housing License may be suspended or revoked as prescribed in this ordinance.

- A. A rental housing license may be suspended or revoked by the City Council if the City Council finds that the provisions of this ordinance have been violated in regard to the rental dwelling for which the license was issued. Before any suspension or revocation occurs, the City shall send written notice to the license holder specifying the ordinance violations alleged. This notice shall also specify the date for a hearing before the Board of Appeals, which shall not be less than ten (10) days from the date of the notice.
- B. At such hearing before the Board of Appeals, the license holder or their attorneys may submit and present witnesses on their behalf.
- C. After a hearing, the City Council shall act upon the Board of Appeals recommendation at the next available meeting and may suspend or revoke the license if the Council deems it necessary to protect public health, safety or general welfare. *(Amended by Ord.293, 8/28/2017)*

**350.04 Requirements.**

**Subd. 1. Substandard Buildings.** No substandard buildings are allowed.

**Subd. 2. Condition.** No owner or manager shall allow infestation if extermination is not the tenant's responsibility by law.

**Subd. 3. Improper Occupancy.** No rental dwelling shall be used in manner inconsistent with its design or construction.

**Subd. 4. Smoke Detectors.** No smoke detector installed in a rental dwelling shall be allowed to remain disabled or nonfunctional. The tenant of a rental dwelling shall notify the owner or manager within 24 hours of discovering that a detector is disabled or not functioning. The owner or manager shall take immediate action to render the smoke detector operational or replace it.

**Subd. 5. Carbon Monoxide Alarms.** Each rental dwelling shall have an approved and operational carbon monoxide alarm installed with ten feet of each room used for sleeping purposes as required by Minnesota Statutes §§ 299F.50 and 51, as amended, unless an exception listed in Section 299F.51, Subd. 5, applies.

**Subd. 6. Refuse.** Each rental dwelling shall have an adequate number of refuse containers to hold the amount of refuse produced by the occupants of the rental dwelling or as required elsewhere by the Waconia Code. Containers shall be rodent and animal proof plastic, fiberglass or rust resistant metal with a tight fitting cover. Tenants shall properly dispose of their recyclables, rubbish, garbage and other organic waste.

**Subd. 7. Nuisance.** No rental dwelling premise shall be kept in any state which creates a nuisance.

**Subd. 8. Storage of Items.** Large amounts of combustible items and materials shall not be stored in attics, basements, common areas, or any other underutilized areas of a rental dwelling. Storage shall be maintained two (2) feet or more below ceilings and floor joists. Combustible materials and items shall not be stored within one (1) foot of any fuel burning appliances. Storage of items shall be orderly and shall not block or obstruct exits. A minimum three (3) foot wide aisle shall be maintained to all exits, furnaces, water heaters, water meters, gas meters or other equipment serving the rental dwelling.

**Subd. 9. Fuel Storage.** LP tanks shall only be stored outdoors.

**Subd. 10. Fueled Equipment.** Fueled equipment including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment shall only be stored outdoors or in the garage of a rental dwelling.

**Subd. 11. Barbecues and Open Flames.** No person shall kindle, maintain, or cause any fire or open flame on any balcony above ground level, on any roof, or on any ground floor patio within 15 feet of any structure. Further, no person shall store or use any fuel, barbecue, torch, or similar heating or lighting chemicals or device in such locations.

**Subd. 12. Sidewalks and Driveways.** All sidewalks, walkways, stairs, driveways, parking spaces and similar areas on a premises shall be kept in a proper state of repair and maintained free from hazardous conditions.

**Subd. 13. Defacement of Property.** If a rental dwelling is defaced by graffiti, it shall promptly be removed.

**Subd 14. Disorderly Conduct Prohibited.** Disorderly conduct is prohibited on all licensed premises. It shall be the responsibility of the licensee to take appropriate action to prevent disorderly conduct by tenants and their guests on the licensed premises.

- A. For purposes of this subchapter, a conviction under the following statutes or ordinances shall be deemed disorderly conduct:
1. Minn Stat. §§ 609.75-609.76 (gambling);
  2. Minn Stat. §§ 609.321-609.324 (prostitution);
  3. Minn Stat. §§ 152.01-152.025, and 152.027, subds. 1 and 2 (unlawful sale or possession of controlled substances);
  4. Minn Stat. §§ 340A.401 (unlawful sale of alcohol beverages);
  5. Minn Stat. §§ 340A.503 (underage use of alcoholic beverages);
  6. Chapter 6 of this Code (nuisances);
  7. Minn Stat. §§ 97B.021, 97B.045, 609.66-609.67, and 624.712-624.716 (unlawful possession, transportation, sale, or use of weapon);
  8. Minn Stat. §§ 609.72 (disorderly conduct);
  9. Minn Stat. §§ 609.185, 609.19, 609.195, 609.20, and 609.205 (murder and manslaughter);
  10. Minn Stat. §§ 609.221, 609.222, 609.223, and 609.2231 (assault);
  11. Minn Stat. §§ 609.342, 609.343, 609.344, 609.345, and 609.3451 (criminal sexual conduct);
  12. Minn Stat. §§ 609.52 (theft)
  13. Minn Stat. §§ 609.561, 609.562, 609.563, 609.5631, and 609.5632 (arson);
  14. Minn Stat. §§ 609.582 (burglary);
  15. Minn Stat. §§ 609.595 (damage to property);
  16. Failure to comply with the dangerous dog requirements in violation of Minn. Stat. Ch. 347;
  17. Minn Stat. §§ 152.07, subd. 4 (sale or possession of small amounts of marijuana);
  18. Minn Stat. §§ 152.092 (unlawful possession or use of drug paraphernalia).
- B. Upon determination by the Code Official that a licensed premises or unit within a licensed premises was used for disorderly conduct activities as set forth in this Subdivision, the Code Official shall cause notice to be made to the owner and manager of the conviction and direct the owner and property manager to take steps to prevent further disorderly conduct convictions.
- C. If a second disorderly conduct conviction as determined by the Code Official occurs within a continuous twelve month period involving the same tenancy, the Code Official shall cause notice to be made to the owner and manager of the second conviction. The owner or manager shall be required to immediately submit a Management Plan to the Code Official within ten (10) business days or receipt of the second disorderly conduct notice. Management Plan forms are available with the Code Official. The City Official shall review the Management Plan and determine whether it is sufficient to prevent future violations of this Section. Upon receiving notice that the City has approved an Owner's Management Plan, the Owner must adhere to the terms and conditions in the management Plan. Failure to do so may result in the suspension or revocation of the Owner's Rental Housing License.
- D. If a third disorderly conduct conviction occurs within a continuous twelve month period involving the same tenancy, the owner or manager shall notify the tenant or tenants within ten days of Crime Free/Drug Free lease language within the lease and proceed with termination of the tenancy of all tenants occupying the unit. The owner shall not enter into a new lease for a unit located in the licensed property with an evicted tenant for a period of one year after the eviction.
- E. If a licensed premises was used for disorderly conduct activities resulting in a third conviction as set forth in this Subdivision within a twelve month period, the rental dwelling license for the premises may be denied, revoked, suspended, placed on probation, or not renewed. An action to deny, revoke, suspend, place on probation, or not renew a license under this section shall be initiated by the City in the manner described in Section 350, Subdivision 11, and proceed according to the procedures established therein.
- F. No adverse license action shall be imposed where the instance of disorderly conduct occurring on the licensed premises occurred during the pendency of evictions proceedings or within 30 days after notice is given by the licensee to a tenant to vacate the premises. Evictions proceedings shall not be a

bar to a license action, however, unless the licensee diligently pursues them. A notice to vacate shall not be a bar to adverse license action unless a copy of the notice is submitted to the City within ten days of receipt of the conviction notice. Further, an action to deny, revoke, suspend, place on probation, or not renew a license based upon convictions of this section may be postponed or discontinued by the Code Official at any time if it appears that the licensee has taken appropriate action to prevent further instances of disorderly conduct. *(Amended by Ord. 293, 8/28/17)*

### **350.05 Enforcement.**

**Subd. 1 Authority.** The code official is hereby authorized and directed to enforce or cause the enforcement of all of the provisions of this ordinance. For such purposes, the code official or his/her designated representative shall have the powers of a code official. The code official shall have the power to render interpretations of this ordinance. Such interpretations shall be in conformity with the intent and purpose of this ordinance. *(Amended by Ord. 293, 8/28/17)*

**Subd. 2 Responsibilities Defined.** Property owners remain liable for violations of duties imposed by this ordinance even if the owner has, by agreement, imposed on the occupant the duty of furnishing required equipment or of complying with this ordinance. *(Amended by Ord. 222, 8/16/10)*

- A. Buildings and structures and parts thereof shall be maintained in a safe and sanitary condition. The owner or the owner's designated agent shall be responsible for such maintenance. To determine compliance with this subsection, the building may be re-inspected.
- B. Owners, in addition to being responsible for maintaining buildings in a sound structural condition, shall be responsible for keeping that part of the building or premises which the owner occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.
- C. Owners shall, when required by this ordinance, health laws or the health officer, furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation, and when infestation has taken place, shall be responsible for any insects, rodents or other pests when such extermination is not specifically made the responsibility of the occupant by law or ruling. *(Amended by Ord 161, 9/27/04)*

**Subd. 3 Right of Entry.** When it is necessary to make an inspection to enforce the provisions of this ordinance, or when the code official has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this ordinance, the code official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this ordinance, provided that if such building or premises are occupied that credentials be presented to the occupant and entry requested. If such building or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the code official shall have recourse to the remedies provided by law to secure entry, pursuant to Section 350.04, Subd. 4.A. of this Chapter. *(Amended by Ord.161, 9/27/04)*

**Subd. 4 Complaint Inspections.** When the code official or a health officer has reasonable cause to believe that a condition exists in regards to a rental dwelling or premises that violates this ordinance including, but not limited to, a written tenant complaint made in good faith, the code official or health officer may enter the rental dwelling to inspect, re-inspect, or otherwise perform the duties imposed by this ordinance. No such entry shall be made, however, until: i) the owner, manager or tenant permits entry; ii) the code official or health officer secures an administrative warrant from a court with jurisdiction; or iii) an emergency exists.

**Subd. 5 Compliance Order.** Upon completion of a complaint inspection and finding of a violation(s), the code official shall prepare a compliance order, listing all violations and the date or dates when such violations shall be corrected. The property owner shall have the responsibility to correct such alleged violations and



have them re-inspected and verified by the Code Official for compliance with this Ordinance within the time period as set forth:

- A. Smoke Detector Violations. Corrections must be completed immediately and re-inspected within three (3) working days.
- B. All Other Violations. Preparations for the actual work for correcting the alleged violations shall be commenced immediately and work re-inspected within twenty-five (25) working days OR within the time period as specified by the Code Official.
- C. Follow-Up Inspection. Upon completion of the second follow up inspection:
  - 1. If the infraction(s) have been satisfactorily addressed or corrected the City will, at its discretion, levy a reinspection fee to cover the cost of the second follow up inspection. The fee will be set by the City Council.
  - 2. If the infractions remain, the following penalties shall be imposed upon the property owner(s) if the alleged violations are not corrected and verified by the Code Official within the time period allowed by this Ordinance:
    - a. A \$50.00 fine.
    - b. The assessment of \$5.00 per day, each and every day thereafter until a satisfactory follow up inspection is conducted.
  - 3. The \$50.00 fine and subsequent \$5.00 per day assessment must be paid in full to the city within 14 days of the satisfactory follow up inspection or, pursuant to Section 350.04 Subd 10, the City of Norwood Young America shall have the right and just cause to revoke or deny licensing the property as Rental Housing Property.
  - 4. The property owner or agent shall be notified in writing of Section 350.06, indicating his or her right of appeal. *(Amended by Ord.184, 7/10/2006)*
- D. Extensions. Extensions may be granted by the Code Official. The request shall be made in writing and justifiable cause must be demonstrated for the requested extension. All requests shall be made and delivered to the Code Official prior to the expiration date of the violation or violations.

#### **Subd. 6 Substandard Property Condition.**

- A. When, during the course of a Rental Housing Inspection or complaint investigation, the code official encounters or observes a condition or conditions that are considered dangerous to life, safety, health, or the welfare of the occupants, the inspector shall, if the situation warrants, issue a Substandard Property Condition Citation.
- B. Prior to, or immediately after, the issuance of the Substandard Property Condition Citation, the code official will be required to notify the City of the posting and the reason for the posting.
- C. The code official shall have the authority to require immediate evacuation of the premises in the event of immediate danger to life or safety.
- D. The removal or defacing of, or tampering with, a Substandard Property Condition Citation posting shall be punishable as a criminal offense and subject to the provisions of State Statutes regulating misdemeanors and as outlined in this ordinance.
- E. The Property shall remain unoccupied until such time as the condition is, or conditions are, corrected and satisfactorily reinspected. *(Amended by Ord. 184, 7/10/2006)*

**Subd. 7 Substandard Buildings.** Buildings or portions thereof that are determined to be substandard as defined in this ordinance are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition or removal, pursuant to Chapter 6, Nuisances, of the Norwood Young America City Code.

**Subd. 8 Notice to Vacate.** The code official shall have the authority to issue a NOTICE TO VACATE order on any building that is, in the opinion of the code official and as defined in this ordinance, deemed substandard. *(Amended by Ord.161, 9/27/04)*

### **350.06 Appeals.**

**Subd. 1 Appeal.** Any person may appeal from any notice and order or any action of the code official under this ordinance by filing an appeal to the City Administrator. A written appeal to the City a brief statement in ordinary and concise language of that specific order or action protested, together with any material facts claimed to support the contentions of the appellant. *(Amended by Ord.161, 9/27/04)*

**Subd. 2 Time Allotted for Appeal.** The appeal shall be filed within 10 days or within the time of correction as allowed by the code official, whichever is shorter, from the date of the service of such order or action of the code official. *(Amended by Ord.161, 9/27/04)*

**Subd. 3 Scheduling and Noticing Appeal for Hearing.** In the event that an appeal is filed with the City Administrator, the Board of Appeals shall fix a date for a hearing, which shall be held within ten (10) business days from the date the appeal is filed. *(Amended by Ord. 222, 8/16/10)*

**Subd. 4 Notice.** The City Administrator shall mail a notice of the date, time, place and subject of the hearing to the owner, occupant(s) and any other known responsible parties. *(Amended by Ord. 222, 8/16/10)*

**Subd. 5 Orders after an Appeal.** Following a hearing, any order of the Board of Appeals made pursuant to this ordinance shall be forwarded to the City Council who shall act upon the Board of Appeals recommendation at its next available meeting. The City Council shall issue a decision in writing to the appealing party within 10 days of the hearing. Any fines or penalties imposed must be paid no later than 30 days of the date of the order. The decision of the City Council is final and may only be appealed to the Minnesota Court of Appeals by petitioning for a writ of certiorari pursuant to Minnesota Statute Section 606.01.

### **350.07 Violation and Penalties.**

**Subd. 1 Administrative Charge.** Failure to obtain a license pursuant to this Section 350 will subject the owner of a dwelling unit to an administrative service charge up to \$250 per unit, plus \$10 per unit per day each and every day thereafter until a license is obtained. *(Amended by Ord. 222, 8/16/10)*

**Subd. 2 Violation.** Any person that maintains a rental dwelling unit without having either a valid temporary permit or a valid license, or permits new occupancy in violation of this Section 350, is guilty of a misdemeanor, and upon conviction is subject to a fine and imprisonment as prescribed by state law. In addition to, or in lieu of, charging a misdemeanor, the City may impose an administrative fee in an amount set in the City Fee Schedule. An administrative fee may be appealed pursuant to Subsection 350.06 of this Section. Upon the failure to appeal an administrative fee within the period established in Subsection 350.06 of this Section, the City may post the dwelling unit as illegal for habitation. Thereafter, all persons must vacate the premise and the dwelling unit may not be occupied by anyone other than the primary homestead owner and that person's immediate family until (a) the administrative fee has been paid and (b) a rental license is obtained or the City is satisfied that the dwelling unit will not be used as a rental dwelling unit. Each day of each violation constitutes a separate offense. *(Amended by Ord. 222, 8/16/10)*

**Subd. 3 Assessment of Unpaid Fees.** Any fees imposed under the authorization of Section 350 shall be paid in full. In the event of non-payment, the City Clerk may certify the entire unpaid amount and any penalty to

the County Auditor to levy the charges in the same manner as special assessments against the real estate involved, or the real estate of the person or entity responsible for the fee. (*Amended by Ord. 222, 8/16/10*)

## Section 360 – Fire Works

### 360.01 Definitions.

**Subd. 1 Fireworks.** For the purpose of this section, “fireworks” will have the definition as contained in Minnesota Statute 624.20 Subd. 1 or any superseding statute.

### 360.02 Authority.

- A. The authority to enforce this code shall lie with the local Fire Chief or his designate.
- B. This ordinance uses as its base elements: the *International Fire Code 2000 Edition* and *NFPA 1124 2003 Edition*.
- C. Issues beyond the scope of this ordinance shall be addressed according to the *International Fire Code 2000 Edition* and *NFPA 1124 2003 Edition* in their entirety.

### 360.03 Permit Required.

- A. No person shall sell or possess for sale fireworks without first having obtained an annual permit from the City.
- B. An application for the permitted manufacture, storage for commercial purposes or sale of fireworks shall be made to the City a minimum of thirty (30) days prior to operating.
- C. Included with the Permit Application, the applicant must provide a floor plan or plot plan indicating the approximate location of the Fireworks display, tent or stand.
- D. Permits shall be issued for a period of one calendar year.
- E. The inspections department **must be notified immediately** upon any of the following:
  - 1. If the Fireworks display is moved, stored or otherwise removed from the area of original inspection, to another location within the same building or on the same property.
  - 2. Upon removal of the Fireworks display from the building and/or property.
  - 3. If, within the permitting period addressed in 360.03 section D, the display is removed from the premises and then reinstalled at a later date still within the permitting period.
- F. For the temporary use of property for transient/non-permanent Fireworks stands the permit application shall include a letter from the person legally responsible for the property on which the fireworks related activity will occur. Said letter shall grant permission to the applicant for the use of said property.
- G. Prior to processing the application, a criminal records check may be conducted. Neither the applicant nor the responsible party for the permit shall have been convicted of a felony or a fire/fireworks-related misdemeanor within the last three (3) years.
- H. The annual permit cost shall be \$350.00 for a temporary tent and \$100.00 for a permanent store. These fees shall not be pro-rated.

### 360.04 Inspection Requirements.

- A. An initial inspection of the proposed sales facility or property shall be required to determine whether the property or facility will meet the minimum safety requirements relative to the occupancy, proximity to hazardous materials, etc.
- B. Upon satisfactory completion of the initial inspection and within three (3) days of the installation of the fireworks display, tent or stand, a follow up inspection of the actual display, tent or stand will be required after which the inspector will sign and validate the permit for the retail sales of the fireworks.

- C. If, within the permitting period addressed in 360.03 section D, the display is removed from the premises and then reinstalled at a later date still within the permitting period. The display must be inspected within three (3) days of the reinstallation.

### **360.05 Sales and Storage of Fireworks.**

- A. No person shall sell or store fireworks within fifty (50) feet of any fuel dispensing apparatus.
- B. No smoking will be permitted within fifty (50) feet of any consumer fireworks retail sales area. "No Smoking" signs shall be conspicuously posted and approved fire extinguishers must be available for use.
- C. A minimum of one portable pressurized water fire extinguisher with a minimum 2A rating (or 1-2.5 gal. extinguisher) and a minimum of one dry chemical fire extinguisher with a minimum 4A rating shall be located not more than seventy five feet from the hazard.
- D. Only persons 18 years of age or older may purchase fireworks and the age of the purchaser must be verified by photographic identification.
- E. Only interior (under roof, tent etc.) storage, display, sales and/or transient sales of fireworks are permitted. No manufacturing, sales or storage for commercial purposes shall occur on residentially zoned property or properties used for educational purposes or assemblies.
- F. A list of all fireworks displayed and/or stored on the property shall be available at all times. The list shall document the name, weight and quantity of the fireworks and be accompanied by the material safety data sheets.
- G. The requirements of this ordinance are supplemental to any requirements imposed by any building and zoning regulations, fire codes or state law.
- H. Retail Fireworks stands must be NFPA 1124 compliant.
- I. Where transient/non-permanent fireworks stands are used for the retail sales of fireworks, signage with lettering at least two (2) inches in height shall be conspicuously posted on the exterior of the stand or structure stating: NO FIREWORKS DISCHARGE WITHIN 300 FEET.
- J. The area located within thirty (30) feet of a consumer fire works sales facility shall be kept free of excessive combustible material including: dry grass, dry weeds or other combustible debris considered a potential fire hazard.
- K. No consumer fireworks shall be displayed for sale or stored within ten (10) feet of any entrance or exit door in an enclosed building or structure.
- L. No person shall knowingly sell consumer fireworks to any person who is obviously under the influence of alcohol or drugs.

### **360.06 Use and Possession.**

- A. It shall be unlawful to use, fire or discharge any fireworks along the route of, or during any parade, public gathering or at any place of public assembly or in any commercial/industrial district.
- B. It shall be unlawful at any time to throw, toss or aim any fireworks at any person, animal, or vehicle or to use in such manner that could threaten or cause harm to life or property.
- C. The discharge of fireworks shall be prohibited inside of, or within three hundred (300) feet of a retail fireworks stand or store.
- D. Banning the use of fireworks shall be at the discretion of the Fire Chief if weather or other conditions occur that could create a hazardous situation.
- E. Juveniles may not possess fireworks unless under the direct supervision of a responsible adult.
- F. Fireworks may not be discharged between the hours of 11:00 p.m. and 7:00 a.m.

### **360.07 Penalties.**

- A. Materials which violate and/or pose a threat to public safety may be confiscated and destroyed. Costs associated with disposal shall be passed on to the property owner or permit holder.

- B. Violations of this ordinance or of the State statute regulating the use or sale of fireworks may result in revocation of the permit.
- C. Violation of this Fireworks Ordinance could result in the offender being charged with a misdemeanor offense punishable by the guidelines prescribed by State Statute. *(Amended by Ord. 177, 4/24/2006)*

## CHAPTER 2. ADMINISTRATION

### Section 200 – In General

**200.01 Authority.** The City of Norwood Young America, located in Carver County, Minnesota is a municipal corporation incorporated by the laws of the State of Minnesota on January 1, 1997 and incorporates the former independent municipalities of Norwood and Young America. By virtue of its incorporation under the laws of the State, the City operates under the Minnesota Statutes Chapter 412, and any other applicable State Statutes conferring powers and duties upon municipalities.

**200.02 Optional Plan “A.”** Having held an election on the subject, the City shall operate under the Optional Plan “A” form of government as authorized in Minnesota Statutes, Chapter 412.

#### **200.03 Meetings of the Council.**

**Subd. 1 Regular Meetings.** The City Council shall meet on the second and fourth Monday of every month in the City Hall commencing at 6:00 p.m. On the fourth Monday the meeting shall begin with a Work Session, and the regular meeting shall immediately follow. If the Work Session meeting is not held the regular meeting shall commence at 6:00 p.m. *(Amended by Ord. 282, 10/10/2016)*

**Subd. 2 Special Meetings.** A special meeting may be called by the Mayor or by any two councilmembers pursuant to the notice requirements of Minnesota Statutes § 471.705 at such time and place and for such purposes as stated in the notice of the meeting.

**Subd. 3 Emergency Meetings.** When the health, safety, or welfare of the city or its residents would be unduly endangered or subject to imminent harm by any delay, the Council may convene an emergency meeting without advance notice to discuss how to handle the emergency situation.

**200.04 Address.** The official address for the City shall be:

City of Norwood Young America  
310 Elm Street West  
Norwood Young America, MN 55368      *(Amended by Ord. 226, 1/24/2011)*

### Section 210 – Elections

**210.01 Date of Regular City Election.** The regular City election shall be held biennially on the first Tuesday after the first Monday in November of every even-numbered year.

**210.02 Terms of Mayor and Councilmembers.** After the first regular biennial election, the term for the office of Mayor shall be two years and the terms for the offices of Councilmembers shall be four years. The terms of office for the first biennial election held in November 1996 shall be as provided by Special Law Chapter 302 of the 1996 Legislature.

### Section 220 – Mayor and Councilmembers Salaries

**220.01 Mayors Salary.** The salary of the Mayor shall be \$300 per month.

**220.02 Councilmembers Salary.** The salary of each Councilmember shall be \$200 per month.

### **Section 230 – City Administrator**

**230.01 Purpose.** In order to provide the City with a more efficient, coordinated, responsible and responsive municipal government, the position of City Administrator shall be hereby established.

**230.02 Scope.** The City Council shall provide policy guidance and general direction to the City Administrator who shall serve as the Chief Administrator Officer of the City. The Administrator shall be responsible for the administrative direction of all departments and offices of the municipal government, subject only to statutory and/or municipal code or ordinance limits which may apply. It shall be the intent of this Section that the City Administrator shall have clear authority to administer the day-to-day operations of the municipal government, subject only to the restrictions noted above.

**230.03 Appointment.** The City Administrator shall be appointed by the City Council. The City Administrator shall be chosen solely on the basis of his or her training, experience and executive and administrative qualifications.  
*(Amended by Ord. 244, July 8, 2013)*

**230.04 Duties.** In addition to the general duties and responsibilities set forth in this Section, the City Administrator shall:

- A. Be responsible for preparation of the annual City budget in accordance with the guidelines as may be provided by the City Council, and in coordination with all department heads;
- B. Keep the Council informed of the financial condition of the City. Recommend action as appropriate, prepares and implements financial guidelines;
- C. Keep informed concerning current developments in the field of municipal administration, and from time-to-time submit recommendations or suggestions to improve the municipal government;
- D. Keep informed concerning State and Federal legislation affecting the City, and submit appropriate reports and recommendations to the City Council;
- E. Keep informed concerning the availability of State and Federal funds for local programs, and assist department heads and the City Council in procuring the funds;
- F. Be responsible for the employment, training, direction and supervision of all personnel assigned to the Municipal Government, and for making recommendations to the City Council on appointments and promotions of personnel;
- G. Be responsible for the administrative direction and supervision of all employees of, consultants to, and vendors doing business with the City;
- H. Serve as the personnel officer for the Municipal Government. As such, he or she shall keep complete and up-to-date personnel records, to include specific job descriptions for all City employees, recommend salary and wage scales for City employees not covered by collective bargaining agreements, develop and enforce standards of performance by City employees, assure that all City employees have proper working conditions, work closely with department heads to promptly resolve any personnel problems or grievances, and act as the City's representative in conducting collective bargaining negotiations;
- I. Work closely with all department heads to ensure that such personnel and other City employees receive adequate opportunities for training to improve their knowledge and skills, and act as the

approving authority for all requests by City employees to attend conferences, meetings, training schools, etc. pertaining to their employment;

- J. In coordination with the Mayor, prepare the agenda for all meetings of the City Council, together with such supporting data as may be required. Nothing in this Section shall be construed as to give the City Administrator authority to limit or in any way prevent matters from being considered by the Council;
- K. Act as purchasing agent for the City and be responsible for making all purchases in accordance with the approved municipal budget. The Administrator shall have the authority to sign purchase orders for budgeted routine services, equipment and supplies for which the cost shall not exceed one thousand dollars. All claims resulting from orders placed by the City shall be audited for payment by the Council. The Administrator shall negotiate contracts for any kind of merchandise, materials, equipment or construction work for presentation to the Council;
- L. Perform all duties as prescribed by the job description and such other duties as may be prescribed by law or required by ordinance or resolution adopted by Council, including attending all meetings of the Council and such other boards, commissions, and committees as assigned by the Council, and performing all statutory duties of the City Clerk except as otherwise assigned by this Code or action of the Council.

### **Section 240 – Fire Department**

**240.01 Fire Department.** The Norwood Young America Fire Department created shall be hereby established.

**240.02 Size.** The Norwood Young America fire department shall be limited to a full complement that shall not exceed 45 members. Any person at least eighteen years of age and capable of passing the required physical requirements adopted by the City shall be eligible for membership by voluntary enlistment in the fire department. The new members shall be elected by a majority vote of the members of the fire department, subject to the approval of the election by the City Council. Each new member shall serve a one year probation period. At the end of the probation period, the City Council shall give final approval to the new member. Each firefighter shall be required to pass a periodic physical test in order to remain eligible to serve on the department.

**240.03 Appointment of Fire Chief and other Offices.** The fire chief shall be elected by a majority vote of all fire department members and shall be approved by the City Council. The fire chief shall hold his or her office for the full term of one (1) year unless removed from office within the period by the City Council for cause. The department may also appoint the following officers:

- A. Two Deputy Chiefs
- B. Treasurer
- C. Secretary

**240.04 Duties of Fire Chief.** The following shall be the duties of the fire chief:

- A. See that all equipment of the fire department be kept in a fit condition for use at all times;
- B. Manage and control the department during times of fire or any public emergency for which the department shall be called upon to act;



- C. Investigate and recommend to the City Council such additional ordinances or amendments to existing ordinances, as he or she may deem necessary for safeguarding life and property against fire;
- D. Require teachers of public, private and parochial schools and educational institutions to have nine (9) fire drills per year, and to keep all doors and exits unlocked during school hours.
- E. Other duties that shall be delegated by the City Council from time-to-time.

**240.05 Power and Authority of Chief.** The fire chief shall have the following powers and authority.

- A. The fire chief shall have the power and authority to appoint such subordinate officers as he or she may deem advisable and to clothe them with authority to act for and in his or her place during his or her absence or disability.
- B. The fire chief or any other officer in command shall have the power to call upon any bystander to assist in fighting fires and such person so called upon shall render such assistance as ordered by the officer.
- C. The fire chief shall have the authority to dispatch such equipment and firefighters to other communities when there shall be a mutual aid agreement in effect. At no time, however, shall the fire chief dispatch such equipment and firefighters that he or she cannot afford adequate protection for this City.

**240.06 Relief Association.** The fire department shall have the authority to organize a relief association, elect the association's president and any other officers, adopt a constitution and by-laws not inconsistent with any laws or ordinances or resolutions adopted by the City Council, and to do all things necessary to promote the welfare of the fire department.

## **Section 250 – Planning Commission**

**250.01 Establishment of Commission.** The planning commission for the City shall be hereby established. The commission shall be the City planning agency.

**250.02 Composition.** The planning commission shall consist of seven (7) members. Members of the commission shall reside within the city. (*Amended by Ord.157, 1-12-04*)

- A. All members shall be appointed by the City Council and may be removed by a three-fifths vote of the Council. (*Amended by Ord.157, 1-12-04*)
- B. Of the planning commissioners first appointed, two shall be appointed for a one year term, two shall be appointed for a two year term, and three shall be appointed for a three year term. All terms shall expire on January 1 of the appropriate year. Their successors shall be appointed for terms of three years, expiring January 1 of the appropriate year. Both original and successive appointees shall hold their offices until their successors shall be appointed and qualified. Every appointed member shall before entering upon the discharge of his or her duties take an oath that he or she shall faithfully discharge the duties of his or her office. Compensation shall be set by resolution of the City Council. (*Amended by Ord.157, 1-12-04*)

**250.03 Organization, Meetings, Etc.**

- A. The commission shall elect a chairperson from among its appointed members for a term of one year; and the commission may create and fill such other offices as it may determine. A commission member shall act as secretary of the planning commission.
- B. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. Expenditures of the commission shall be within amounts appropriated for the purpose by the City Council. The commission shall submit to the City Council a monthly report of its work during the preceding month. *(Amended by Ord. 108, 5-27-1997)*

**250.04 Powers and Duties of the Commission.** The planning commission shall be the planning agency and shall have the powers and duties given such agencies generally by Minnesota Statutes § 462.351 – 462.364. It shall also exercise the duties conferred upon it by this Section.  
*(Amended by Ord. 108, 5-27-1997)*

**250.05 Zoning Ordinances; Public Hearings.** No zoning ordinances, subdivision ordinances, or amendments thereto shall be adopted by the Council until a public hearing has been held thereon by the planning commission upon notice as provided in Minnesota Statutes § 462.357, Subdivision 3. Public hearings shall be conducted pursuant to the procedure listed in Section 250.05, Subd 1 through Subd. 8 below.

**Subd. 1 Chairperson Shall Explain the Procedure to be Followed.** Before opening the public hearing, the chairperson shall explain the procedure to be followed before the hearing begins. The chairperson shall explain that the hearing is a formal procedure, that everyone will be given an opportunity to participate, and that comments should be germane and concise. If many people share the same viewpoint, the chairperson shall encourage the appointment of a spokesperson to avoid repetitive testimony.

**Subd. 2. Open the Public Hearing.** The chairperson shall indicate that the public hearing is opened.

**Subd. 3. Staff Presentation.** City staff shall identify the subject property, describe the nature of the application, present the zoning and planning issues, and explain the action to be taken by the planning commission, board of appeals, or city council. The commission, board, or council members should ask the staff questions to ensure that they fully understand the information presented. City staff shall entertain questions from the applicant, general public or other interested parties about the information presented.

**Subd. 4. Applicant Presentation.** The applicant shall have the opportunity to present his or her case, including but not limited to factual information to demonstrate the proposal's compliance with the city's comprehensive plan, zoning and/or subdivision standards. The planning commission, board of appeals, or city council shall ask the applicant whatever questions they have about the proposal. The public shall have the opportunity to ask questions of the applicant.

**Subd. 5. Statements from the Public.** The chairperson shall ask for statements from the public in support of the application. The chairperson shall then seek statements from the public in opposition to the application. The chairperson shall encourage the presentation of factual evidence for public consideration.

**Subd. 6. Conclude the Public Hearing.** After all evidence has been received and everyone has been given opportunity to be heard, the chairperson shall conclude the public hearing.

**Subd. 7. Discussion.** Upon conclusion of the public hearing, the planning commission, board of appeals, or city council shall discuss the proposal.

**Subd. 8. Action.** The planning commission or board of appeals shall make a recommendation to the city council on the application. If the hearing is before the city council, the council shall either deny or approve the application. The matter may also be continued for further consideration.

*(Amended by Ord. 186, 1-8-2007)*

**250.06 Plats: Approval.** Any plat of land submitted to the Council for approval shall be referred to the planning commission for review and recommendation. *(Amended by Ord. 108, 5-27-1997)*

**250.07 Board of Appeals and Adjustments.** The planning commission shall serve as the Board of Appeals and Adjustment for the City. The decisions of the Board on matters within its jurisdiction shall be advisory to the Council. Following the hearing, the Board shall make its order deciding the matter and shall serve a copy of such order upon the appellant or petitioner by mail. The Board shall at the same time submit a copy of its decision to the Council which shall have final authority to approve, reject, or modify the decision of the Board. *(Amended by Ord. 108, 5-27-1997)*

## **Section 255 – Economic Development Commission**

**255.01 Establishment of Commission.** The economic development commission for the city shall be hereby established. *(Amended by Ord. 115, 7-27-1998)*

**255.02 Composition.** The economic development commission shall consist of nine (9) members: two (2) City Council members, one (1) Planning Commission member, one (1) representative of the Chamber of Commerce, and five (5) members of the local community representing, but not limited to, local business and industry. Members of the commission shall reside or be employed within the city.

*(Amended by Ord. 226, 1-24-11) (Amended by Ord. 256, 2-9-15)*

- A. All members appointed by the City Council may be removed by a three-fifths vote of the Council. *(Amended by Ord.157, 1-12-04)*
- B. All terms shall expire on January 1 of the appropriate year. The City Council member, Planning commission member and representative of the Chamber of Commerce shall be appointed annually. All other commissioners shall be appointed for a term of three years. Of the five commissioners serving terms of three years, no more than two terms shall expire in the same year. Both original and successive appointees shall hold their offices until their successors shall be appointed and qualified. Every appointed member shall before entering upon the discharge of his or her duties take an oath that he or she shall faithfully discharge the duties of his or her office. Compensation shall be set by resolution of the City Council. *(Amended by Ord.157, 1-12-04)*

**255.03 Organization, Meetings, Etc.**

- A. The commission shall elect a chairperson from among its appointed members for a term of one year; and the commission may create and fill such other offices as it may determine. A commission member shall act as secretary of the economic development commission.
- B. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. Expenditures of the commission shall be within amounts appropriated for the purpose by the City Council. The commission shall submit to the City Council a monthly report of its work during the preceding month. *(Amended by Ord. 115, 7-27-1998)*

**255.04 Duties and Responsibilities of the Commission.** The duties and responsibilities of the economic development commission shall be as follows:

- A. Advise the City Council on matters concerning commercial and industrial development within the city.
- B. Assist the City with preparations and advice regarding economic development marketing plans, programs, and strategies.
- C. Help to coordinate economic development efforts with various groups active in the city.
- D. Aid and advise the City Council and Planning Commission regarding the orderly development of areas suitable for commercial and industrial development.
- E. Recommend to the City Council and Planning Commission policies and actions regarding commercial and industrial expansion, development, and attraction.
- F. Develop long and short-term strategies for commercial and industrial development within the city.
- G. Review proposed development proposals.
- H. Assist in the preparation and implementation of plans for business retention.
- I. Perform other duties, functions, and studies as directed by the City Council.

*(Amended by Ord. 115, 7-27-1998)*

### **Section 256 – Parks & Recreation Commission**

**256.01 Establishment of Commission.** The parks and recreation commission for the City shall be hereby established. *(Amended by Ord. 144, 10-22-2001)*

**256.02 Composition.** The parks and recreation commission shall consist of seven (7) members: one (1) City Council member, one (1) Planning Commission member, one (1) representative from School District 108, and four (4) members of the local community. Members of the commission shall reside or be employed within the city. *(Amended by Ord. 157, 1-12-04)*

- A. All members shall be appointed by the City Council and may be removed by a three-fifths vote of the Council. *(Amended by Ord. 157, 1-12-04)*
- B. All terms shall expire on January 1 of the appropriate year. The City Council member, Planning Commission member and representative of School District 108 shall be appointed annually. All other commissioners shall be appointed for a term of three years expiring January 1 of the appropriate year. Of the four commissioners serving terms of three years, no more than two terms shall expire in the same year. Both original and successive appointees shall hold their offices until their successors shall be appointed and qualified. Every appointed member shall before entering upon the discharge of his or her duties take an oath that he or she shall faithfully

discharge the duties of his or her office. Compensation shall be set by resolution of the City Council. *(Amended by Ord.157, 1-12-04)*

### **256.03 Organization, Meetings, Etc.**

- A. The commission shall elect a chairperson from among its appointed members for a term of one year; and the commission may create and fill such other offices as it may determine. A Commission member shall act as secretary of the commission.
- B. The commission shall adopt rules for the transaction of business and shall keep a record of its resolutions, transactions, and findings, which record shall be a public record. Expenditures of the commission shall be within amounts appropriated for the purpose by the City Council. The commission shall submit to the City Council a monthly report of its work during the preceding month. *(Amended by Ord. 144, 10-22-2001)*

**256.04 Powers and Duties of the Commission.** The parks and recreation commission shall be the park and recreational planning and maintenance advisory agency for the City of Norwood Young America. The duties of the commission are as follows, but not exclusively:

- A. Advise the City Council in park acquisition, development and abandonment matters.
- B. Advise the City Council in regard to recreational programming.
- C. Recommend to the City Council rules and regulations for use of any park, recreational or leisure facilities.
- D. Maintain the City of Norwood Young America Comprehensive Parks Plan.
- E. Consider proper names for park and recreation areas and make such recommendations to the City Council.
- F. Conduct studies and investigations as specifically directed or delegated by the City Council.
- G. Represent the City Council at appropriate meetings.
- H. Review special requests for use of recreational facilities for the City Council.

*(Amended by Ord. 144, 10-22-2001)*

## **Section 257 – Safety Committee**

**257.01 Establishment of Committee.** The Safety Committee for the city shall be hereby established.

**257.02 Purpose.** The purpose of the Safety Committee shall be to promote safety and health in the workplace and to eliminate work place hazards that may cause any injury or illness.

**257.03 Composition.** The Safety Committee shall consist of five (5) members: one (1) City Council member, one (1) representative of the Administration staff, one (1) representative of the Public Works Department, one (1) representative of the Public Utilities Department, and the City Administrator.

### **257.04 Organization, Meetings, Etc.**

- A. The committee shall elect a chairperson from among its appointed members for a term of one year; and the committee may create and fill such other offices as it may determine. A committee member shall act as secretary of the Safety Committee.
- B. The committee shall establish a regular meeting schedule.

**257.05 Duties and Responsibilities.** The duties and responsibilities of the Safety Committee shall be as follows:

- A. Review the results of work place safety inspections to identify and analyze hazards.
- B. Review accident and injury reports to identify and analyze hazards.
- C. Review and act upon safety and health related concerns, suggestions, and needs communicated by employees and supervisors.
- D. Review work place hazard assessments.
- E. After conducting safety reviews suggest and document better work practices, repairs, safety training and communication.
- F. Conduct semi-annual walk-through safety inspections.
- G. Identify and communicate specific safety and health related needs and improvements to the employer, supervisors and employees.
- H. Administer “A Workplace Accident Injury Reduction Program (AWAIR)”  
(Amended by Ord. 260, 4-27-15)

### **Section 258 - Senior Advisory Commission**

**258.01 Establishment of Commission.** The Senior Advisory Commission for the City of Norwood Young America shall be hereby established. (Established by Ord. 297, 01-08-2018)

**258.02 Composition.** The Senior Advisory Commission shall consist of a minimum of nine (9) up to a maximum of fifteen (15) members of which one shall be a City Council Member. The majority of the commission shall be at least 55 years of age and have a genuine interest in and an appreciation for issues affecting senior citizens.

- A. All members shall be appointed by the City Council and may be removed by a three-fifths vote of the City Council.
- B. The City Council member shall be appointed annually. All other Commission members shall be appointed for a (3) year term. All terms shall expire on January 1 of the appropriate year.
- C. The Norwood Young America City Administrator or their designee will serve as a liaison to the Commission.

### **258.03 Organization, Meetings, Etc.**

- A. The Commission shall annually appoint from its members a Chairperson, a Vice Chairperson, and a Secretary.
- B. A majority of the appointed members shall constitute a quorum.
- C. If a vacancy should arise on the Commission, the seat shall be filled for the remainder of the term, through appointment by the City Council.

**258.04 Powers and Duties of the Commission.** The purpose of the Senior Advisory Commission is to provide senior citizens with a valuable resource, which can be used to effectively communicate the social, economic, recreational, cultural, and personal needs of the city’s senior population. The Senior Advisory Commission’s primary powers and duties include the following:

- A. To provide an open forum where information on important community senior issues can be received and discussed.

- B. To act as a liaison for the senior community to local government and other private organizations.
- C. To educate the rest of the community on issues affecting senior citizens through the publication of materials and within open public forums where senior views can be accurately represented.
- D. To explore and assist in the development of senior projects and programs, which promote positive relationships between senior citizens and the community.
- E. To build community consensus in advocating for specific senior projects or programs.
- F. To advise the City Council on issues concerning senior citizens and to recommend appropriate solutions.
- G. To provide feedback to the City Council assessing the current and future needs of the senior citizen community for program planning purposes.

### **Section 260 Civil Defense**

**260.01 Adoption of Plan by Reference.** In the case of emergencies or natural disasters, the City shall follow the Civil Defense Plan adopted from time to time by the Council as found in the Appendix to this Code.

## CHAPTER 1. CODE INTRODUCTION

### Section 100 – General Provisions

**100.01 Adoption of Code.** The ordinances of the City shall be hereby revised and codified and shall be operative without further publication in the official newspaper in accordance with Minnesota Statutes, Section 415.021. This Code of Ordinances shall be known as the City Code of Norwood Young America and may be so cited. Within the City Code itself, reference may be made to “this Code” or “the Code.”

**100.02 Subsequent Ordinances.** Ordinances enacted after the effective date of this Code shall be enacted in accordance with law as amendments or additions to this Code. Such new ordinances shall be assigned appropriate Code numbers and shall be incorporated into the Code as of their effective date. Reference or citation to the Code shall be deemed to include such amendments and additions. When an ordinance is integrated into this Code, there may be omitted from the ordinance the title, enacting clause, section numbers, definitions of terms identical to those contained in this Code, the clause indicating the date of adoption, and validating signatures and dates. In integrating ordinances into the Code, the Administrator, with the city attorney, may correct obvious grammatical, punctuation, and spelling errors; change reference numbers to conform with subdivision, sections, and chapters; substitute figures for written words and vice versa; substitute dates for the words “the effective date of this ordinance”; and perform like actions to ensure a uniform Code of ordinances without altering the meaning of the ordinances enacted. In the case of the repeal of a chapter, section, subsection, subdivision, or any part thereof, by subsequent ordinances, the repealed portion may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time as this Code of Ordinances and subsequent ordinances numbered or omitted are readopted as a new Code of Ordinances by the City Council.

**100.03 Numbering.** Each section number of this Code consists of two component parts, separated by a decimal point. The digits of the number before the decimal point refer to the Chapter and Section number, and the digits after the decimal refer to the Subsection number.

**100.04 Reference to Sections.** Reference to any Section of this Code shall be understood to also refer to and include the penalty section relating thereto, unless otherwise expressly provided, and in the absence of an independent penalty section, to the penalty provisions of this Chapter.

**100.05 Publication of Code and Effective Date.** The City Code, together with such indexes, supplement, appendixes or other material as the Council may designate, shall be published in loose-leaf book form and a copy shall be available at the office of the Administrator, and the Carver County Public Library, for inspection by the general public. The City Code shall become operative and effective when the Administrator publishes notice in the official newspaper stating that the Code has been enacted. A copy of this Code and any amendment to it shall be filed with the County Law Library or its depository in accordance with State law.

**100.06 Rules of Construction.** The definitions and rules, presumptions, and miscellaneous provisions pertaining to construction contained in Minnesota Statutes, Chapter 645 shall be adopted by reference and made a part of this Code. In addition, the following rules shall apply:



**Subd. 1 Delegation of Authority.** Whenever a provision appears requiring the head of a department or some other City officer to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer to designate, delegate and authorize subordinates to perform the required act or perform the duty unless the terms of the provision or section specify otherwise.

**Subd. 2 Gender.** A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

**Subd. 3 May.** The word “may” is permissive.

**Subd. 4 Month.** The word “month” shall mean a calendar month.

**Subd. 5 Nontechnical and Technical Words.** Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

**Subd. 6 Number.** A word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing.

**Subd. 7 Oath, Affirmation, Affirm, Sworn.** “Oath” shall include “Affirmation” in all cases where by law an affirmation may be substituted for an oath; and in like cases “Swear” shall include “Affirm” and “Sworn” shall include “Affirmed.”

**Subd. 8 Officials, Boards, Commissions, Committees.** Whenever reference is made to officials, boards, commissions or committees by title only, i.e., “City Council”, “Administrator”, “the Mayor”, the reference shall be deemed to refer to the officials, boards, commissions and committees of the City of Norwood Young America, Minnesota.

**Subd. 9 Preceding, Following.** The words “Preceding” and “Following” shall mean next before and next after, respectively.

**Subd. 10 Shall.** The word “Shall” shall be mandatory.

**Subd. 11 Tense.** Words used in the past or present tense include the future as well as the past and the present.

**Subd. 12 Written, In Writing.** “Written” and “In Writing” may include any mode of representing words and letters, except that the signature of a person, when required by law shall be in the handwriting of the person or, if he or she is unable to write, his or her mark, or his or her name written by same person at his or her request and in his or her presence.

**Subd. 13 Year.** The word “Year” shall mean a calendar year.

#### **100.07 Liability.**

**Subd. 1 Existing Rights and Liabilities.** The repeal of prior ordinances and adoption of this Code shall not be construed to affect in any manner rights and liabilities existing at the time of repeal and

the enactment of this Code. Any act done, offense committed, or right accruing, or liability, penalty, forfeiture or punishment incurred or assessed prior to the effective date of this Code shall not be affected by the enactment of the Code.

**Subd. 2 Liability of City Personnel.** The failure of any official, employee, or volunteer; of the City to perform any official duty imposed by this Code shall not subject the person to the penalty imposed for violations of this Code, unless a penalty is specifically provided for such failure.

**Subd. 3 Liability for Acts of Another.** A person shall be liable for a violation of the Code committed by another if he or she intentionally aids, advises, hires, counsels, conspires with or otherwise procures another to commit the act.

**100.08 Severability of Parts of Code.** Every section, provision, or clause of the Code of Ordinances of the City of Norwood Young America, shall be declared separable from every other section, provision or part. Should any section, provision or clause of this Code be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the Code as a whole or any part thereof, other than the part declared to be invalid.

## **Section 110 – Definitions**

**110.01 Certain Terms Defined.** Unless the language or context specifically states or clearly indicates that a different meaning is intended, the words, terms and phrases for the purpose of this Code shall be given the meanings defined in Minnesota Statutes.

Unless the context clearly indicates otherwise the following words and phrases have the meaning given them in this Section:

**Subd. 1 Attorney.** “Attorney” shall mean the Attorney retained by the Council to provide legal services on behalf of the City. The position may be referred to as “City Attorney.”

**Subd. 2 Code.** “Code” shall mean the City Code of Norwood Young America.

**Subd. 3 Council.** “Council” shall mean the City Council of Norwood Young America.

**Subd. 4 County.** “County” shall mean Carver County.

**Subd. 5 City.** “City” shall mean the City of Norwood Young America.

**Subd. 6 Administrator.** “Administrator” shall mean the City Administrator.

**Subd. 7 Clerk.** “Clerk” shall mean the City Clerk.

**Subd. 8 Person.** “Person” shall mean any natural individual, firm, partnership, association, or corporation. As applied to partnerships or associations, the term shall include the partners or member; as applied to corporations the term shall include the officers, agents, or employees.

**Subd. 9 Owner.** The word “Owner” applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of the building or land.

**Subd. 10 Property.** The word “Property” shall include real and personal property.

**Subd. 11 Personal Property.** “Personal Property” shall include every type of property except real property as described in this Section.

**Subd. 12 Real Property.** “Real Property” shall include lands and the structures or other permanent attachments on the land.

**Subd. 13 State.** The words “the State” or “this State” shall be construed to mean the State of Minnesota.

**Subd. 14 Street.** The word “Street” shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, highways, bridges, viaducts and all other public ways in the City and shall include all areas thereof embraced between the property lines and dedicated to the public use.

**Subd. 15 Tenant or Occupant.** The word “Tenant” or “Occupant” applied to a building or land, shall include any person holding a written or oral lease or who occupies the whole or a part of such building or land, either alone or with others.

## **Section 120 – Violations and Penalties**

**120.01 Penalty.** Unless otherwise provided in this Code, any person found guilty of violating the provisions of this Code shall be guilty of a misdemeanor. Each day the violation continues to exist shall be considered a separate violation of this Code. The penalty for a misdemeanor or petty misdemeanor shall be as allowed by State law.

**120.02 Governmental Services Lien.** The City may certify any unpaid fees to the county auditor as a governmental services lien for collection with the real property taxes of the person in violation of this Code.

**120.03 Civil Action.** If a person fails to comply with the provisions of this Code, the City may recover costs, damages, or fees in a civil action in any court of competent jurisdiction.

### **120.04 Administrative Enforcement of City Code.**

**Subd. 1 Findings and Purpose.** The purpose of this section for the city code is to establish a procedure for administrative enforcement of violations of the city code. The City Council finds that criminal or civil legal action is not an appropriate remedy for certain violations of city code. The City Council establishes this administrative enforcement process as an informal, cost-effective and more efficient alternative to traditional criminal charges for violations of certain city code provisions.

**Subd. 2 General Provisions.**

- A. A violation of any provision of the city code, other than a traffic offense, is an administrative offense subject to a citation and civil penalties pursuant to this chapter.
- B. Each day a violation exists constitutes a separate offense.
- C. Each administrative offense may be subject to a civil penalty not to exceed \$1,000.00 The City Council shall adopt a schedule of civil penalties for offenses subject to administrative enforcement.
- D. Civil penalties may be doubled for repeat violations that occur within a twelve-month period.
- E. The City Administrator or designee is authorized to promulgate rules and forms to facilitate the execution of this chapter.
- F. In its sole discretion, the City may elect to pursue criminal charges, a civil action, or other remedies allowed by law for conduct covered by this chapter.

### **Subd. 3 Administrative Citation.**

- A. *Individuals Authorized to Enforce the City Code.* The following individuals may issue administrative citations on behalf of the City:
  - 1. Any Officer of the Carver County Sheriff's Department assigned to serve in the City of Norwood Young America
  - 2. City Administrator, or
  - 3. Any other employee or agent of the City designated in writing by the City Administrator.
- B. *Notice of Violation.* Upon determining that a violation of city code has occurred, any individual authorized under this chapter may give notice of the violation to the violator. Such notice shall be in writing and include the nature, date, and time of the violation, the name and title of the official issuing the notice, and the amount of the scheduled penalty. In the case of a vehicular violation, notice may be attached to the vehicle.

**Subd. 4 Payment or Hearing Request Required.** For violations other than violations of the City's Zoning and Subdivision Codes, within seven day of issuance of the written notice of violation, the person issued such notice must either pay the civil penalty or request an administrative hearing in writing. The civil penalty may be paid in person or by mail. Payment is deemed an admission of the violation.

For violations of the City's Zoning and Subdivision Codes, the property owner shall have thirty days from the issuance of the written notice of violation to request an administrative hearing in writing, modify the property to adhere to zoning requirements, or provide the City Administrator with satisfactory written evidence of efforts toward compliance. By way of example, but without limitation, satisfactory written evidence may include a contract with an individual or entity to perform the necessary work to bring the property into compliance with zoning requirements within a limited period of time. During the thirty days from the issuance of the written notice, the property owner will not incur a civil penalty. If the property owner does not request a hearing, bring the property into compliance, or provide the City Administrator with satisfactory written evidence of efforts toward compliance within thirty days of issuance of the written notice, the property owner will incur a civil penalty on the 31st day after issuance of the written notice, and each day the violation continues, as provided in the City's schedule of civil penalties. Civil penalties will continue to accrue until the property owner notifies the City Administrator that the property has been brought into compliance and the City Administrator or designee has verified the property is compliant.

**Subd. 5 Administrative Hearing.**

- A. Any person contesting an administrative citation pursuant to this chapter may request a hearing. The request must be in writing and include the violator's name and contact information, citation number, date of offense, and a brief description of the reason(s) for requesting a hearing. Any request for hearing other than a hearing on a zoning or subdivision code violation must be addressed to the City Administrator and received at City Hall within seven (7) days of issuance of the citation. A request for a hearing on a zoning or subdivision code violation must be addressed to the City Administrator and received at City Hall within thirty (30) days of the issuance of the notice of violation.
- B. The City will determine the hearing date. The hearing should be conducted within sixty (60) days from the date the request is received.
- C. The City Council shall conduct an informal hearing to determine, by a preponderance of the evidence, whether a violation has occurred. The Council, by majority vote, shall have authority to sustain or dismiss the violation and, if sustained, reduce or waive the civil penalty.
- D. The civil penalty must be paid within seven days of the hearing officer decision.

**Subd. 7 Appeal Hearing Body.** The hearing shall be before the City Council. The City Council is authorized to hear and decide any controversy relating to administrative offenses covered by this chapter.

**Subd. 8 Payment of Civil Penalty.**

- A. Except for violations of the Zoning and Subdivision Codes, the civil penalty must be paid within seven days of issuance of an administrative citation, or seven days of the Hearing Officer's decision. A ten-percent (10%) late fee will be added beginning on the eighth day, and for each day thereafter until the penalty is paid in full. The City Administrator may agree to a one-time extension to pay, up to an additional fourteen days.
- B. The City will periodically send invoices regarding outstanding civil penalties and late fees. Where a violation affects property within the City, no permits or land use approvals will be granted for the property at issue until all civil penalties are paid.
- C. If an individual fails to timely pay the civil penalty or request a hearing, the City may request a misdemeanor or petty misdemeanor charge to be filed in accordance with applicable statutes, or the City may use traditional debt collection methods or any other method prescribed by law, including assessing the unpaid fines against property owned by the violator, to collect the fine amount and any associated fees.
- D. If the penalty is paid or if an individual is found not to have committed the administrative offense by the hearing officer, no such charge may be brought by the city for the same violation.
- E. During the time any Civil Penalty remains unpaid, no City approval will be granted for a license, permit, or other City approval sought by the violator or for property under the violator's ownership or control.

**Subd. 9 Disposition of Penalties.** All civil penalties and late fees shall be paid to the City and deposited into the general fund.

**Subd. 10 Schedule of Civil Penalties.** A schedule of Civil Penalties will be developed and adopted by City Council. In the absence of an identified civil penalty, the penalty shall be \$100.00